

STORAGE NAME: h4255z.gg
DATE: August 18, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4255

RELATING TO: Ad Valorem Taxes

SPONSOR(S): House Committee on General Government Appropriations and Pruitt

COMPANION BILL(S): None

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

- (1) GENERAL GOVERNMENT APPROPRIATIONS 9 NAYS 0
- (2) COMMUNITY AFFAIRS YEAS 8 NAYS 0
- (3) FINANCE AND TAXATION
- (4)
- (5)

I. FINAL ACTION STATUS:

HB 4255 passed the Committee on Community Affairs April 21, 1998, and died in the House Committee on Finance and Taxation.

II. SUMMARY:

This bill prohibits a taxpayer whose disputed assessment is in excess of 3 percent of the total nonexempt assessment roll from filing a petition to the value adjustment board. Instead, a taxpayer in such a situation is allowed to file a petition directly to circuit court. With such a petition, a taxpayer is required to include a good faith estimate of the taxable value of the property involved in the action. Each property appraiser is required to report the difference between the taxable value and the good faith estimate of taxable value to each taxing entity. Individual disputed assessments in excess of 3 percent are removed from the assessed roll.

In addition, in regards to calculations of the required local effort for the Florida Education Finance Program, such calculations shall be based on the assessed roll after the disputed assessment has been removed.

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III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Assessment of Property for Ad Valorem Tax Purposes

Section 197.322, F.S., requires the property appraiser to deliver to the tax collector the certified assessment roll along with his or her warrant and recapitulation sheet. Section 193.023, F.S., requires the property appraiser to complete an assessment of the value of all property no later than July 1 of each year, unless the Department of Revenue grants an extension of time for good cause shown.

Within 20 working days after receipt of the certified ad valorem tax roll and the non-ad valorem assessment rolls, the tax collector is required to mail a tax notice to each taxpayer stating the amount of current taxes due from the taxpayer and, if applicable, the fact that back taxes remain unpaid and advising the taxpayer of the discounts allowed for early payment.

All taxes are due and payable on November 1 of each year or as soon thereafter as the certified tax roll is received by the tax collector. Taxes become delinquent on April 1 following the year in which they are assessed or immediately after 60 days have expired from the mailing of the original tax notice, whichever is later. If the delinquency date for ad valorem taxes is later than April 1 of the year following the year in which taxes are assessed, all dates or time periods relative to the collection of, or administrative procedures regarding, delinquent taxes are extended a like number of days.

Property Owner's Contesting of Assessment

Section 194.011, F.S., provides that any taxpayer who objects to the assessment placed on any property taxable to him or her may request the property appraiser to informally confer with the taxpayer. Upon receiving the request, the property appraiser, or a member of his or her staff, shall confer with the taxpayer regarding the correctness of the assessment. At this informal conference, the taxpayer shall present those facts considered by the taxpayer to be supportive of the taxpayer's claim for a change in the assessment of the property appraiser. The property appraiser or his or her representative at this conference shall present those facts considered by the property appraiser to be supportive of the correctness of the assessment.

A taxpayer may also petition the county value adjustment board for a review and decision on the assessment. The petition may be filed, as to valuation issues, at any time during the taxable year on or before the 25th day following the mailing of notice by the property appraiser of the assessment. The decision of the value adjustment board is final unless a suit is filed in circuit court by the property owner to overturn the decision.

Section 194.171, F.S., provides that no action shall be brought to contest a tax assessment after 60 days from the date the assessment being contested is certified for collection or after 60 days from the date a decision is rendered concerning such assessment by the value adjustment board.

Good Faith Payment

Before an action to contest a tax assessment may be brought, the taxpayer shall pay to the collector not less than the amount of the tax which the taxpayer admits in good faith to be owing. The collector shall issue a receipt for the payment, and the receipt shall be filed with the complaint. Payment of the taxes the taxpayer admits to be due and owing and the timely filing of an action shall suspend all procedures for the collection of taxes prior to final disposition of the action. Payment of a tax shall not be deemed an admission that the tax was due.

Florida Education Finance Program

Pursuant to section 236.081, F.S., the Legislature prescribes the aggregate required local effort for all school districts collectively as an item in the General Appropriations Act for each fiscal year. The amount that each district provides annually toward the cost of the Florida Education Finance Program for kindergarten through grade 12 programs is calculated based on the most recent estimate of taxable value for school purposes in each school district and the total for all school districts in the state for the current calendar year based on the latest available data obtained from the local property appraisers. Not later than 2 working days prior to July 19, the Department of Revenue shall certify to the Commissioner of Education its most recent estimate of these values.

