

STORAGE NAME: h0231.ca

DATE: January 26, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: HB 231

RELATING TO: Ad Valorem/Property Damaged by Natural Disasters

SPONSOR(S): Representative Johnson

COMPANION BILL(S): SB 828 (s), HB 89 (c)

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

- (1) COMMUNITY AFFAIRS
 - (2) FINANCE & TAXATION
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

This bill allows a partial refund of ad valorem taxes for residential property damaged by certain natural disasters. The bill establishes a procedure for obtaining such partial refunds. The fiscal impact appears to be indeterminate.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

All real and tangible personal property which is substantially complete or acquired is assessed for ad valorem purposes on January 1 of each year. Property owners are billed for taxes in November of that year, and have until April of the following year to pay. If structures on the property are damaged by a natural or manmade disaster, the assessed value of the property remains as it was established on January 1 of that year. The property is reassessed the following January 1, with changes to the property as an essential consideration in the reassessment. There is currently no mechanism for property tax abatement or refund on property damaged by natural or manmade disasters.

Chapter 88-101, Laws of Florida, provides for property tax abatement for residential buildings and structures damaged by tornadoes or windstorms during tax years 1988 and 1989. Chapter 85-322, Laws of Florida, also provides for property tax abatement of residential buildings and structures damaged by fire during tax years 1985 and 1986.

Moreover, the 1998 Legislature passed 98-185, Laws of Florida, which allowed a partial abatement of ad valorem property taxes for residential property damaged by the 1998 tornadoes in South and Central Florida. However, in at least one case, a county had to issue partial refunds in addition to abatements to implement the requirements of HB 4261. According to Osceola County property appraisers, such action was necessary since some tax assessments were already issued by the time the law became effective. Osceola County reported refunding approximately \$150,000 in tax revenues pursuant to 98-185, Laws of Florida. That figure may increase slightly since the county will continue to receive abatement applications until March 1, 1999. However, the figure does not include the cost of staff time in administering the provisions of the law which is reportedly minimal.

Historically, requests to the Legislature for ad valorem taxation relief due to a natural disaster has been on a year-to-year basis. Existing law provides no generalized provisions granting such tax relief on a perpetual basis.

In 1998, wildfires threatened safety, caused human hardship, and extensive damage to property in the state. According to "An Assessment of Florida's Wildfires of 1998", almost 500,000 acres burned and well over 300 homes were damaged or destroyed. As a result, many residences are uninhabitable. House Bill 89 by Rep. Wiles (1999) allows a partial refund of ad valorem taxes for residential property destroyed or damaged by forest fires.

B. EFFECT OF PROPOSED CHANGES:

This bill creates a process for obtaining a partial refund of ad valorem taxes for a house or other residential building damaged or destroyed by hurricane, flood, windstorm, fire, or sinkhole.

To qualify for the tax refund, the building must be incapable of being used and occupied. Property owners must file an application with the property appraiser before July 1 of the year following the tax year in which the destruction or damage occurred. Failure to

make such timely application constitutes a waiver of any claim for a partial refund under this bill.

The property appraiser must determine whether the property is eligible for a partial refund, and submit an official written statement to the tax collector with the following information:

- The number of months the building was not capable of use and occupancy;
- The value of the building or structure before the damage or destruction;
- The total taxes due on the building or structure, based on the ratio that the number of months of loss of use and occupancy bears to 12; and
- The amount of refund in taxes.

The tax collector must refund the taxes on the property shown on the tax collection roll in the refund amount specified by the property appraiser. By September 1, the tax collector must notify the Board of County Commissioners and the Department of Revenue of the total reduction in taxes resulting from the partial refund of taxes granted in the county.

“Loss of use and occupancy” is defined to mean that the building or structure, or some self-sufficient unit within it, cannot be used for the purpose for which it was constructed during a period of 60 days or more. The bill specifies that “house or other residential building or structure” does not include amenities not essential to use and occupancy, such as detached utility buildings, bulkheads, fences, detached carports, swimming pools, or other similar items or property.

