

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

BUDGET SUBCOMMITTEE ON FINANCE AND TAX

Senator Bogdanoff, Chair

Senator Altman, Vice Chair

MEETING DATE: Thursday, March 17, 2011

TIME: 11:00 a.m.—12:15 p.m.

PLACE: 301 Senate Office Building

MEMBERS: Senator Bogdanoff, Chair; Senator Altman, Vice Chair; Senators Alexander, Gardiner, Margolis, Norman, and Sachs

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1998 Budget Subcommittee on Finance and Tax	Corporate Income Tax; Provides for the adoption of the 2011 version of the Internal Revenue Code. Specifies the treatment by this state of certain depreciation and expensing of assets that are allowed for federal income tax purposes. Provides for retroactive application. BFT 03/17/2011 BC	
2	SPB 7068	Tax Administration; Repeals provisions relating to liability for taxes following the sale of a business. Clarifies provisions imposing certain penalties for noncompliance with requirements for reporting taxes. Authorizes the Department of Revenue to require that sellers of alcoholic beverages or tobacco products file information reports of sales of those products to retailers in the state. Defines terms. Requires that the report be filed electronically. Provides for certain exceptions. Specifies the period for reporting information, etc.	
3	SPB 7070	Administration of Property Tax; Clarifies definitions governing the administration of property tax. Repeals provisions relating to the Property Tax Administration Task Force. Revises provisions requiring that certain information be included on the real property assessment roll following a transfer of ownership. Defines the term "ownership transfer date." Revises provisions requiring that a property appraiser file an appeal of a decision by the value adjustment board within a specified period, etc.	

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Budget Subcommittee on Finance and Tax

BILL: SB 1998

INTRODUCER: Budget Subcommittee on Finance and Tax

SUBJECT: Corporate Income Tax

DATE: March 14, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Babin	Diez-Arguelles	BFT	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

Florida imposes a 5.5% tax on the taxable income of corporations doing business in Florida. The determination of taxable income for Florida tax purposes begins with the taxable income used for federal income tax purposes. This means that a corporation paying taxes in Florida receives the same benefits from deductions allowed in determining its federal taxable income. Florida maintains this relationship by each year adopting the Federal Internal Revenue Code as it exists on January 1 of the year. By doing this, Florida adopts any changes that were made in the previous year to the determination of federal taxable income. The bill adopting the federal code is referred to as the “piggyback bill.”

Late last year, the federal government passed two acts that affected the Internal Revenue Code - the Small Business Jobs Act of 2010 (SBJA) and the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (TUAJ). These acts contained provisions that will reduce Florida corporate tax receipts over the next two years if adopted in Florida. The provisions are: 100% first year bonus depreciation for business equipment placed in service in 2011, additional first year expensing for purchases made in 2011, 50% bonus depreciation for property placed in service in 2012, and additional first year expensing for purchases made during 2012.

This bill updates the Florida Income Tax Code to reflect changes Congress made to the U.S. Internal Revenue Code of 1986 by adopting the Internal Revenue Code as in effect on January 1, 2011. The change will apply retroactively to January 1, 2011. However, the bill contains special provisions that have the effect of not adopting the changes that reduce corporate tax receipts in FY 11-12 and FY 12-13. The bill accomplishes this by extending the special provisions for dealing with bonus depreciation and additional expensing adopted by Florida in SB 1112 (2009).

The Revenue Estimating Conference has estimated that the additional depreciation and expensing provisions in the SBJA and TUJA will reduce FY 11-12 general revenue by \$561.9 Million. This bill neutralizes this impact.

The bill has an effective date of upon becoming law and applies retroactively to January 1, 2011.

The bill substantially amends ss. 220.03 and 220.13, F.S.

II. Present Situation:

Corporate Income Tax Overview

Florida imposes a 5.5% tax on the taxable income of corporations doing business in Florida.¹ For simplicity's sake, the determination of taxable income for Florida tax purposes begins with the taxable income used for Federal income tax purposes.² This means that a corporation paying taxes in Florida receives the same benefits from deductions allowed in determining its federal taxable income. With federal taxable income as a starting point, Florida law then requires a variety of additions and subtractions to reflect Florida-specific policies.

