HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1B Ad Valorem Taxation
SPONSOR(S): Attkisson
TIED BILLS: HJR 3B **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Policy & Budget Council	28 Y, 1 N	Diez-Arguelles & Jacobik	Hansen
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

Local governments may levy ad valorem taxes subject to constitutional limitations. The property tax is the largest single tax revenue source for government in Florida. Property taxes levied in Florida have grown 99% in five years, while Florida personal income has increased 44% and growth measured by population and inflation has increased 31%.

HB 1B limits the millage rates that local governments may levy for the collection of ad valorem taxes, and provides a mechanism for local governments to override these limitations. If a county or municipality fails to restrict millages as provided for in this bill, the county or municipality will forfeit distributions of state revenues from the local government half-cent sales tax sharing program.

The bill also implements a number of constitutional amendments contained in HJR 3B, if approved by the voters. The bill implements:

- a new homestead exemption equal to 75% of the first $200,000 in value and 15% of the next $300,000 with a minimum of $50,000, except the minimum for low-income seniors is $100,000;
- assessment methods for affordable housing real property;
- a “grandfather” clause that will allow persons with a homestead as of January 1, 2008, whose benefits are larger under the current homestead exemption and “Save Our Homes” provisions than under the new homestead exemption to continue to receive the Save Our Homes benefits;
- assessment by general law of rent-restricted affordable housing real property.
- $25,000 property tax exemption for tangible personal property.

If all taxing authorities do not exceed the limitations set forth in this bill, the estimated reduction in property taxes statewide in FY 2007-08 is $2.2 billion, increasing to $4.2 billion in FY 2011-12, based on current millage rates and Revenue Estimating Conference forecasts. The cumulative amount of tax savings over five years is $15.6 billion. In addition, if HJR 3B is adopted by the voters and no taxing authority exceeds the millage rate limitations, the statewide savings are $2.2 billion in FY 2007-08, increasing to $8.5 billion in FY 2011-12. The maximum cumulative amount of tax savings in this bill and the Constitutional Amendment over five years is $31.6 billion.

The bill provides that this act will be effective upon becoming law, except that provisions implementing the provisions of HJR 3B shall take effect only upon the effective date of amendments to the State Constitution.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: The bill limits the property taxes that counties, municipalities and special districts may levy without approval by either a supermajority of the governing board or a referendum.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUTATION

Ad valorem taxation in Florida

The Florida Constitution reserves ad valorem taxation to local governments. The State is prohibited from levying ad valorem taxes on real and tangible personal property.[1] Local governments may levy ad valorem taxes subject to the following limitations:

Ten mills for county purposes,
Ten mills for municipal purposes,
Ten mills for school purposes,
One mill for water management purposes, except in Northwest Florida where the limit is .05 mill,
Millage fixed by law for a county furnishing municipal services, and
Millage authorized by law approved by voters for special districts.[2]

Taxes levied for the payment of bonds and taxes levied for periods not longer than two years, when authorized by a vote of the electors, are not subject to millage limitations.[3]

The property tax is the largest single tax revenue source for government in Florida, with $30.5 billion levied in FY 2006-07.[4] Property taxes levied in Florida have grown rapidly in recent years from $15.3 billion in FY 2000-01, an increase of 99%. For the same period, Florida personal income has increased 44% and growth measured by population and inflation has increased 31%.

Unlike most other taxes in the state, ad valorem taxes do not have a consistent tax rate from year to year. Instead, the tax rate is determined by the taxing authority each year. Chapter 200, F.S., provides the process by which local governments determine the ad valorem tax rates for each year. Section 193.023, F.S., requires property appraisers to complete their assessment of all property by July 1 of each year. During the same period, local taxing authorities are preparing their budgets for the upcoming fiscal year, which begins October 1. The property appraiser must calculate, for each taxing authority, the rolled-back rate.