The provisions of this bill are retroactive to January 1, 1998, and apply only to ad valorem taxes levied in 1998. The provisions of this bill expire October 1, 1999. Such an expiration requirement prevents the provisions of this bill from being applied on a perpetual basis.

Pursuant to this bill, only counties affected by the 1998 wildfires are subject to this bill's provisions. As such, the bill provides the same results as HB 89.

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?

Yes. The bill requires county property appraisers to process applications for partial tax refund from residential owners whose property has been destroyed or damaged by hurricane, flood, windstorm, fire, or sinkhole. The

bill further requires county tax collectors to adjust the tax collection roll for each application approved.

- (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?

No.

- 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 fails to provide how the tax refunds will be funded. By providing for a partial refund of taxes on certain destroyed properties, the bill also has the effect of reducing ad valorem property tax revenues.

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

N/A

- 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?

N/A

- 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?

Yes. Owners of houses and other residential structures made uninhabitable between January 1, 1998, and October 1, 1999, by hurricane, flood, windstorm, fire, or sinkhole may be eligible to receive a partial property tax refund on their property.

- 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:

None.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Creates provisions that allow a partial refund of ad valorem property taxes for houses or certain other residential property destroyed or damaged by hurricane, flood, windstorm, fire, or sinkhole; provides a deadline for applying for a partial refund; provides eligibility requirements and administrative procedures for issuing a partial refund of ad valorem property taxes; provides that this section expires October 1, 1999.

Section 2: Provides that this bill takes effect upon becoming law and is retroactive to January 1, 1998, and must apply only to ad valorem property taxes levied in 1998.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None, unless there is a General Revenue appropriations to recompense the lost tax revenues due to the tax abatement.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None, unless there is a General Revenue appropriations to recompense the lost tax revenues due to the tax abatement.

4. Total Revenues and Expenditures:

None, unless there is a General Revenue appropriations to recompense the lost tax revenues due to the tax abatement.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

This bill grants a temporary refund of property taxes on residential property destroyed by hurricane, flood, windstorm, fire, or sinkhole. Thus, there will be a reduction in local revenues, if the local government does not increase the millage rate to offset this loss.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Property owners may seek temporary ad valorem tax relief in the wake of crippling destruction and damage to their residential structures caused by hurricane, flood, windstorm, fire, or sinkhole.

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

The bill may stimulate the construction industry economy by assisting property owners in financing repairs.

D. FISCAL COMMENTS:

While the bill does not specify the source of the refunded taxes, it is presumed that such sources are those taxing authorities which levy ad valorem taxes. These taxing authorities (including counties, cities, school boards, and special districts) may either have to cut their budgets or may increase property taxes in the following fiscal year to cover their financial losses under this bill. This issue is being submitted to the Revenue Estimating Conference to assess the actual fiscal impact of the bill to local and state governments.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

Under the bill, counties are responsible for the cost of processing applications for an ad valorem property tax refund relating to residential property damaged by hurricane, flood, windstorm, fire, or sinkhole. However, the cost of such processing is likely to be insignificant or less than \$1.4 million. As such, counties and cities are exempt from the provisions of Article VII, section 18, of the Florida Constitution.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Article VII, section 18, subsection (b), of the Florida Constitution, requires two-thirds vote of the membership of each house in order to enact a general law reducing the authority that counties and cities had on February 1, 1989, to raise revenues in the aggregate. By providing for a partial refund of taxes on certain destroyed properties, the bill also has the effect of reducing ad valorem property taxes. However, since the annual local revenue loss is estimated to be less than \$1.4 million, the bill is exempt from the requirements of subsection (b) due to insignificant fiscal impact.

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.

V. COMMENTS:

None.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The bill's sponsor has agreed to the following changes to the bill: (1) providing ad valorem property tax relief on property damaged by certain natural disasters on a **perpetual basis**, (2) restricting the tax relief to residential housing property, excluding commercial residential property, and (3) limiting the amount of ad valorem tax revenue that can be impacted by certain natural disasters for purposes of this bill.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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