Florida maintains this relationship by each year adopting the Federal Internal Revenue Code as it exists on January 1 of the year. By doing this, Florida adopts any changes that were made in the previous year to the determination of federal taxable income. The bill adopting the federal code is referred to as the "piggyback bill."

Depreciation Deduction

Under federal tax law, a corporation is entitled to reduce its income over time to reflect the cost of an asset it purchases. If a corporation purchases equipment for \$10,000 with an expected useful life of 5 years, it is entitled to reduce its income by annual amounts totaling \$10,000 over 5 years. For example, if the corporation uses the straight-line depreciation method, it can reduce its income by \$2,000 each year for 5 years.

Under Florida law, this treatment for federal tax purposes flows to the Florida tax return and reduces Florida taxable income.

Economic Stimulus Act of 2008, American Recovery and Reinvestment Act of 2009, and Florida's Response

In early 2008, Congress approved the Economic Stimulus Act of 2008. Among other items, this legislation provided two tax benefits to corporations: (1) it allowed corporations to take an additional depreciation deduction equal to 50% of the cost of property placed in service in 2008, and (2) it allowed for small businesses to completely depreciate property valued up to \$250,000 (instead of \$128,000) placed in service during 2008. The effect of these changes was to increase

¹ Sec. 220.11, F.S.

² Secs. 220.12 and 220.13, F.S.

depreciation and expensing provisions in the year property is placed in service and to decrease depreciation deductions in later years.³

In 2009, Congress approved the American Recovery and Reinvestment Act of 2009 (ARRTA). This legislation granted a one-year extension of the bonus depreciation and additional expensing provisions adopted in 2008, discussed above. The legislation also allowed taxpayers to defer until 2014 the recognition of certain income from cancellation of indebtedness (COD) occurring during 2009 and 2010.⁴

Due to budgetary constraints in Fiscal Years 08-09 and 09-10, the Legislature decided to adopt the federal tax code in both 2008 and 2009, except for the provisions dealing with 50% bonus depreciation and the increased expensing amount provided by the Economic Stimulus Act of 2008⁵, and the extension of those provisions by ARRTA⁶.

SB 1112 (2009) provided a new process to account for the increased deductions provided by the Economic Stimulus Act of 2008 and ARRTA in the Florida tax return. Specifically, the bill spread out the amount of bonus depreciation or additional expensing claimed by a taxpayer on the federal return over a 7-year period on the Florida return. Thus, ultimately, the taxpayer did not lose the benefit of the deductions for Florida purposes. Rather, the benefit of the deductions was spread out over time.

SB 1112 accomplished this by providing that a taxpayer claiming bonus depreciation or additional expensing on its federal return must add the amount so claimed to Florida taxable income. In the first year and in each of the 6 subsequent taxable years, the taxpayer can subtract from taxable income one-seventh of the amount by which taxable income was increased. These adjustments to Florida taxable income are available whether the property remains with the taxpayer or is sold or otherwise disposed.

SB 1112 provided that the subtractions can be used by a surviving or acquiring entity following a merger or acquisition. Also, SB 1112 specifically provided that the additions and subtractions can change a taxpayer's net operating loss for Florida tax purposes.

III. Effect of Proposed Changes:

The bill updates the Florida Income Tax Code to reflect changes Congress made to the U.S. Internal Revenue Code of 1986 by adopting the Internal Revenue Code as in effect on January 1, 2011. The change will apply retroactively to January 1, 2011. However, the bill contains special provisions that have the effect of not adopting the changes made by SBJA and TUJA that reduce corporate tax receipts in FY 11-12 and FY 12-13. The bill accomplishes this by extending the 7-year adjustment process adopted in SB 1112 (2009) for the deductions granted by the Economic

³ The Revenue Estimating Conference determined that these provisions would reduce state revenues by \$146.8 million in FY 08-09 and \$76 million in FY 09-10.

⁴ The Revenue Estimating Conference estimated that the adoption of these provisions would reduce state revenues in FY 09-10 by \$188.2 million.

⁵ See SB 1112 (2009); Ch. 2009-18, Laws of Florida.

⁶ See SB 2504 (2009); Ch. 2009-192, Laws of Florida.

Stimulus Act of 2008 and extended by SB 2504 (2009) for the deductions granted by AARTA to the most recent deductions granted by SBJA and TUJA.