The rolled-back rate is the millage that would provide the same amount of tax revenue for the taxing authority as it received in the prior fiscal year. The rolled-back rate is calculated by dividing the prior year's revenues by the current year tax base, after new construction, major improvements, and

[1] Art. VII, sec. 1(a), Fla. Const.
[2] Art. VII, sec. 9, Fla. Const. A mill is equal to $1 per $1,000 of value, or .001. A tax rate of 10 mills is equal to 1%.
[3] Art. VII, sec 9(b), Fla. Const.
[4] Property Tax Reform Committee: Preliminary Report and Recommendations. Presentation to the House Committee on State Affairs, January 24, 2007.

additions due to boundary changes are removed from the base. Levying the rolled-back rate typically will provide a taxing authority with greater revenues than the prior year, despite the lower millage rate, due to the addition of new construction and annexed property.

Under current law, a taxing authority levying a tax rate in excess of the rolled-back rate must publish a NOTICE OF PROPOSED TAX INCREASE in a local newspaper. Likewise, the Notice of Proposed Property Taxes (TRIM notice) received by each taxpayer shows the difference between the taxes that would be due under the rolled-back rate and the taxes that will be due under the taxing authority's proposed tax rate. Because property values in most jurisdictions increase each year, multiplying the increased value by the millage rate from the prior year can result in large property tax revenue increases, even though the tax rate remains the same. With the historically large increases in value of Florida real property since 2000, property tax receipts have grown at historically high rates while millage rates have remained the same or been reduced.

<u>Current property tax issues</u>

Extraordinary growth in Florida real property just values has resulted in rapid increases in assessments for non-homestead property. The median house price rose 90% from July 2001 to July 2006.[5] The fair market value of real property has outstripped taxpayers' growth in income.

Since 1982, the homestead exemption amount has been $25,000 for all property tax levies.[6] In 2006 there were 4,368,937 homesteads in Florida, and the homestead exemption reduced the 2006 tax roll by $108.9 billion.

The Save Our Homes assessment growth limitation was added to the Constitution in 1992, although its limitations first became effective with the 1995 tax roll. This limitation provides that growth in the assessed value of each homestead parcel may not exceed the lesser of 3% or the percentage change in the Consumer Price Index. In *Smith v. Welton*,[7] the First District Court of Appeal stated:

> The purpose of the amendment is to encourage the preservation of homestead property in the face of ever increasing opportunities for real estate development, and rising property values and assessments. The amendment supports the public policy of this state favoring preservation of homesteads. Similar policy considerations are the basis for the constitutional provisions relating to homestead tax exemption, exemption from forced sale, and the inheritance and alienation of homestead.

Save Our Homes has suppressed the taxable value of homestead properties in Florida. In doing so, the share of ad valorem taxes paid by owners of non-homestead properties has increased relative to homestead property owners. The $405 billion reduction in taxable value in 2006 equals approximately 25% of total taxable value for all real property. Homesteads currently account for 32.1% of taxable value. In the absence of Save Our Homes, homesteads would account for 45.5%.[8]

Studies by the Department of Revenue, the Legislature's Office of Economic and Demographic Research, and the Property Tax Reform Committee demonstrate that businesses are bearing a larger share of the ad valorem tax burden than they would in the absence of Save Our Homes. Residential property without homestead protection also bears a larger share of taxes than it would in the absence of Save Our Homes. It is impossible to know whether these percentages represent a decrease in local government revenue or a shift of tax burden. At one extreme, these numbers may reflect an absolute decrease in the level of collections by local governments, with no shifting of taxes to businesses and

---

[5] Property Tax Reform Efforts, An Update. Office of Economic and Demographic Research, January 11, 2007.
[6] Florida's Property Tax Structure: An Analysis of Save Our Homes and Truth in Millage Pursuant to Chapter 2006-311, L.O.F. Florida Department of Revenue. January 2, 2007.
[7] 710 So. 2d 135, 137 (Fla. App. 1998)
[8] Property Tax Reform Efforts, An Update. Office of Economic and Demographic Research, January 11, 2007.

non-homestead residential properties. If this is the case, then local government collections for FY 2006-07 were $7.5 billion lower than they otherwise would have been, with all of this reduction going to homestead property owners. At the other extreme, local governments may have adjusted millages to keep revenues constant. If this is the case, then local governments collected the same revenues as they would have in the absence of Save Our Homes. However, homestead property owners paid $4.1 billion less than they would have, with Non-homestead residential property owners paying $2.1 billion more and Non-residential property owners paying $2.0 billion more than they would have absent Save Our Homes. Property taxes levied in Florida have grown 99% in six years.

