

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

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Prepared By: Government Efficiency Appropriations Committee

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BILL: SB 1796

SPONSOR: Senator Atwater

SUBJECT: Property Tax Administration

DATE: March 18, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fournier</u>	<u>Johansen</u>	<u>GE</u>	<b>Favorable</b>
2.	_____	_____	<u>GA</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

SB 1796 changes the Department of Revenue's response to a finding of an excessive error rate in the property appraiser's sales qualification determinations. It requires the department to issue a postaudit notification of defects, instead of a issuing a review notice. The proposed change provides a higher degree of supervision by the department, and allows sufficient time for the problems to be corrected without triggering roll disapproval.

The bill requires that the department to use all practicable steps to maximize the representativeness or statistical reliability of samples in conducting assessment ratio studies.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 195.096 and 195.0995

## II. Present Situation:

Section 195.002, F.S., provides that the Department of Revenue (department) has general supervision of the assessment and valuation of property. The purpose of this supervision is to ensure that all property will be placed on the tax rolls and valued according to its just valuation, as required by Sec. 4, Art. VII of the Florida Constitution.

Section 195.096, F.S., requires the department to review the property assessment rolls. In-depth reviews are required at least once every two years. The department need not study every use-class of property listed in s. 195.073, F.S., but must at a minimum study the level of assessment in relation to the just value of each classification specified in subsection (3). The in-depth review may include proceedings of the value adjustment board and the audit or review of procedures used by the county to appraise property.

Paragraph (c) of subsection 2 of this section requires the department's in-depth review to meet certain criteria. It provides that in conducting assessment ratio studies, the department *must use a representative or statistically reliable sample* of properties in tests of each classification, stratum, or roll made the subject of a ratio study published by it. In addition, it requires that, to the greatest extent practicable, the department shall study assessment roll strata by value groups or market areas for each classification, subclassification, or stratum to be studied, to *assure the representativeness* of ratio study samples.

Subsection (7) of s. 195.096, F.S., provides that the Auditor General shall conduct a performance audit of the administration of ad valorem tax laws by the department triennially following completion of reviews conducted pursuant to this section. The audit report must be submitted to the Legislature no later than April 1, on a triennial basis, reporting on the activities of the ad valorem tax program of the Department of Revenue related to the ad valorem tax rolls. The Auditor General must include findings about the accuracy of assessment procedures, projections, and computations made by the division, utilizing the same generally accepted appraisal standards and procedures to which the division and the property appraisers are required to adhere, for at least four counties that were reviewed by the department.

Section 195.097, F.S., provides for postaudit notification of defects in the assessment rolls, based on evaluation of any reviews, studies, or findings. The executive director of the department must issue a notice to any property appraiser who the executive director has determined has one or more classes or other strata of property listed on the assessment rolls in a manner inconsistent with the requirements of law, or is otherwise not assessing in accordance with law. The executive director must specify which classes or strata of property that have been improperly assessed on the prior year's roll, the nature of the defect or defects, and what is required to obtain approval of the current year's assessment roll. Such notice must be provided to the property appraiser no later than November 15.

The statute provides for a process by which the property appraiser shall respond to the notice. The property appraiser may express his or her intent to comply with the notice, request a conference with the executive director, or express his or her intent not to comply. If the property appraiser agrees to comply with the department's findings, either before or after a conference, executive director shall issue an administrative order, which order shall incorporate the remedial steps, if any, to be taken by the property appraiser to ensure that all property on his or her rolls is assessed at just value. If the property appraiser chooses not to comply, the department shall take such action as it deems necessary pursuant to s. 195.092.

If it issues an administrative order, the department is directed to supervise the preparation of the current tax rolls to ensure that every reasonable effort is being taken by the property appraiser to comply with the order. Supervision may include, but is not limited to, the conduct of ratio or other mass-data studies on the roll being prepared, onsite inspection of the property appraiser's office or field operations, and interviews with the property appraiser's personnel or consultants. The executive director may require the property appraiser to certify in writing the specific steps taken to comply with the administrative order. During such supervision, the executive director may seek any judicial remedy available to him or her under law to force compliance with the order, and may request removal of the property appraiser by the Governor when he or she deems

such action necessary. If the executive director determines that the property appraiser is not in substantial compliance by May 1, he or she shall send to the property appraiser, and the governing body of each tax-levying agency in the county, a notice of intent to disapprove the tax roll in whole or in part. Under certain circumstances, the dates specified by this section may be extended.

Accurate information on sales of property is essential to both the property appraiser's determination of market value for all property within a county and to the department's oversight of the county tax rolls. To provide accurate information, property appraisers review individual sales and "qualify" those sales that meet the standards for arms-length transactions. Such "qualified" sales are indicative of market value. (Other sales are "disqualified.") The department uses data on "qualified" sales to measure the level of assessment. Section 195.0995, F.S., requires the property appraiser to document the reason for disqualifying a sales transaction for purposes of the Department of Revenue's review of the tax roll. The department is directed to randomly sample all sales in the county to determine whether the sales were properly qualified or disqualified. If the department finds that more than 10 percent of sales qualification decisions do not fall within the applicable criteria, the department shall issue a review notice pursuant to s. 193.1142(4), F.S., requiring the property appraiser to satisfactorily explain or remedy the problem before approval of the assessment roll.

Section 193.1142, F.S., provides for the approval of property tax assessment rolls by the executive director of the Department of Revenue. Subsection (4) authorizes the department to issue a review notice to a county property appraiser within 30 days of a complete submission of the assessment rolls of that county. Such review notice must:

- be in writing;
- set forth with specificity all reasons relied on by the department as a basis for issuing the review notice;
- specify all supporting data, surveys, and statistical compilations for review; and
- set forth with particularity remedial steps which the department requires the property appraiser to take in order to obtain approval of the tax roll.

### **III. Effect of Proposed Changes:**

SB 1796 amends s. 195.0995, F.S., to change the Department of Revenue's response to a finding that more than 10 percent of the property appraiser's sales qualification decisions do not fall within the applicable criteria. It requires the department to issue a postaudit notification of defects and follow the procedures set forth in s. 195.097, F.S., which provides for supervision by the department of property tax roll preparation, instead of a the issuance of a review notice pursuant to s. 103.1142, F.S. The proposed change provides a higher degree of supervision by the department of property appraisers whose sales qualification decisions have too many errors, and allows sufficient time for the problems to be corrected without triggering roll disapproval.

The bill amends s. 195.096, F.S., to require the department to use all practicable steps, including stratified statistical samples and analytical reviews and sales-qualification studies, to maximize

the representativeness or statistical reliability of samples of properties in tests by the department. It also requires the department, to the greatest extent possible, to study assessment roll strata by subclassifications such as value groups and market areas for each classification or stratum to be studied, to maximize the representativeness of ratio study samples. These changes will remove current statutory requirement for samples that assure representativeness, which the department has found unrealistic, and which creates a risk of litigation.

Both of these changes address issues raised by the Auditor General in his review of the Department of Revenue's administration of ad valorem tax laws.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The proposed changes will allow supervision of the Department of Revenue with respect to sales qualification decisions without triggering automatic tax roll disapproval.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

## **VIII. Summary of Amendments:**

None.

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

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