The effect of these changes is to allow a taxpayer to take advantage of the deductions in the federal return, but place the taxpayer in a similar position for Florida tax purposes as the taxpayer would have been had it not taken advantage of the federal provisions.

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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

This bill maintains the link between Florida's Corporate income tax code and the current federal income tax code, except for recent increases in the deductions for depreciation and expensing granted by federal legislation passed late last year.

The Revenue Estimating Conference has not completed a fiscal impact of this bill. However, the Conference has estimated that adopting the Internal Revenue Code without the provisions of this bill that limit the effect of the additional deductions granted by SBJA and TUJA would have a significant negative impact on state revenues in FYs 11-12 (\$561.9 million) and 12-13 (\$4.4 million).

Staff estimates that the provisions of this bill will have an indeterminate impact on state revenues.

B. Private Sector Impact:

Florida businesses that pay Florida Corporate Income Tax will be required to add back to their income the amount of bonus depreciation and certain expenses.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



905080

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Budget Subcommittee on Finance and Tax
(Bogdanoff) recommended the following:

Senate Amendment (with title amendment)

Between lines 105 and 106
insert:

Section 3. (1) The executive director of the Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of implementing this act.

(2) Notwithstanding any other provision of law, the emergency rules shall remain in effect for 6 months after they are adopted and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency



905080

13 rules.

14

15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 Delete line 7

18 and insert:

19 are allowed for federal income tax purposes;
20 authorizing the executive director of the Department
21 of Revenue to adopt emergency rules; providing

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Budget Subcommittee on Finance and Tax

BILL: SPB 7068

INTRODUCER: For consideration by the Budget Subcommittee on Finance and Tax

SUBJECT: General Tax Administration

DATE: March 14, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	Diez-Arguelles		Pre-meeting
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill clarifies the tax treatment of tax liabilities when a business or its inventory are sold and repeals obsolete sections relating to the sale of a business. It clearly establishes the department's authority to require security for certain individuals seeking to register new businesses, imposes a reporting requirement on wholesalers and distributors of alcoholic beverages and tobacco products, allows department staff to verify the identity of business owners by using driver's license photos, provides an incentive for businesses to comply with requests for records for audit purposes, and authorizes payroll service providers to file a memorandum of understanding with the department if they provide service for at least 100 employees, instead of 500, as required under current law.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 202.31, 212.10, 212.12, 212.131, 212.14, 213.053, 213.758, 322.142, and 443.131.

II. Present Situation:

The Department of Revenue (department) is charged with ensuring that the taxes it administers are carried out in a fair and equitable manner. Each year the Executive Director seeks approval of proposed legislative concepts by the Governor and Cabinet, in their role as the head of the department. The department's tax administration concepts are proposed to reduce the burden on taxpayers and to ensure that Florida's tax laws are applied in a consistent, cost-effective, and equitable manner.

(See section-by-section analysis below.)

III. Effect of Proposed Changes:

Section 1. repeals ss. 202.31 and 212.10, F.S., relating to liability for taxes following the sale of a business. These sections are no longer needed since s. 213.758, F.S., was created in ch. 2010-166, Laws of Florida.

Section 2.

Present situation: Section 212.12(2)(d)1, F.S., contains redundant and potentially confusing language concerning the criminal penalty for failing to collect sales and use tax.

Proposed change: This bill deletes the redundant and confusing language and clarifies that a person who willfully fails to register after receiving notice commits a felony in the third degree. No new penalties are created in the bill. This section takes effect upon the act becoming a law.

Section 3.

Present situation. The Department of Revenue has recognized that there are recurring tax law compliance problems in retail businesses with substantial alcohol and tobacco sales. The department periodically requests third-party information from wholesalers that sell these products to retail businesses in an effort to improve compliance, and some wholesalers and distributors provide the information voluntarily. Others, however, require the department to resort to expensive and cumbersome legal processes to obtain the information.