An increased tax burden for businesses, other things equal, will create a disincentive for business activity in Florida. Owners of rental residential real estate facing an increase in tax liability must either bear the tax increase or shift a portion of the tax increase to renters in the form of higher prices.

Revenue Sharing

Florida has three primary revenue sharing programs through which the State shares its revenues with local governments. The state revenue source shared in all three programs is the state sales tax.

Under the Local Government Half-cent Sales Tax Program, counties and municipalities receive approximately 8.9% of sales tax collections and collections of the state portion of the communications services tax remitted by dealers within each county. For FY 2006-07, counties are expected to receive $1.2 billion and municipalities are expected to receive $600 million. Distributions to each county and municipality are based on the taxes remitted by dealers in each county and then apportioned among the county and its municipalities based on population.

Under the County Revenue Sharing Program, counties receive 2.9% of cigarette tax collections and approximately 2.044% of statewide sales tax collections. For FY 2006-07, counties are expected to receive $411.7 million (97% from sales tax and 3% from cigarette tax). Distributions to each county are based on a formula that considers county population, unincorporated county population, and county sales tax collections.

Under the Municipal Revenue Sharing Program, municipalities receive 100% of collections from the 1-cent municipal fuel tax, 12.5% of the alternative fuel user decal fee collections, and approximately 1.3409% of statewide sales tax collections. For FY 2006-07, municipalities are expected to receive $361.4 million (sales tax: 72.66%; fuel tax: 27.33%; decal fee: 0.01%). Distributions to each municipality are based on a formula that considers population, municipal sales tax collections, and a municipality's relative ability to raise revenues.

Affordable Housing

The cost of housing has risen much faster in recent years than household income. From 2003 through 2005 the affordability of housing fell throughout the state.[9] In 2003, the median household had sufficient income to purchase a single-family home selling at the median price in 52 counties; by 2005 this was true in only 18 counties. In 2005, 5 counties – Miami-Dade, Collier, Franklin, Walton, and Monroe – had a median household income less than half of what was needed to buy a median-priced single-family home. Florida has more than 1 million households that qualify as extremely-low-income households.[10]

Documentary stamp tax revenue supports several state-funded programs through the Florida Housing Finance Corporation. The Florida Housing Finance Corporation is also responsible for allocation and distribution of federal low-income housing tax credits. Community Land Trusts are charitable organizations that build homes on land they own and then sell the improvements to a limited-income person or persons, subject to a 99-year ground lease.

[9] The State of Florida's Housing 2006, Shimberg Center for Affordable Housing, 2007.
[10] *See id.*

The Florida Constitution provides no exception to the just value standard for assessment of property in Affordable Housing programs. In assessing property in the Low-Income Housing Tax Credit Program, neither the tax credits nor the financing generated by the tax credits, shall be considered income to the property, and the actual rental income from rent-restricted units shall be recognized by the property appraiser.[11] Current law provides a property tax exemption for property used to provide affordable housing for eligible individuals if the property is owned entirely by a charitable nonprofit entity meeting certain federal criteria.[12] HB 1375, enacted in the recent legislative session, authorizes a county or municipality to adopt an ordinance to allow for the deferral of property taxes and non-ad valorem assessments if the owners of the property are operating, rehabilitating, or renovating affordable rental housing property. The use of the property as affordable housing must be maintained over the deferral period or the total amount of deferred assessments, taxes and interest becomes due and payable on November 1 of the year in which the use of the property was changed.

Working Waterfronts

"Recreational and commercial working waterfront" means a parcel or parcels of real property that provide access for water-dependent commercial activities, including hotels and motels as defined in s. 509.242(1), or provide access for the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the state or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include public lodging establishments, docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water. Seaports are excluded from the definition. [13]

Counties and cities may allow tax deferral of the taxes imposed by working waterfronts[14]. Only the taxes levied by the city or county granting the deferral can be deferred. The city or county can determine the:

- Percentage of taxes to be deferred,
- Type of working waterfront property that can defer taxes, and
- The location of the property that may defer taxes.

Tax deferrals and other liens may not exceed 85% of assessed value and the primary mortgage may not exceed 70% of assessed value. The deferred tax and interest (variable up to 9.5%) are due when:

- the property is sold,
- the required property insurance is not maintained, or
- the property ceases to be used as working waterfront.

