

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.)

Prepared By: Community Affairs Committee

BILL: SB 1272

INTRODUCER: Senators Margolis and Bennett

SUBJECT: Tax Collector/Duties/Property Taxes

DATE: March 31, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vickers	Yeatman	CA	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	GE	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill implements the following provisions relating to the collection of delinquent personal property taxes:

- Requires that taxpayers be informed of potential additional costs associated with allowing personal property taxes to become delinquent;
- Provides that a delinquent taxpayer is personally liable for unpaid tangible personal property taxes, and
- Authorizes tax collectors to use private attorneys in collecting unpaid taxes and provides for the compensation of such private attorneys.

This bill substantially amends sections 197.333 and 197.413 of the Florida Statutes.

II. Present Situation:

Pursuant to ch. 197, F.S., tax collectors have the authority to collect all taxes shown on the tax rolls by the date of delinquency. Taxes are due and payable on November 1st of each year, or as soon as the certified tax rolls is received by the tax collector. Taxes become delinquent on April 1st of the following year in which they are assessed, or 60 days from the mailing of the original notice, whichever is later. If the delinquency date for ad valorem taxes is later than April 1st of the year following the assessment on which taxes are due, all dates or time period regarding the collection of, or administrative procedures regarding the collection of, delinquent taxes shall be

extended a like number of days.¹ If taxes become delinquent, the tax collector may collect delinquent taxes, interests, and costs, by sale of tax certificates on real property and by seizure and sale of personal property. Costs include the publication of notices and reasonable attorney fees and court costs in proceedings to recover delinquent taxes.²

Section 197.413, F.S., provides that before May 1st of each year following the assessment, the tax collector prepares a roll of all unpaid personal property taxes. Prior to April 30th of the next year, the tax collector is required to prepare warrants against the delinquent taxpayers. The warrants allow for the levy upon, and seizure of, tangible personal property. Within 30 days after preparing the warrants, the tax collector files a petition in the circuit court for the county they serve in. The petition describes the levies and nonpayment of taxes, the issuance of warrants, proof of publication of notices, and the names and addresses of all taxpayers who failed to pay taxes. There is one petition naming multiple delinquent taxpayers. The petition pays for an order ratifying and confirming the warrants, and directing the tax collector to levy upon and seize the personal property of all delinquent tax payers to satisfy payment of unpaid taxes.³

Upon filing a petition with the court, the tax collector must request the earliest time for a hearing, and the clerk of court shall notify each delinquent taxpayer listed in the petition that a petition is filed and, if ratified, warrants will be issued and their property will be seized and sold to pay unpaid taxes, plus costs, interest, attorney's fees, and other charges.⁴

The tax collector is authorized to employ counsel to conduct such suits. They may agree upon counsel's compensation, which may come out of the general office expense fund and be included in their budget.⁵ These fees are allowed to be collected from delinquent taxpayers by adding them to the unpaid taxes.

III. Effect of Proposed Changes:

Section 1 amends s. 197.333, F.S., to provide that the original tax notice must inform the taxpayer that any delinquent tangible personal property tax, penalty, and interest remaining unpaid as of August 1 of the year following the year of assessment may be referred to a private attorney for collection. Additionally, the notice must inform the taxpayer that a private attorney's compensation and certain other costs, including court and advertising costs, will be added to the amount owed on delinquent taxes.

Section 2 amends s. 197.413, F.S., to provide that at any time after the taxes become delinquent the tax collector shall prepare warrants against the delinquent taxpayers. Court costs must be added to the delinquent taxes at the time of advertising. The bill also provides that a delinquent taxpayer is personally liable for unpaid tangible personal property taxes. Any current taxes assessed against the delinquent property that are unpaid, but not yet delinquent, may be included in the warrant to collect delinquent tangible personal property taxes.

¹ Section 197.333, F.S.

² Section 197.332, F.S.

³ Section 197.413(2), F.S.

⁴ Sections 197.413(4), (5), F.S.

⁵ Section 197.413(3), F.S.

This provision effectively changes the current lien against the property into a personal debt liability against the owner of the property. The owner becomes personally liable for any unpaid personal property taxes, penalties, and interest. This subjects the owner of property with delinquent personal property taxes to a civil action for debt collection. Under current law, the tax collector can seize and then sell the personal property for satisfaction of the taxes owed. This bill will hold the property owner personally liable as well, giving the tax collector, and others with an interest in the debt (including outside counsel), a separate collection tool aimed at other assets than just tangible personal property.

The bill also amends this section to expand the tax collectors ability to use private attorneys in collecting unpaid taxes. The bill specifies that the tax collector may contract with a private attorney to collect by suit, or other means, all delinquent tangible personal property taxes and that remain unpaid on August 1 of the year immediately following the year of assessment. The bill provides private attorneys a statutory compensation of up to 33 percent of the total amount of delinquent taxes, penalties, and interests collected. To pay this cost, the bill authorizes a collector's fee of up to 33 percent of delinquent taxes, penalties, and interests to be added to all personal property taxes, penalties, and interest remaining unpaid upon referral to private attorney. In a warrant or other cause of action for unpaid taxes in which a collection fees has not been imposed, the bill allows the tax collector to recover attorney's fees in the amount of up to 33 percent of the amount of taxes, penalty, and interest adjudged by the court.

Section 3 provides the act shall effect upon becoming a law.

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:

The bill authorizes a collection fee of up to 33 percent for delinquent personal property taxes.

B. Private Sector Impact:

The bill authorizes tax collectors to contract with private attorneys for the collection of certain delinquent taxes.

C. Government Sector Impact:

The bill provides tax collectors with an additional method of collecting delinquent taxes and fees by turning unpaid taxes, penalties, and costs into a personal debt, rather than a lien on the property. By making this a personal debt, collection can be undertaken in a civil action.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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