Proposed change: The bill creates s. 212.131, F.S., which requires alcohol and tobacco wholesalers to provide annual sales information to the department upon request. The report is due each July 1 for the preceding July 1 through June 30 period and is delinquent if not received by the department by September 30. The information report must be filed electronically through the department's specified data file format to ensure that the information is kept confidential. The electronic filing requirement may be waived if the seller demonstrates it causes problems for the seller, and any seller who fails to provide the information report timely is subject to a penalty of \$1,000 for every month the report is not provided, up to a maximum amount of \$10,000.

Section 4.

Present situation: Section 212.14(4), F.S., authorizes the Department of Revenue to require a cash deposit, bond, or other security as a condition to a person obtaining or retaining a sales tax dealer's registration. Despite this requirement delinquent sales tax dealers are able to close down their business with tax liabilities, and to reopen under a new name, because the current provision does not clearly apply to all of the individuals who were responsible for prior delinquent tax accounts when they seek to register new businesses.

Proposed change: The bill revises s .212.14(4) to authorize the department to require security for individuals who are responsible for prior delinquent accounts when they seek to register new businesses.

Section 5. authorizes the department to adopt emergency rules to administer the provisions of sections 3 and 4 of this act.

Section 6.

Present situation: Payroll service providers (agents) that represent clients on unemployment tax matters before the department must file a power of attorney for each of their clients. If the provider represents at least 500 clients, s. 213.053(4), F.S., permits the provider to file a single memorandum of understanding with the department in lieu of the 500 individual powers of attorney.

Proposed change: The bill amends s. 213.053(4), F.S., to allow payroll service providers to file a memorandum of understanding with the department if they represent at least 100 clients. This reduces the administrative burden on the service provider and the department, and matches a similar provision in s.442.163, F.S., which requires a person who prepared and filed employment reports for 100 or more employers in any quarter during the previous year to file by approved electronic means.

Section 7.

Present situation: Section 213.758, F.S., which clarifies the transfer of tax liabilities when a business or its inventory is sold, was created last year. Since it was enacted, the business community has identified issues with this section that require additional clarification.

Proposed change: Section 213.758, F.S., is amended by the addition of definitions for “business,” “financial institution,” “insider,” “stock of goods,” and “tax.” The existing definition of “transfer” is expanded. The description of a taxpayer’s liability for taxes if he or she quits a business without transferring the business or its assets is also expanded. A transferee’s responsibilities for unpaid taxes of a transferor are explicitly identified.

Section 8.

Present situation: The Department of Revenue staff does not have a way to verify the identity of business owners prior to visiting businesses during audits and cannot be sure that the person with whom they are working during field visits is the business owner. Under s. 322.142, F.S., the Department of Highway Safety and Motor Vehicles maintains a file of the digital image and signatures of drivers’ license holders. These records may be shared with the Department of Revenue for child support enforcement purposes but not for other purposes.

Proposed change: The bill amends s. 322.142, F.S., to allow the Department of Revenue to use drivers’ license images to establish positive identification for tax administration purposes.

Section 9.

Present situation: Florida law provides a standard unemployment tax rate, and allows many businesses to receive a lower rate if they meet certain criteria, including being in compliance with the law. Section 443.131, F.S., lists the criteria necessary for a business to be in compliance, but it does not explicitly state that a taxpayer must comply with records requests during audits to qualify for the reduced tax rate.

Proposed change: Section 443.131, F.S., is amended to create an additional condition for receiving a lower-than-standard unemployment tax rate. The condition is that the employer has produced records requested by AWI or the department for audit purposes. This section takes effect upon the bill becoming a law.

Section 10. provides that except as otherwise expressly provided in this act (see sections 2 and 9), and except for this section, which shall take effect upon becoming a law, this act shall take effect July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The department anticipates that some provisions of this bill will improve enforcement and collection of state tax laws:

- Information provided by tobacco products and alcoholic beverage wholesalers is expected to improve sales tax compliance among retailers.
- Improved compliance with unemployment tax reporting is expected to improve the department's audit capability

The Revenue Estimating Conference has not completed a fiscal impact analysis of these provisions.

The Revenue Estimating Conference has determined the impact of changes in the statute governing transfer of tax liabilities to be negative but indeterminate.

B. Private Sector Impact:

This bill has the following effects on the private sector:

- It requires alcoholic beverage and tobacco products manufacturers and wholesalers to file annual reports with the department of sales of these products to any retailer in the state.
- It authorizes the department to require additional persons to provide a cash deposit, bond, or other security as a condition of obtaining or retaining a sales and use tax dealer's certificate of registration.