For coastal counties, the future land use element of comprehensive planning must include, without limitation, regulatory incentives and criteria that encourage the preservation of recreational and commercial working waterfronts as defined in s. 342.07, F.S.[15]

Public access to navigable water is diminishing. Commercial working waterfronts face increasing expenses, including taxes and insurance. Establishing new working waterfronts with public access may not be financially feasible.

[11] S. 193.017, F.S.
[12] S. 196.1978, F.S.
[13] S. 342.07, F.S.
[14] S. 197.303, F.S.
[15] S. 163.3177, F.S.

Low-Income Seniors

There were 1.2 million homesteads in Florida owned by persons 65 or older in 2006. Based on U.S. Census data, 42% of the total population 65 and older has household income below $25,000. There are 211,000 homesteads benefiting from the current exemption.

Any county of city may allow an additional homestead exemption of up to $50,000 for any person 65 or older whose household income[16] does not exceed $24,214 (in 2007). The income limit is increased each year by the percentage change in the Consumer Price Index. The exemption only applies to taxes levied by the county or city enacting the exemption.[17] In 2006, 53 counties and 178 municipalities had implemented the exemption. Prior to the Constitutional amendment effective January 1, 2007, the exemption limit was $25,000.

Homeowners 65 and older, with household income less than $24,214 in the prior year, may defer all ad valorem taxes and non-ad valorem assessments. All senior homesteaders may defer the portion of their tax levy that exceeds 3% of household income. Tax deferrals and other liens may not exceed 85% of assessed value and the primary mortgage may not exceed 70%. Deferred tax and interest (up to 7%) are due when the property is sold, property insurance is not maintained, or the property ceases to qualify for homestead exemption.

The household income limitation does not capture all income. Household income is measured by "adjusted gross income" as reported to the IRS. This income measure excludes income from a number of sources, including income from tax-free bonds, some social security income, and some types of retirement income.

CHANGES PROPOSED BY THE BILL:

Revenue/Tax Rate Cap

The bill requires reductions in property tax levies for counties, cities, and special districts based on the past behavior of the taxing jurisdiction. Counties, cities, and special districts may override these maximum millage rates under specified circumstances.

2007-2008

For fiscal year 2007-08, property tax levies must be reduced to the FY 2006-07 level minus a specified percentage factor. This is the same outcome as reducing the rolled-back rate by the specified percentage. Revenues will still be allowed to increase due to the addition of new construction.

Cities and counties are separately grouped according to how rapidly their per capita property taxes have grown over the past five years, compared with the statewide average for their respective category. Per capita values are used to allow comparisons of revenue growth across cities, or across counties, that may have different population growth rates. Special consideration was given to fiscally limited jurisdictions. The table below summarizes these percentage reduction factors.

	Revenue Growth Compared to State Average	
Reduction Factor	Counties	Cities
0%	Less than -5%	Less than -6%
3%	-5% to -3%	-6% to -4%
5%	-3% to -1%	-4% to -1%
7%	-1% to +1%	-1% to +0.8%
9%	+1% or more	+0.8% or more

[16] As defined in s. 62 of the United States Internal Revenue Code.
[17] Art. VII, sec. 6(f), Fla. Const., and s. 196.075, F.S.

Fiscally limited counties and cities are placed in the 3% cut bracket. Fiscally limited counties are counties currently defined in statute as “fiscally constrained” and for which the revenue value of one mill per capita is less than $100. The revenue value limitation has the effect of removing Gulf and Franklin Counties. Fiscally limited cities are cities that are either in a fiscally limited county or cities that have been in a state of financial emergency at any time since July 1, 2001.

All independent special districts are treated uniformly with a 3% reduction factor. Jurisdictions that have not levied property taxes for at least five years are exempt from the reduction. The reductions do not apply to voted levies to repay bonds issued pursuant to Article VII, section 12 of the Florida Constitution and voted levies for less than two years pursuant to Article VII, section 9(b) of the Florida Constitution.

An override of the millage limitation is allowed. To exceed the reduced tax level up to the rolled-back rate requires a 2/3 vote of the governing board. To exceed the reduced tax level up to the prior year non-voted millage rate requires a unanimous vote of the governing board. Above this level requires voter approval. If a county or city exceeds the required millage limitation without the required extraordinary vote, that county or city will not receive its half-cent sales tax distribution.