The Commissioner is then required to compute a millage rate in the manner prescribed in section 236.081(4), F.S., rounded to the next highest one one-thousandth of a mill, which, when applied to 95 percent of the estimated state total taxable value for school purposes, would generate the prescribed aggregate required local effort for that year for all districts. The Commissioner certifies to each district school board the millage rate, as the minimum millage rate necessary to provide the district required local effort for that year.

By September 1 of each year, the Department of Revenue shall certify to the Commissioner the official prior year final taxable value for school purposes. For each county that has not submitted a revised tax roll reflecting final value adjustment board actions and final judicial decisions, the Department of Revenue shall certify the most recent revision of the official taxable value for school purposes. The certified value shall be the final taxable value for school purposes.

If, however, there is litigation either attacking the authority of the property appraiser to include certain property on the tax assessment roll as taxable property or contesting the assessed value of certain property on the tax assessment roll; and the assessed value of the property in contest involves more than 10 percent of the total nonexempt assessment roll then the assessed value of the property in contest shall be excluded from the taxable value for school purposes for purposes of computing the district required local effort.

Following final adjudication of any litigation on the basis of which an adjustment in taxable value was made, the required local effort for each district shall be recomputed for each year affected by such adjustments, utilizing taxable values approved by the court, and shall adjust subsequent allocations to such districts accordingly.

B. EFFECT OF PROPOSED CHANGES:

This bill prohibits a taxpayer whose disputed assessment is in excess of 3 percent of the total nonexempt assessment roll from filing a petition to the value adjustment board. Instead, a taxpayer in such a situation is allowed to file a petition directly to circuit court. With such a petition, a taxpayer is required to include a good faith estimate of the taxable value of the property involved in the action. Each property appraiser is required to report the difference between the taxable value and the good faith estimate of taxable value to each taxing entity. Individual disputed assessments in excess of 3 percent are removed from the assessed roll.

In addition, in regards to calculations of the required local effort for the Florida Education Finance Program, such calculations shall be based on the assessed roll after the disputed assessment has been removed. The effect is to change from 10 percent to 3 percent the amount of the assessed value of the property that can be excluded in the calculation of district required local effort the Florida Education Finance Program when such property is contested in litigation. This requires a recalculation of required local effort for the program. This recalculation, in turn, can increase the state obligation for those counties where the dispute occurs.

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?

No.

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. However, if 3 percent of a tax roll is removed because it is in dispute, a taxing entity, other than a district school board, may increase its millage to offset the decrease in assessed property value so it can raise the needed revenues for its budget. If this occurs, individual property owners might experience an increase in ad valorem tax.

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

No.

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

No.

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?

There is not anticipated to be any additional costs of implementation and operation of the taxation of property.

4. Individual Freedom:

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

No.

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

No.

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 194.011, 194.171, 200.065, 200.069, 236.081, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Paragraph (d) of subsection (3) of section 194.011, F.S., is amended to prohibit a taxpayer from filing a petition to the value adjustment board for any disputed amount of an assessment which is in excess of 3 percent of the total nonexempt assessment roll.

Section 2: Subsections (2) and (3) of section 194.171, F.S., are amended to state that a taxpayer who disputes an assessment which is in excess of 3 percent of the total nonexempt assessment roll may petition the circuit court no later than 45 days after receiving a notice of the assessment. With the petition, a taxpayer is required to include a good faith estimate of the taxable value of the property involved in the action.

Section 3: Subsection (5) of section 200.065, F.S., is amended to require each property appraiser to report the difference between the taxable value and the good faith estimate of taxable value to each taxing entity. Allows taxing entities to adjust their adopted millage rates if such value is at variance by more than 1 percent of the assessment roll.

Section 4: Amends section 200.069, F.S., to require notice to property owners whose assessed value requires them to petition the circuit court for a dispute instead of the value adjustment board.

Section 5: Subsection 4 of section 236.081, F.S., is amended to repeal the exclusion of disputed property from the tax assessment roll for specific purposes of the Florida Education Finance Program. Allows the 3 percent exclusion described above for these purposes.