- It allows a payroll service provider that provides services for more than 100 employers to enter into a memorandum of understanding with the department, reducing administrative costs for the service provider.
- It clarifies the conditions under which a transferee may be liable for unpaid tax of a transferor.
- It provides that an employer may not qualify for a reduced unemployment tax rate unless the employer has produced all records that were requested by the department or the Agency for Workforce Innovation.

C. Government Sector Impact:

The bill is expected to improve tax administration by providing additional information about sales of alcoholic beverages and tobacco products, improving compliance with requests for information from employers for unemployment tax purposes, and reducing administrative costs for payroll service provider accounts.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

B. Amendments:

None.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Budget Subcommittee on Finance and Tax

BILL: SPB 7070

INTRODUCER: For consideration by the Budget Subcommittee on Finance and Tax

SUBJECT: Property Tax Administration (DOR)

DATE: March 14, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	Diez-Arguelles		Pre-meeting
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill clarifies ambiguous language and corrects drafting errors in the property tax statutes. It also standardizes statutory requirements for applying for tax deferral and appealing VAB decisions, reduces the Department of Revenue’s role in approving tax refunds, and reduces the number of reports that must be submitted to the department. It allows certain disabled veterans and other disabled persons to apply for property tax exemptions before they have received required documentation from certain agencies of the federal government, and deletes obsolete statutory provisions.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 192.001, 192.117, 193.114, 193.122, 193.155, 193.1554, 193.1555, 193.501, 193.503, 193.505, 194.011, 194.032, 194.034, 194.035, 194.037, 194.171, 195.096, 195.0985, 195.099, 196.031, 196.081, 196.082, 196.091, 196.101, 296.121, 196.202, 196.24, 197.122, 197.182, 197.2301, 197.253, 197.3041, 197.3073, 197.323, 200.065, 218.12, and 218.125.

II. Present Situation:

Section 195.002, F.S., provides that the Department of Revenue (department) shall have general supervision of the assessment and valuation of property, and over tax collection and all other aspects of the administration of such taxes. In its supervisory roll, the department from time to time identifies provisions of Florida Statutes that appear to contain drafting errors, are inconsistent with other statutory provisions, or are not consistent with efficient tax administration. This bill contains recommendations, suggested by the department and approved by the Governor and Cabinet, to address some of these issues.

In 2008 Florida voters approved Amendment 1 to the State Constitution, which increased the homestead exemption, provided portability of the Save Our Home tax limitation, and limited assessment increases for non-homestead property. The Legislature has also made significant changes to property tax statutes in recent years—imposing limitations on local millage rates, changing the value adjustment board (VAB) process, and changing the burden of proof in assessment challenges. Since these changes have been in effect, it has become apparent that some of the language implementing them contained drafting errors, left certain questions unanswered, or created administrative difficulties. Inconsistencies with other statutory provisions have also been uncovered, creating further challenges in implementing the constitutional and statutory changes.

III. Effect of Proposed Changes:

This bill clarifies ambiguous language and corrects drafting errors that have become apparent since these property tax law changes were implemented. It also standardizes statutory requirements for applying for tax deferral and appealing VAB decisions, reduces the department's role in approving tax refunds, and reduces the number of reports that must be submitted to the department. It allows certain disabled veterans and other disabled persons to apply for property tax exemptions before they have received required documentation from certain agencies of the federal government, and deletes obsolete statutory provisions.

(See section by section analysis below.)

Section 1.

Present situation: Section 192.001, F.S., provides definitions of terms used in the statutes governing the imposition of ad valorem taxes. Some of these definitions have not been amended to conform to changes that have been enacted in other ad valorem statutes.

Proposed change: This bill amends the definitions of “assessed value of property” to make it consistent with Art VII of the State Constitution, as amended in 2008. It amends “complete submission of the rolls” to conform to s. 193.114, F.S., as amended in 2008.

Section 2. repeals s. 192.117, F.S., which created the Property Tax Administration Task Force. This task force was dissolved in 2004.

Section 3.