2008-2009

There will be a further tax cut and cap adjustment in FY 2008-09. The millage limitation is the rolled-back rate plus growth in per capita Florida personal income, except that the prior year revenues used in the calculation of the limitation must be reduced by the amount collected from a millage rate approved by a super majority vote in excess of the maximum rate. To exceed the millage limitation by 10%, a 2/3 vote of the governing board is required. For a larger increase, a unanimous vote or a referendum is required.

If the constitutional amendment contained in HJR 3B passes, there will be a further tax cut and cap adjustment in FY 2008-09. Counties, cities, and special districts may not increase tax rates to offset reductions in the tax base without an extraordinary vote. To exceed the reduced tax level to recover up to 2/3 of the revenue lost due to the base reduction a 2/3 vote of the governing board is required. For a larger increase, a unanimous vote or a referendum is required.

2009-2010 and thereafter

Following the two transition years, property taxes for cities, counties and school districts may grow by the taxes levied on new construction and the growth of per capita Florida personal income. Override may be achieved up to 10% over the cap by a 2/3 vote of the governing board. Overrides above this require a unanimous vote of the governing board or a referendum.

The tax growth cap will allow property taxes to increase with the state economy, while preventing dramatic growth in property taxes such as those experienced during the last four years.

Department of Revenue

The Department of Revenue is given the duty to determine when a city or county has levied taxes without following the provisions of the bill and to make the determination that a city or county will forfeit its distribution of revenue sharing funds. The Department of Revenue is granted emergency rulemaking authority to administer the rollback and cap provisions of the bill.

Homestead Exemption

Subject to voter approval of HJR 3B or a similar Constitutional Amendment, this bill implements an increase in the homestead exemption. The new homestead exemption will be 75% of the first $200,000

in just value, with a minimum exemption of $50,000 per homestead ($100,000 for low-income seniors). Additionally, homestead property will receive an exemption of 15% on the next $300,000 in just value.

The bill contains a "grandfather" clause that will allow homestead property owners whose current "Save Our Homes" benefits and homestead exemption are greater than those under the new homestead exemption to keep their "Save Our Homes" benefit and current homestead exemption for as long as the property remains their homestead.

Tangible Personal Property

Subject to voter approval of HJR 3B or a similar Constitutional Amendment, this bill implements an exemption from ad valorem taxes for tangible personal property (TPP) up to a value of $25,000 per return. Those who receive a total exemption from taxation will not have to file paperwork in succeeding years, unless their TPP increases to greater than $25,000.

Taxpayers must file a single return for each site where they transact business within the county. Owners of freestanding property placed at multiple sites must file a single return. Taxpayers who claim exemptions they are not entitled to will have to pay back taxes, 15% interest and a penalty of 50% of the taxes owed.

Affordable Housing

The bill creates s. 193.803, F.S., to provide an application process to classify eligible property as workforce and affordable rental housing property, and a methodology to assess such classified property. Properties eligible for classification include:

- Projects that are funded and rent-restricted by the United States Housing & Urban Development's Section 8 program and usually implemented by housing finance authorities to serve persons meeting low, moderate, or middle income limits.

- Properties that house multiple families, commercial fishing workers and farm workers, homeless persons, or the elderly that are funded and rent-restricted by the Florida Housing Finance Corporation under the State Apartment Incentive Loan Program; the HOME Investment Partnership Program; and the Community Workforce Housing Innovative Pilot Program.

- Properties under the State Housing Initiatives Partnership Program which provides funds to local governments as an incentive to create partnerships to produce and preserve affordable homeownership and multifamily housing.

- Properties that are rent-restricted under s. 42 of the Internal Revenue Code of 1986; the HOME Investment Partnership Program under the Cranston-Gonzalez National Affordable Housing Act, or the Federal Home Loan Bank's Affordable Housing Program.

- Multifamily rental property of 10 units or more which provide housing for persons meeting the extremely-low, very-low, low, or moderate income limits established in s. 420.0004, F.S., and which are subject to a land use agreement or other agreement which must be recorded in the official public records of the county in which the property is located, and which restricts the use of the property to affordable rental housing for a period of at least 20 years.