Section 6: Provides that the act shall take effect January 1 of the year after the year in which enacted.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The effect of repealing subsection 4 of section 236.081, F.S., is to change from 10 percent to 3 percent the amount of the assessed value of the property that can be excluded in the calculation of district required local effort the Florida Education Finance Program when such property is contested in litigation requires a recalculation of required local effort for the program. This recalculation, in turn, can increase or decrease the state obligation for those counties where the dispute occurs.

Currently, there are two counties that would be affected by such a recalculation-- Gulf and St. Lucie Counties. Given this, the increase state obligation would be approximately \$1.3 million for FY 97-98.

2. Recurring Effects:

Changing from 10 percent to 3 percent the amount of the assessed value of the property that can be excluded in the calculation of district required local effort the Florida Education Finance Program when such property is contested in litigation requires a recalculation of required local effort for the program. This recalculation, in turn, can increase or decrease the state obligation for those counties where the dispute occurs. It is uncertain how many disputes would occur over time, therefore, the recurring fiscal effect of the change is indeterminate.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

4. Total Revenues and Expenditures:

See 1. and 2. above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

If 3 percent of a tax roll is removed because it is in dispute, a city, county or special district may increase its millage to offset the decrease in assessed property value so it can raise the needed revenues for its budget. If this occurs, individual property owners might experience an increase in ad valorem tax.

2. Direct Private Sector Benefits:

With this bill city, county and special district taxing entities can adjust their millage rates to account for large assessments in dispute. Because of this, these taxing entities can adjust their budgets to provide the needed services for citizens.

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

N/A

D. FISCAL COMMENTS:

Because the amendment allows the removal of disputed property from the tax assessment roll, it may reduce the amount of an assessment roll in any individual year. However, a city, county, or special district taxing entity would have the authority to increase its millage to raise the revenue needed for the budget year to offset any decrease in property valuation.

A school district's required local effort for the Florida Education Finance Program will be adjusted based on the revised assessed roll. The school district will receive state funds to replace the loss of local funds. Following final adjudication of the litigation, the required local effort will be recomputed for each year affected and adjustments, if any, will be made to reflect the correct allocation of district funds.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill is not a mandate on counties or municipalities.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue raising authority of counties or municipalities.

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

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

VI. COMMENTS:

Subsequent to the April 21, 1998, Committee meeting where HB 4255 was considered, it was discovered that some minor, technical clarifications written for this bill research statement were inadvertently omitted. Because these clarifications were of a non-substantive nature, the research statement available for the April 21, 1998 meeting was correct and sound. But in an effort to highlight these clarifications for future consideration, they are described below.

In the Summary and Effect of Proposed Changes Sections, it should be noted that HB 4255 amends s. 200.069, F.S., to change the form of notices for proposed property taxes and non-ad valorem assessments. Under the bill, the notices would indicate that a petition must be filed in circuit court rather than with the Value Adjustment Board under certain circumstances.

In the Section-by-Section Research, there are two clarifications. First, in Section 3 of the Section-by-Section Research, the research statement should state that HB 4255 amends s. 200.065(5), F.S., to require that the difference between the taxable value and the good faith estimates of all actions filed pursuant to s. 194.171(2)(d), F.S., be subtracted from the certified taxable value. Second, and also in Section 3 of the Section-by-Section Research, the research statement should state that HB 4255 provides that where taxing entities administratively adjust their adopted millage rates when such values differ by more than one percent from the assessment roll that these entities must exclude any adjustment for actions filed pursuant to s. 194.171.(2)(b), F.S.

Finally, in Fiscal Research & Economic Impact Statement, the original research statement appears to contain a typo in Section A1. The original research statement incorrectly refers to the repeal of subsection 4 of section 236.081, F.S., which outlines the computation of district required local effort under the Florida Education Finance Program. But in fact, HB 4255 would merely remove s. 236.081(4)(d). By removing this section, HB 4255 would exclude, when determining the district required local effort, those properties involved in litigation that exceed 3 percent of the total nonexempt assessment roll. The present law provides for a 10 percent trigger.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The bill as originally proposed required a taxpayer to pay the full amount of a property tax assessment before an action to contest the assessment may be brought, instead of the tax which the taxpayer admits in good faith to be owing. It also changed from 10 percent to 2.5 percent the amount of the assessed value of property that can be excluded in the calculation of district required local effort for the Florida Education Finance Program when such property is contested in litigation.

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One amendment that strikes everything after the enacting clause and rewrites the bill was adopted by the House Committee on General Government Appropriations and now constitutes the bill as described in this bill research statement.

VIII. SIGNATURES:

COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

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