Present situation: Subsection (2) of s. 193.114, F.S., lists items that must be included on the real property assessment roll. When this section was amended in 2008, some of the changes made at that time used terms that are inconsistent with established practice and terminology, and this has led to confusion for the property appraisers.

Proposed change: Paragraph (n) of this subsection is amended to change the recorded selling price requirement from the two most recently recorded selling prices to the recorded selling prices required by s. 193.114, F.S., and to replace the term “sale price” with “recorded selling price” to clarify that the price submitted must be the amount indicated by the documentary stamps posted on the transfer document. The term “sale” is replaced with “transfer” to clarify that all real property transfers recorded or otherwise discovered during the period beginning 1

year before the assessment date, and up to the date the roll is submitted to the department, must be included on the assessment roll. "Transfer date" is defined as the date on which the transfer document was signed and notarized, and sale qualification decisions must be recorded on the assessment roll within 3 months after the deed or other transfer instrument is recorded or otherwise discovered.

Paragraph (p) is amended to delete the requirement that the assessment roll contain the name and address of a fiduciary responsible for payment of property taxes.

Section 4.

Present situation: Subsection (4) of s. 193.122, F.S., provides that the property appraiser must appeal a value adjustment board decision within 30 days of recertification under subsection (4) of that section.

Proposed change: Effective July 1, 2011 and applying to assessments beginning with the 2011 tax year, this subsection is amended to clarify that the appeal must be made within 30 days after the date the decision is rendered. This conforms to other changes made in the bill to clarify the timeline for appealing VAB decisions.

Section 5.

Present situation: Subsection (8) of s. 193.155, F.S., allows a taxpayer to transfer certain amounts of his or her Save Our Home assessment limitation to a newly-acquired homestead, but the transfer must be applied for by a certain date in order to get the full benefit of the transfer. Because of a drafting error, the statute refers to an application for "homestead" instead an application for "assessment" under this subsection.

Proposed change: Effective July 1, 2011, the bill amends the language to clarify that the required application is for "assessment" instead of "homestead" and that the assessment reduction is calculated as if the application had been timely filed.

Sections 6. and 7.

Present situation: Amendment 1, approved by the voters in 2008, provided that the assessed value of certain property cannot increase by more than 10 percent over the prior year. Sections 193.1554 and 193.1555, F.S., which implement this provision, require that property be assessed at just (full) value the first year the property is "placed on the tax roll." It is not clear from the statutory language that "placed on the tax roll" is meant to include property that was already on the roll in a different classification, although the fiscal impact estimates provided at the time were based on that assumption.¹ These sections also provide for assessment of combined or divided parcels, but do not specify how to assess parcels that are combined or divided after the assessment date but before the tax bills are sent.

Proposed change: These sections are amended to clarify that property must be assessed at full value when it is subject to a new limitation, and that parcels combined or divided after January 1

¹ In *Sommers v. Orange County Property Appraiser, et.al.*, a recent summary judgment issued by the Ninth Judicial Circuit Court, it was ruled that the Sommers were entitled to the 10 % assessment limitation on their previously homesteaded property without first reassessing the home to its full market value. The court based its ruling on constitutional language implemented in section 193,1554(3), F.S.

are not considered combined or divided for purposes of assessment until the January 1 the parcels are first assessed as combined or divided, even though they are combined or divided for purposes of the tax notice.

Sections 8., 9., and 10.

Present situation: Sections 193.501, 193.503, 193.505., F.S., provide reduced assessments for lands subject to a conservation easement or other development limitation, historic property used for commercial or certain nonprofit purposes, or historically significant property when development rights have been conveyed or historic preservation restrictions have been covenanted, respectively. The statutes require repayment of the reduced tax liabilities if the use is not maintained for the required period, and local tax collectors are required to report this repayment information to the department. These repayments are rare and this information is not needed by the department.

Proposed change: These sections are amended to delete the reporting requirement.

Sections 11., 31.- 33.

Present situation: Sections 194.011(3)(d), 197.253(2)(b), 197.3041(2)(b), and 197.3073(2)(b), F.S., provide conflicting requirements regarding the time allowed to file a petition for homestead tax deferral. Section 194.011, F.S., provides 30 days following the mailing of the notice by the property appraiser, but the sections in ch. 197 provide 20 days.

