

STORAGE NAME: h1199z.ca

DATE: May 17, 2000

****FAILED TO PASS THE LEGISLATURE****

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

BILL #: HB 1199

RELATING TO: Ad Valorem Taxation/Conservation Lands

SPONSOR(S): Representative Ball and other

TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC) YEAS 7 NAYS 3
 - (2) FINANCE & TAXATION (FRC) (W/D)
 - (3) GENERAL GOVERNMENT APPROPRIATIONS (FRC) (W/D)
 - (4)
 - (5)
-

I. SUMMARY:

This bill defines conservation lands and directs property appraisers to consider that the designation of lands as wetlands or conservation lands constitutes a constraint on the determination of the highest and best use of the property.

This bill has no fiscal impact on state government. The Revenue Estimating Conference has not yet considered this bill. (See "Fiscal Comments.")

The Committee on Community Affairs adopted one amendment that is traveling with the bill. As discussed in the "AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES" section of the analysis, the amendment revises the definition of "conservation lands" and clarifies that the property appraiser is to consider that the designation, as well as the delineation of lands as wetlands or conservation lands by any governmental entity constitutes a constraint on the property appraiser's ability to determine the highest and best use of the property.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Assessment of Property/Just Valuation

Section 4, Article VII, of the Florida Constitution requires:

“By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, . . .”

The Florida Supreme Court has interpreted "just valuation" to mean fair market value, i.e., the amount a purchaser, willing but not obliged to buy, would pay a seller who is willing but not obliged to sell. *Walter v. Schuler*, 176 So. 2d 81 (Fla. 1965).

Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes are exceptions that may be assessed solely on the basis of their character or use. Tangible personal property held for sale as stock in trade and livestock may be assessed at a specified percentage of its value or totally exempted. The legislature may also allow counties and municipalities to authorize by ordinance that historic property may be assessed solely on the basis of character of use, but such assessment may only apply to the jurisdiction adopting the ordinance.

Section 193.011, F.S., directs property appraisers to take into consideration eight factors when deriving a just valuation of property. Briefly, these factors include:

1. The present cash value of the property, exclusive of reasonable fees and costs of purchase;
2. The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking all legal limitations imposed on the property into consideration;
3. The location of the property;
4. The quantity or size of the property;
5. The cost of the property and the present replacement value of improvements;

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6. The condition of the property;
7. The income from the property;
8. The net proceeds from the sale of the property, exclusive of reasonable fees and costs of the sale.

Although the statute outlines the factors that property appraisers are to consider in deriving just valuation, the Florida Supreme Court has ruled that the factors used and the weight given to any factor or method of valuation is left to the discretion of the property appraiser. *Valencia Center, Inc. v. Bystrom*, 543 So.2d 214 (Fla. 1989).

Section 193.015, F.S., provides that if the Department of Environmental Protection issues or denies a permit to dredge, fill, or otherwise construct in or on waters of the state, as defined in chapter 403, F.S., to their landward extent as determined under s. 403.817(2), F.S., the property appraiser is to consider the effect of that issuance or denial on the value of the property and any limitation that the issuance or denial may impose on the highest and best use of the property to its landward extent. The provision does not apply under specified circumstances.

Assessment of Conservation Lands

Section 4, Article VII, of the Florida Constitution does not provide for land designated as wetlands or conservation lands to be classified by general law and assessed solely on the basis of character of use unless such land is land producing high water recharge to Florida's aquifers or used exclusively for non-commercial recreational purposes.

Section 193.501, F.S., governs assessment of lands that are subject to a conservation easement and environmentally endangered lands or lands used for outdoor recreation or park purposes when land development rights have been conveyed or conservation restrictions have been covenanted. Under specified conditions, if the covenant or conveyance extends for a period of not less than 10 years from January 1 in the year an assessment is made, the property appraiser is directed to consider no factors other than those relative to its value for the present use, as restricted by any conveyance or covenant. If the covenant or conveyance extends for a period of less than 10 years, the land must be assessed under the provisions of s. 193.011, recognizing the nature and length of any restriction placed on the use of the land.

As part of the factors the property appraiser must take into consideration in arriving at just valuation, s. 193.011(2), F.S., requires the property appraiser to consider:

The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise authorized by applicable law. The applicable governmental body or agency or the Governor shall notify the property appraiser in writing of any executive order, ordinance, regulation, resolution, or proclamation it adopts imposing any such limitation, regulation, or moratorium.

Some property appraisers have expressed concern that their ability to determine "highest and best use" of conservation lands is constrained due to uncertainties regarding allowed uses under various regulations applied to such lands.

C. EFFECT OF PROPOSED CHANGES:

This bill defines conservation lands and directs property appraisers to consider that the designation of lands as wetlands or conservation lands constitutes a constraint on the determination of the highest and best use of the property.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. A new subsection (4) is added to s. 193.015, F.S. Paragraph (a) of subset (4) defines "conservation lands" to mean "lands designated under an adopted comprehensive plan or element or portion thereof, land development regulations, or a land development code, to conserve and protect native species' habitats or endangered or threatened species, or to conserve, protect, manage, or restore important ecosystems and forests, if the protection and conservation of such lands is necessary to enhance or protect significant surface water, groundwater, wetlands, coastal protected habitats, or wildlife resources which cannot otherwise be accomplished through state or local regulatory programs.

Paragraph (b) of subsection (4) directs the property appraiser to consider that the designation of lands as wetlands or conservation lands constitutes a constraint on the determination of the highest and best use of the property.

Section 2. An effective date of upon becoming law is provided.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill has no impact on state revenues.

2. Expenditures:

This bill has no impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See "Fiscal Comments" section.

2. Expenditures:

This bill appears to have no direct impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See "Fiscal Comments section.

D. FISCAL COMMENTS:

The Impact Conference has not addressed this bill. The bill does not change the property appraiser's obligation to assess "conservation lands" at fair market value. In considering highest and best use, as required by s. 193.011(2), F.S., the bill requires the property appraiser to consider that the designation of lands as wetlands or conservation lands constitutes a constraint on the determination of the highest and best use of the property. The effect this requirement will have on a property appraiser's ultimate appraisal of "conservation lands" will depend on the individual property appraiser and the methodology used to arrive at the fair market valuation.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This 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:

This bill does not reduce the revenue raising authority that municipalities or counties have to raise revenues in the aggregate.

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:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

This bill does not necessitate additional rulemaking authority.

C. OTHER COMMENTS:

Florida Association of Property Appraisers, Inc.

A representative of the Florida Association of Property Appraisers, Inc, indicates the Association supports HB 1199.

Property Appraisers Association of Florida

The President of the Property Appraisers Association of Florida indicates the Association opposes this bill and does not see a need for the legislation with s. 193.011(2), F.S., already in place.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Committee on Community Affairs

The Committee on Community Affairs adopted one amendment on March 23, 2000, that is traveling with the bill. The amendment deletes language from the definition of "conservation land" that limits the application of the bill only to situations where protection and conservation of such lands is necessary to enhance or protect significant surface water, groundwater, wetlands, coastal protected habitats, or wildlife resources which cannot otherwise be accomplished through state or local regulatory programs. In addition, the amendment clarifies that the property appraiser is to consider that the designation, as well as the delineation of lands as wetlands or conservation lands by any governmental entity constitutes a constraint on the property appraiser's ability to determine the highest and best use of the property.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Thomas L. Hamby

Joan Highsmith-Smith

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Thomas L. Hamby

Joan Highsmith-Smith