A methodology for assessing classified rental property is created. Such property must be assessed under the income approach using the actual net operating income. Properties which have received a low-income housing tax credit from the Florida Housing Finance Corporation must be assessed under the income approach using the actual net operating income and applying the following:

- The tax credits granted and the financing generated by the tax credits may not be considered as income.
- The actual rental income from rent-restricted units in each property must be used by the property appraiser.
- Any costs paid with tax credits and with additional financing proceeds received under ch. 420 may not be included as income.

The bill provides for the recapture of taxes for failure to notify the property appraiser of a change in use, status, or condition of the property, or if the property appraiser determines that for any year within the prior 10 years, the property owner was not entitled to the workforce or affordable rental housing classification. The property owner is subject to taxes otherwise due and owing, along with 15 percent interest per annum and a 50 percent penalty on the additional taxes due.

The bill clarifies that property owned by a community land trust and that is subject to a ground lease of 99-years or longer for use as affordable housing, and property used to provide affordable housing to persons meeting the income limits under s. 420.0004, F.S., and owned by corporations not for profit, who must also be charitable entities under s. 501(c)(3) of the Internal Revenue Code, are exempt from ad valorem taxes. A new ad valorem tax exemption is created for properties providing affordable housing to persons meeting the income limits of s. 420.0004, F.S., which properties are owned by limited partnerships where the sole general partner is a nonprofit corporation qualified as a charitable entity under s. 503(c)(3) of the Internal Revenue Code.

Low-Income Seniors

As described above, the bill implements the minimum amount of the new homestead exemption that applies to low-income seniors.

The bill contains effective dates contingent on the passage of HJR 3B or SJR 4B, and effective dates for provisions that will take effect if the constitutional amendment is not approved by the voters.

C. SECTION DIRECTORY:

Section 1. Amends s. 200.001, F.S., providing definitions for purposes of provisions governing the fixing of millage rates.

Section 2. Amends s. 200.065, F.S., revising the method for computing the rolled-back rate; providing that the rolled-back rate excludes the amount paid or applied as a consequence of an obligation measured by the dedicated increment value; requiring that the property appraiser provide instructions to the taxing authorities for computing the maximum millage rate; revising the method of calculating the maximum millage rate beginning in the 2008-2009 fiscal year; providing for higher millage rates if adopted by certain required votes of the governing body of the taxing authority or approved by referendum; providing certain exceptions to the limitations on millage rates; providing that a county or municipality is subject to forfeiture of the allocation of the local government half-cent sales tax revenues for 12 months if it does not comply with provisions limiting maximum millage rates; requiring the tax collector to hold revenues in escrow during the pendancy of any administrative or judicial challenge to such forfeiture; specifying procedures that a county or municipality, special district dependent thereto, or municipal service taxing unit must follow if it fails to remedy such noncompliance; requiring that the taxing authority repeat its hearing and notice process with respect to preparing a budget and setting millage rates.

Section 3. Amends s. 200.068, F.S., requiring each taxing authority to include calculations upon which millage rates are based in the certification of value.

Section 4. Amends s. 218.63, F.S., prohibiting a county or municipality that levies taxes in excess of the maximum aggregate taxes permitted by law from participating in the distribution of local government half-cent sales tax revenues.

Sections 5-7. Amends ss. 193.1142, 194.037, and 1011.71, F.S., relating to approval of the assessment rolls, disclosure of tax impact, and school district taxes; conforming cross-references.

Section 8. Creates s. 200.185, F.S., providing definitions; specifying the maximum millage rates that a county, municipality, dependent special district, or independent district may levy for the 2007-2008 fiscal year based on per capita growth in ad valorem taxes; requiring the Department of Revenue to calculate, in consultation with the Revenue Estimating Conference, and publish the per capita growth in ad valorem taxes for each taxing authority; providing certain exceptions to the limitations on maximum millage rates.

Section 9. Creates chapter law, authorizing the Department of Revenue to adopt emergency rules.

Section 10. Creates chapter law, authorizing the Department of Revenue to extend the time specified in law or rule for a local government to adopt its millage rate and budget for the 2007 calendar year.

Section 11. Creates Chapter Law, providing an optional method by which a county or municipality may determine fiscal hardship for purposes of the act.

