

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes - This bill may ensure lower taxes by limiting the annual growth in ad valorem tax revenue.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Brevard County was chartered in 1994. As a charter county Brevard has all the powers of self-government not inconsistent with general law, or with special law approved by vote of the electors.¹ In 2002, Brevard County amended its charter through referendum so that the county could not increase its ad valorem tax revenue by more than three percent without public approval. In 2004, the Fifth District Court of Appeal held that the tax cap provision in the county's charter was unconstitutional because it conflicted with general law.² The court stated that chs. 129 and 200, F.S., set forth the exclusive statutory scheme for establishing the budget and the resulting millage rate and vested the authority with the county commissions.³

County Annual Budget

The budget of the county controls the levy of taxes and the expenditure of money for all county purposes for the ensuing fiscal year and must be approved by the board of county commissioners.⁴ The budget must be balanced so that the total of the estimated receipts, including balances brought forward must equal the total of the appropriations and reserves.⁵ This amount is then used to estimate the millage rate required to be levied.⁶

In the preparation of the budget, the county property appraiser certifies to the county budget officer the estimate of the total valuations against which taxes may be levied in the county and in each district in which the board of county commissioners is authorized to levy taxes for funds under its control.⁷ The county budget officer ascertains the fiscal policies of the board and then prepares a tentative budget for the ensuing fiscal year, including "all estimated receipts, taxes to be levied, and balances expected to be brought forward and all estimated expenditures, reserves, and balances to be carried over at the end of the year."⁸

Millage Rate

The millage rate is computed by the taxing authority based on the taxable value within the jurisdiction of the taxing authority and computed to provide the same ad valorem tax revenue that was levied during the prior year. This millage rate is known as the "rolled-back rate".⁹ Based on the tentative budget the county computes a proposed millage rate necessary to fund the budget other than the portion of the

¹ Art. VIII s. 1(g), Fla. Const.

² See *Ellis v. Burk*, 866 So. 2d 1236 (Fla. 5th DCA 2004).

³ See *id.*

⁴ ss. 129.01(1) and 129.01(2)(a), F.S.

⁵ s. 129.02(b), F.S.

⁶ s. 129.03(1), F.S.

⁷ s. 129.03(1), F.S.

⁸ s. 129.03(3), F.S.

⁹ s. 200.65(1), F.S.

budget to be funded from sources other than ad valorem taxes.¹⁰ The difference between the proposed millage rate and the rolled back rate is characterized as the percentage increase in property taxes.¹¹

Effect of Proposed Changes

This bill would authorize the County to limit the annual growth in ad valorem tax revenues through a provision in its charter. The cap may not restrict the annual growth at a rate below the lesser of 3 percent or the percentage change in the Consumer Price Index. The county may overcome this limitation by a finding of necessity due to emergency or critical need approved by a super majority vote of the county commission.

C. SECTION DIRECTORY:

Section 1: Authorizes Brevard County to limit the annual growth in ad valorem tax revenues through a provision in its charter.

Section 2: Requires a referendum at the next general election.

Section 3: Provides that the bill is effective upon becoming a law. The substance of the bill is effective only upon approval of a referendum.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? Next general election.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

¹⁰ s. 200.65(2)(a)1., F.S.

¹¹ s. 200.65(2)(d)

Possible Exemption from General Law

As stated above chs. 129 and 200, F.S., prescribe the method for establishing the budget and the resulting millage rate. The bill seeks to restrict the amount by which ad valorem tax revenues may grow.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 28, 2007, the Committee on Urban & Local Affairs adopted a strike-all amendment which authorizes Brevard County, through a provision in its charter, to cap the annual growth in ad valorem tax revenues.

On April 11, 2007, the Government Efficiency & Accountability Council reported HB 1577 favorably with a council substitute to incorporate the strike-all amendment adopted by the Committee on Urban & Local Affairs.