

STORAGE NAME: h1735.ca

DATE: February 2, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1735

RELATING TO: Ad Valorem Tax Exemption

SPONSOR(S): Representative Jones

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS
 - (2) FINANCE & TAXATION
 - (3) EDUCATION APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

House Bill 1735 revises the definition of "educational institution" to include preschools for ad valorem tax exemption purposes. The bill provides that property utilized predominantly, rather than exclusively, for educational purposes is exempt from taxation.

The bill has a significant fiscal impact on local government. If enacted into law an estimated 2,989 preschools will be eligible for ad valorem tax exemption. This results in a loss of \$748,923,840 to local governments' property tax base.

The bill also reduces the authority of cities and counties to raise revenue in the aggregate. The potential reduction by \$748,923,840 to local governments' property tax base could result in a loss of \$14,978,476 in revenue-generating authority.

This bill is a mandate as provided by the Florida Constitution. To bind local governments, the bill must be enacted by a two-thirds vote of both houses of the Legislature.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Currently, chapter 196, F.S., provides for exemptions from taxes that are assessed on real or personal property. According to subsection (5) of section 196.012, F.S., "educational institution" means:

- 1) a federal, state, parochial, church or private school, college or university conducting regular classes and courses of study required for eligibility to certification by, accreditation to, or membership in the State Department of Education of Florida, Southern Association of Colleges and Schools, or the Florida Council of Independent Schools;
- 2) a nonprofit private school the principal activity of which is conducting regular classes and courses of study accepted for continuing postgraduate dental education credit by a board of the Division of Medical Quality Assurance;
- 3) educational direct-support organizations created pursuant to SS. 229.8021, 240.299 and 240.331, F.S.; and
- 4) facilities located on the property of eligible entities which will become owned by those entities on a date certain.

Furthermore, educational institutions within the State of Florida and their property used by them or by any other exempt entity or educational institution exclusively for educational purposes are exempt from taxation.

An exemption from ad valorem taxation for "educational institutions" was originally provided by the Legislature in 1971 in chapter 71-133, Laws of Florida.

Subsequently, several clarifications and additions to the definition of "educational institution" have been added to section 196.012, F. S. Some of the changes include:

- the addition of federal schools;
- the addition of nonprofit private schools which provide postgraduate dental education; and
- the addition of direct-support organizations created pursuant to 229.8021, 240.299, and 240.331, F.S.

Currently, the definition of educational institutions does not include preschools. According to the Revenue Estimating Conference, there are approximately 6,100 preschools in the State of Florida. Some of these are currently exempt from ad valorem taxation.

B. EFFECT OF PROPOSED CHANGES:

House Bill 1735 revises the definition of "educational institution" to include preschools for ad valorem tax exemption purposes. The bill provides that property utilized predominantly, rather than exclusively, for educational purposes is exempt from taxation.

The bill has a significant fiscal impact on local government. If enacted into law an estimated 2,989 preschools will be eligible for ad valorem tax exemption. This results in a loss of \$748,923,840 to local governments' property tax base.

The bill also reduces the authority of cities and counties to raise revenue. The potential reduction by \$748,923,840 to local governments' property tax base could result in a loss of \$14,978,476 in revenue-generating authority.

This bill is a mandate as provided by the Florida Constitution. To bind local governments, the bill must be enacted by a two-thirds vote of both houses of the Legislature.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

Yes, the bill allows preschools to continue to receive government services, such as; urban infrastructure, police and fire protection without being required to pay ad valorem taxes.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

Not directly. Local governments would have to look to other revenue sources to compensate for the loss of these ad valorem tax dollars.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

Yes. The bill exempts preschools from payment of ad valorem taxes, thereby reducing the amount of taxes paid by preschools and reducing the amount of revenue realized by local governments.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 196.012 and 196.198, Florida Statutes, are affected.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Subsection (5) of section 196.012, Florida Statutes, is amended to include preschools in the definition of "educational institutions."

Section 2. Section 196.198, Florida Statutes, is amended to provide that property used predominantly, rather than exclusively, for educational purposes is exempt from ad valorem taxation.

Section 3. This act shall take effect January 1, 1998.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate.

2. Recurring Effects:

There are an estimated 6,100 preschools in the State of Florida, 1,830 of which are currently exempt from ad valorem taxation and 1,281 of which are not owned or used for exempt purposes. Therefore, 2,989 additional preschools are exempt from ad valorem taxation.

The bill reduces the authority of cities and counties to raise revenue in the aggregate. The potential reduction by \$748,923,840 to local governments' property tax base could result in a loss of \$14,978,476 in revenue-generating authority.

3. Long Run Effects Other Than Normal Growth:

None are determined.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Preschools are exempt from payment of ad valorem taxes.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

The bill is a mandate to local governments as provided in the Florida Constitution. The bill must have a two-thirds vote of the membership of each House to become law.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill reduces the authority that municipalities or counties have to raise revenues in the aggregate.

The potential reduction by \$748,923,840 to local governments' property tax base could result in a loss of \$14,978,476 in revenue-generating authority.

This estimate exceeds \$1.4 million, which would reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority existed on February 1, 1989.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

Utilization of the word predominantly, rather than exclusively, in section 2 of the bill is vague. There is no definition of the word predominantly within the chapter.

The bill is a carry-over bill therefore, the date of enactment of the bill needs to be amended. The bill currently states that the act shall take effect January 1, 1998.

The Florida League of Cities and the Florida Association of Counties object to the expansion of the definition of "educational institutions" to include preschools.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

A strike-everything amendment has been agreed to by Representative Jones. The amendment amends subsection (5) of section 196.012 to expand the definition of "educational institutions" to include childcare centers that are eligible for accreditation by national or state accreditation authorities. In addition, the strike everything amendment states that this act shall take effect upon becoming law.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

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