Section 12. Repeals s. 3, ch. 2006-311, L.O.F., relating to provisions requiring the Department of Revenue to conduct a study of the state's property tax structure and analyze the current homestead exemptions and homestead assessment limitations.

Sections 13-14. Amends ss. 193.155 and 193.1551, F.S., revising the method of calculating homestead assessments pursuant to amendments to the State Constitution; limiting the continued applicability of certain assessment criteria provided under the State Constitution; providing that a change addition or improvement to homestead property or the destruction or removal of homestead property may limit the continued applicability of certain assessment criteria.

Section 15. Amends s. 196.031, F.S., revising the exemption from taxation provided for homesteads; specifying the amount of the exemption based on just value; providing that an owner of property is entitled to an alternative exemption under certain circumstances; deleting certain obsolete provisions; deleting a requirement that each property appraiser compile a list of properties removed from the assessment roll of the school district as a result of exempt value.

Section 16. Amends s. 196.002, F.S., revising certain reporting requirements for the property appraiser in order to conform to changes made by this act.

Section 17. Amends s. 197.252, F.S., relating to homestead tax deferral; conforming provisions to changes made by this act.

Section 18. Creates s. 196.183, F.S., exempting each tangible personal property tax return from a specified amount of assessed value; limiting a single business operation within a county or an affiliated group of taxpayers to one exemption; providing a procedure for waiving the requirement to file an annual tangible personal property tax return if the taxpayer is entitled to the exemption; requiring the Department of Revenue to prescribe a form; providing penalties for failure to file a return as required or for claiming more exemptions than allowed; providing that the exemption does not apply to mobile homes.

Section 19. Amends s. 193.017, F.S., revising provisions providing for the assessment of property receiving the low-income housing tax credit; providing for the assessment of structural improvements on land owned by a community land trust and used to provide affordable housing; defining the term "community land trust"; providing for the conveyance of structural improvements, subject to certain conditions; specifying the criteria to be used in arriving at just valuation of a structural improvement.

Section 20. Creates s. 193.803, F.S., providing for the assessment of rental property used for workforce housing or affordable housing; authorizing a property owner to appeal a denial of eligibility to the value adjustment board; requiring that a property owner file an application for such classification with the property appraiser or file a petition with the value adjustment board; providing a fee for filing a petition;

providing for reapplication to be made on a short form provided by the Department of Revenue; defining the term "extenuating circumstances" for purposes of granting a classification for January 1, 2008; specifying the types of property that are eligible to be classified as workforce rental housing or affordable housing; requiring that property be removed from such classification if its use or program eligibility changes; providing the methodologies for assessing workforce rental housing and affordable rental housing; requiring that the property owner annually provide a rent roll and income and expense statement to the property appraiser for the preceding year; authorizing the property appraiser to base the assessment on the best available information if the property owner fails to provide the rent roll and statement; providing for a tax lien to be filed against property that is misclassified as workforce rental housing or affordable rental housing within a specified period.

Sections 21-27. Amends ss. 196.1978, 192.0105, 193.052, 193.461, 194.011, 195.073, and 195.096, F.S., relating to the affordable housing property tax exemption, taxpayer rights, the preparation and serving of returns, assessments involving agricultural lands, assessment notices and objections, the classification of property, and the review of assessment rolls; conforming provisions to changes made by this act.

Section 28. Creates s. 200.186, F.S., specifying a formula for counties, municipalities, municipal service taxing units, dependent districts, and independent districts to determine a maximum millage rate for the 2008-09 fiscal year; providing that a taxing authority in violation of such provision forfeits its local government half-cent sales tax revenues; providing certain exceptions to limitations on millage rates.

Section 29. Creates chapter law, providing for construction of the act in pari material with laws enacted during the 2007 Regular Session or any 2007 special session of the Legislature.

Section 30. Provides that certain provisions of this act will apply retroactively; provides that this act will take effect upon becoming law, except that sections 13-29 of this act shall take effect on the effective date of amendments to the State Constitution contained in HJR 3B or SJR 4B.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See FISCAL COMMENTS below.