Proposed change: These provisions are amended to provide the 30-day window of opportunity, and s. 194.011, F.S., is amended to include cross-references to all homestead tax deferral provisions.

Section 12.

Present situation: An obsolete provision in s. 194.032(2), F.S., requires a petitioner to wait at least 4 hours for his or her VAB hearing before being able to file in circuit court, even though a petitioner is no longer required to exhaust all administrative remedies (i.e., the VAB) before filing a circuit court petition.

Proposed change: This section repeals the obsolete statutory language providing the 4 hour waiting requirement.

This section also creates a new subsection that prescribes how a complaint that a special magistrate did not follow the requirements of state law must be handled by the VAB. It provides that a special magistrate is subject to removal from serving in that capacity upon being found to have failed to follow the requirements of state law.

Section 13.

Present situation: Section 194.034(2), F.S., requires the VAB clerk to notify taxpayer petitioners, property appraisers, and the department of board decisions.

Proposed changes: This subsection is amended to delete the requirement that the department be notified of every VAB decision. It allows the department to request notification or relevant statistics.

Section 14.

Present situation: Section 194.035(1), F.S., provides that, subject to an appropriation, the department will reimburse certain counties for their special magistrate expenses, and the department will establish a reasonable range for special magistrate payments. No appropriations have been provided for these payments.

Proposed change: Effective July 1 and applying to assessments beginning with the 2011 tax year, these provisions are deleted from the statute.

Section 15.

Present situation: Section 194.037(1), F.S., requires the clerk of each VAB to provide a public notice of the findings and results of VAB actions, and prescribes the format of this notice. One of the required elements of the notice is the net change in taxable value as a result of VAB actions. It does not specify which taxable value—county, school board, or special district—is to be reported.

Proposed change: Effective July 1 and applying to assessments beginning with the 2011 tax year, this subsection is amended to specify that the change in county taxable value is to be reported by the clerk.

Section 16.

Present situation: When a VAB petitioner receives a decision from the board, the petitioner has 60 days in which to contest the decision in circuit court. There is confusion on when the 60 days begins—some courts have based the time frame on the date the VAB decision is mailed, but others have used the date the property appraiser first certifies the assessment roll prior to mailing the decision. Taxpayers that appeal to the circuit court without using the VAB process have 60 days from the date the roll is certified to initiate the appeal. It is sometimes difficult to determine this date.

Proposed change: Effective July 1 and applying to assessments beginning with the 2011 tax year, s. 194.171(2), F.S., is amended to begin the 60 day window of opportunity to appeal to the circuit court on the date the VAB decision is mailed or otherwise transmitted to the petitioner, or on the tax notice postmark date if a VAB appeal is not made.

Sections 17. and 18.

Present situation: Sections 195.096 and 195.0985, F.S., require the department to report the results of its in-depth review of the assessment rolls of each county. The findings must be published and copies must be forwarded to legislative staff and county officials. The statutory reporting requirements contain different reporting dates and redundant requirements.

Proposed change: The bill amends subsections (2) and (3) of s. 195.096 to standardize reporting requirements for the in-depth assessment roll review, and repeals s. 195.0985, F.S., which contains a redundant requirement.

Section 19.

Present Situation: Section 195.099, F.S., requires the department to review the assessment of new, rebuilt, or expanded businesses in designated enterprise zones or “brownfield” areas.

Proposed change: This section is amended to allow the department to review these assessments as the need arises for such review.

Section 20.

Present Situation: Section 196.031, F.S., specifies the order in which various exemptions are applied to homestead property. Under present law, the order of exemptions has the result that some properties where only a portion of the property is homesteaded are not able to take full advantage of all the exemptions.

Proposed change: This section is amended to require that exemptions applicable to only homestead property be taken before exemptions that apply to both homestead and non-homestead property, in order to maximize the value of the exemptions.

Sections 21.-24., 26., 27.

Present situation: Sections 196.081, 196.082, 196.091, and 196.101, 196.202, and 196.24, F.S., provide property tax discounts and exemptions for disabled veterans, other disabled persons, widows, widowers, blind persons, persons permanently and totally disabled, and disabled servicemembers or surviving spouses under certain conditions. In order to qualify, a taxpayer must obtain a disability letter from the United States government, the United States Department of Veterans Affairs or its predecessor, or the Social Security Administration, and the person may not receive a discount or exemption until the letter is obtained.

