

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 828

SPONSOR: Comprehensive Planning, Local and Military Affairs Committee, Senator Kurth and others

SUBJECT: Ad Valorem Taxes / Abatement

DATE: April 16, 1999 REVISED: 4/19/99 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
2.	<u>Fournier</u>	<u>Wood</u>	<u>FR</u>	<u>Fav/1 amendment</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Senate Bill 828 allows a partial abatement of ad valorem taxes for residential property destroyed or damaged by a natural disaster.

This bill creates a new, unspecified section of Florida law.

II. 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 rebate on property damaged by natural or manmade disaster.

However, the Legislature has on three previous occasions provided limited exceptions for tax abatement on property damaged by a natural disaster. Chapter 98-185, L.O.F., provided for property tax abatement of residential buildings and structures damaged by tornadoes in 1998. Chapter 88-101, L.O.F., also provided for property tax abatement for residential buildings and structures damaged by tornadoes or windstorms during tax years 1988 and 1989. Chapter 85-322, L.O.F., provided for property tax abatement of residential buildings and structures damaged by fire during tax years 1985 and 1986.

According to estimates from the Florida Insurance Council, there has been an estimated \$19.1 billion in insured damage to property in Florida from 1992 through 1998. These damages were caused by hurricanes, tornadoes, wildfires, hailstorms, and flooding. This total does not include

uninsured losses, which are estimated to be equal to insured losses. Residential property destruction typically constitutes more than a majority of storm property damage.

Estimates of Insured Property Damage in Florida 1992 - 1998.		
Year	Major Storm	Total Annual Estimated Losses
1998	Hurricane Georges	\$ 530 million
1997		120 million
1996	Hurricane Opal	1,800 million
1995	Hurricane Erin	350 million
1994	Tropical Storm Gordon	83 million
1993	Winter Storm	620 million
1992	Hurricane Andrew	15,613 million
		=====
		\$19,116 million

Source: Florida Insurance Council

III. Effect of Proposed Changes:

Senate Bill 828 creates a process for obtaining a partial abatement of ad valorem taxes for residential buildings and structures damaged or destroyed by a natural disaster, which includes fire, windstorm, tornado, or sinkhole.

Section 1 amends s. 129.06(2), F.S., to allow the board of county commissioners to amend their budgets up to 90 days after the end of the fiscal year to account for decreases in revenue resulting from the refund of taxes to persons with property damaged or destroyed by a natural disasters. In addition, counties may transfer funds to properly account for a decrease in revenue due to such tax refunds.

Section 2 creates s. 196.296, F.S., to outline the proposed tax abatement and refund program. To qualify for the tax abatement, a “residential house” must be incapable of being used and occupied because of damage resulting from a “natural disaster.” “Residential house” means an improvement to real property, to include a mobile home or condominium, which is a permanent or temporary residence for its legal owner or the legal owner’s dependents. “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. “Natural disaster” is defined as any event, which includes a wildfire, windstorm, tornado, flood, or sinkhole, which causes a residential house to be uninhabitable for 60 days or more.

Property owners must file an application with the property appraiser before March 1, following the year in which the destruction or damage occurred. To qualify for an abatement for damages

occurring in 1998, the application must be filed before March 1, 2000. Applications must be verified under oath under penalty of perjury.

After the application has been submitted, the property appraiser must determine whether the property is eligible for a partial abatement, and submit, by April 1, 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 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 abatement or refund of taxes.

The tax collector is then responsible for reducing the taxes on the property on the tax roll to the amount specified by the property appraiser. By May 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 abatement of taxes granted in the county.

The tax collector is required to notify the board of county commissioners, school boards, and the governing bodies of municipalities of the total abatement or refund of taxes for all property that received a partial abatement or refund pursuant to this bill.

Tax abatements or rebates are not granted when damages exceed 5 percent of total ad valorem revenues for cities and counties, or 2 percent of total ad valorem revenues for school districts.

Section 3 provides that the bill becomes effective upon becoming a law and applies retroactively to January 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Since this bill provides for the abatement of ad valorem taxes on houses or other residential property destroyed by a natural disaster, the bill falls within the purview of Art. VII, Section 18(b) of the State Constitution, which provides that cities and counties are not bound by general laws anticipated to reduce the authority of cities and counties to raise total aggregate revenues over 2/1/89 levels. The term “authority” applies to the base against which a tax is levied, i.e., the local government’s ad valorem tax base.

None of the specified constitutional exemptions apply.

Therefore, this bill may only take effect if passed by a 2/3 vote of the membership of each house.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article VII, Section 2 of the State Constitution requires all property be taxed uniformly throughout each taxing unit. There appears to be a constitutional constraint to granting particular properties, in this case residential property, an ad valorem exemption when such exemption is not provided for in the Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The Revenue Estimating Conference found that, because of the vague language in the bill about what constituted a “natural disaster” and the unpredictable nature of these events, it is impossible to estimate its fiscal impact.

B. Private Sector Impact:

Owners of residential structures made uninhabitable by a natural disaster may be eligible to receive partial property tax abatement on their property.

C. Government Sector Impact:

County property appraisers would be responsible for processing applications for partial tax abatements and issuing tax certificates to the tax collector. Tax collectors would be responsible for abating taxes on these properties. While the bill does not specify where the abated taxes would come from, it is presumed that funds would come from those taxing authorities which levy the tax.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Fiscal Resource:

This amendment limits property tax relief to damage that occurs in an event that receives a major Presidential disaster declaration.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