2. Expenditures:

   See FISCAL COMMENTS below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Taxing authorities that levy millage rates that do not exceed the limitations set forth in this bill will experience a decline in ad valorem revenues relative to levies at current millage rates. If all taxing authorities do not exceed the limitations, the estimated statewide ad valorem tax savings from this bill is as follows:

2007-08	2008-09	2009-10	2010-11	2011-12
($2.2 billion)	($2.6 billion)	($3.1 billion)	($3.6 billion)	($4.2 billion)

Additionally, if HJR 3B is enacted by the voters, the implementing provisions of this bill will increase the tax savings to taxpayers in Florida. The total tax savings, including the provisions in HJR 3B will be:

2007-08	2008-09	2009-10	2010-11	2011-12
($2.2 billion)	($6.2 billion)	($7.0 billion)	($7.7 billion)	($8.5 billion)

Of the amounts above, the increase in homestead exemptions will reduce school board revenues by $1.589 billion in 2008, $1.735 billion in 2009, $1.877 billion in 2010, and $1.957 billion in 2011.

A county or municipality that levies a millage rate in excess of the limitation without a supermajority vote will not receive distributions from the local government half-cent sales tax program.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A majority of Florida property taxpayers will benefit from a reduction in their property taxes. Taxpayers will, on average, save the following:

	2008-09	5-year total
Homestead (All)	$ 948	$4,517
Homestead (73% Benefiting)	$1,306	$6,159
Non-Homestead Residential	$ 245	$1,337
Commercial-Industrial	$1,240	$6,495
Tangible Personal Property	$ 262	$ 922

D. FISCAL COMMENTS:

If HJR 3B is passed by the voters of Florida, taxpayers will save $1.6 billion (11.0%) in school district taxes during FY 2008-09. If the Legislature chooses to offset this revenue loss to school districts, it could do so either by reducing other state expenditures or enhancing revenues.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require a county or municipality to spend funds. Therefore, the provisions of subsection 18(a) and (c), Article VII, Florida Constitution, do not apply.

Subsection 18(b), Article VII, Florida Constitution, provides that the legislature, except upon approval by a two-thirds vote, may not enact a general law if the anticipated effect of doing so would be to reduce the authority that municipalities and counties have to raise revenues in the aggregate. This bill limits the millage rates that municipalities and counties can levy by a majority vote of the governing board. However, with a supermajority vote of the governing board, cities and counties can exceed the limitation set forth in the bill.

It is unclear whether the requirement for a supermajority vote to exceed the millage limitations represents a reduction of revenue raising authority as contemplated by subsection 18(b). If the purpose of subsection 18(b) is to determine whether the amount of potential revenue available to cities and counties was reduced, then this bill does not reduce that potential and the requirement for a two-thirds vote is not applicable. However, if the purpose of subsection 18(b) is to look at the method for adopting a millage rate, then the provisions of this bill requiring a supermajority vote to adopt a millage rate that could currently be adopted by a majority vote may be considered a mandate requiring a two-thirds vote of the legislature. There is no legal authority to guide the legislature in making a determination regarding this issue.

2. Other:

A class action lawsuit was filed in February 2007 in the Leon County Circuit Court[18] which alleges that the taxes paid by non-resident owners of residential real property in Florida constitute a disproportionate share of the assessed ad valorem taxes. The lawsuit alleges that the tax burden has a chilling effect on decisions of citizens of the United States to own second homes in Florida and impeded their right to engage in interstate travel and commerce, all in violation of the “dormant commerce clause” of Article I, Section 8 of the United States Constitution and the equal protection clause of the 14th Amendment to the Constitution.

Similar issues were raised in *Reinish v. Clark*, 765 So. 2d 197 (Fla. 1st DCA 2000). Nonresident taxpayers brought an action challenging the constitutionality of the Florida homestead exemption (and also the Save Our Homes assessment limitation). The District Court of Appeals for the First District of Florida affirmed the ruling of the Leon County circuit court. The court held that the exemption did not violate either the privileges and immunities clause of the Federal Constitution or the “dormant” commerce clause.

B. RULE-MAKING AUTHORITY:

The bill grants emergency rule-making authority to the Department of Revenue for a period of 18 months in order to administer this act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

[18] Case No. 37 2007 CA 000582 filed in the Circuit Court for the Second Judicial Circuit in and for Leon County, Florida.