Proposed change: The bill amends these sections to allow a disabled taxpayer to apply for the discount or exemption, with approval contingent upon the taxpayer providing the required documentation. Once the documentation is received by the property appraiser the exemption is granted back to the date of the original application and a refund of excess tax payments is made.

Section 25.

Present situation: Section 196.121, F.S. requires the department to furnish printed homestead exemption forms to the property appraisers. This requirement is obsolete since the forms are provided electronically and funding for printed forms has been eliminated.

Proposed change: The bill amends this section to delete the requirement for printed forms and clarify that the department will provide electronic funds.

Sections 28.-30. and 34.

Present situation: Sections 197.122 and 197.182, F.S. require the department to review most property tax refunds and s. 197.2301 and 197.323, F.S. provide that department approval is not required for refunds of certain tax overpayments.

Proposed change: Sections 197.122 and 197.182, F.S., are amended to require the department to periodically review tax refund procedures instead of reviewing and approving individual tax refunds. The sections are amended to provide additional guidance to the tax collector in making refunds, and require the tax collector and property appraiser to cooperate in the conduct of the department's procedural reviews. Sections 197.2301 and 197.323, F.S. are amended to conform to changes in the refund approval process.

Section 35.

Present situation: The statutory language used to limit local governments' millage rates contains a reference to the prior year's rate. In an apparent drafting error, the phrase "is adopted" was used instead of "was adopted" in referring to that rate, causing uncertainty in the phrase's meaning.

Proposed change: Section 200.065(5)(a), F.S., is amended in the bill to change the phrase from "is adopted" to "was adopted".

Sections 36. and 37.

Present situation: Section 218.12 and 218.125, F.S., provide for distributions to fiscally constrained counties for tax losses due to constitutional changes approved by the voters in 2008. There is no provision in the statute for addressing what happens if a county fails to apply for the distribution. The statute requires counties to report their maximum millage under ch. 200, F.S., but the citation to that chapter is not correct. Finally, distributions under both sections are calculated by multiplying the current year reduction in taxable value by the prior year's millage rate, rather than the current year's rate.

Proposed change: The bill amends these sections to specify that if a county fails to apply for distribution under these sections its share reverts to the fund from which the appropriation is made. The maximum millage calculation references are corrected, and the calculation of the distribution is based on the current year millage.

Section 38. provides that, except as otherwise provided, this act shall take effect upon becoming a law.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Article VII, section 18(b), of the Florida Constitution, provides that "except upon a approval by two-thirds of 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".² Since this bill would reduce a county or municipality's authority to raise revenue in the aggregate, it may require a two-thirds vote of the membership of each house of the Legislature for passage if the magnitude of that reduction is found to be significant for the purposes of this provision.

B. Public Records/Open Meetings Issues:

None.

² FLA. CONST. art. VII, s. 18(b).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Proposed changes to ss. 196.081, 196.082, 196.091, and 196.101, 196.202, and 196.24, F.S., which provide property tax discounts and exemptions for disabled veterans, other disabled persons, widows, widowers, blind persons, persons permanently and totally disabled, and disabled servicemembers or surviving spouses under certain conditions, have the potential to reduce local governments' property tax revenue. The bill amends these sections to allow a disabled taxpayer to apply for the discount or exemption, with approval contingent upon the taxpayer providing the required documentation. Once the documentation is received by the property appraiser the exemption is granted back to the date of the original application and a refund of excess tax payments is made.

Proposed changes to ss. 193.1554 and 193.1555, F.S., which clarify that property must be assessed at full value when it is subject to a new limitation under these provisions, have the potential to increase local governments' property tax revenue.

The Revenue Estimating Conference has not evaluated the impact of this bill.

B. Private Sector Impact:

This bill has several provisions that clarify the process by which taxpayers apply for various property tax exemptions and other tax preferences.

C. Government Sector Impact:

This bill reduces the roll of the Department of Revenue in receiving various reports and approving property tax refunds, and is expected to provide greater efficiency in its oversight of property tax administration. Other statutory corrections and clarifications should also reduce the department's workload with respect to property tax oversight.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
