

The Florida Senate
PROFESSIONAL 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: Finance and Tax Committee

BILL: SB 2-B

INTRODUCER: Senators Webster and Fasano

SUBJECT: Property Tax Reform

DATE: June 11, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	Johansen	FT	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Property Tax Reform Summary

SB 2-B reduces the ad valorem taxes that may be levied by local governments, other than school districts, in fiscal year 2007-08 to below the level of taxes levied in 2006-07. The bill limits the growth of ad valorem tax levies in future years (except those levied by school districts) to the growth in a jurisdiction's population as measured by new construction and the statewide growth in per capita personal income. However, local government governing bodies may increase ad valorem tax levies by extraordinary votes or by referenda. Any county or municipality that levies taxes in excess of the amount permitted under the bill will forfeit participation in the half-cent sales tax revenue sharing program.

The bill also implements the following provisions contained in SJR 4-B, contingent on the constitutional amendment being approved by the voters:

- A new homestead exemption equal to 75 percent of the first \$200,000 in value and 15 percent of the value from \$200,001 to \$500,000, with automatic annual adjustments and possible statutory increases in the \$500,000 limit;
- A minimum homestead exemption of \$50,000, which is increased to \$100,000 for low-income seniors;
- A "grandfather" clause which will allow persons with a homestead as of January 1, 2008, to retain both the current \$25,000 homestead exemption and the "Save Our Homes" assessment limitation;
- A \$25,000 exemption for each tangible personal property return, and
- Assessment by general law of rent-restricted affordable housing real property.

Affordable Housing Summary

SB 2-B authorizes Community Land Trusts (CLTs) to acquire property and construct homes for individuals and families meeting certain affordable income limits. Property owned and used by CLTs for affordable housing are exempt from ad valorem taxation. Certain other workforce rental housing and affordable rental housing properties will be classified and assessed based on the income approach using the actual net operating income. Property owners will be required to submit an application to the property appraiser for such classification, and the property owner is subject to payment of taxes and penalties for any year in the prior 10 years the owner was not entitled to receive such classification. The bill also exempts from taxation certain properties owned by a limited partnership with a sole general partner that is a charitable corporation.

This bill substantially amends the following sections of the Florida Statutes: 200.001, 200.065, 200.068, 218.63, 193.017, 193.142, 193.155, 193.1551, 194.037, 196.031, 196.002, 196.1978, 197.252, and 1011.71.

This bill creates the following sections of the Florida Statutes: 193.803, 196.183, 200.185, and 200.186, and creates several unnumbered sections of Florida law.

This bill provides conforming amendments to the following sections of Florida Statutes: 192.0105, 193.052, 193.461, 194.011, 195.073, and 195.096.

II. Present Situation:

Ad valorem taxation in Florida - The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real estate and tangible personal property.¹ Local governments may levy ad valorem taxes subject to the following limitations:

- 10 mills for county purposes,
- 10 mills for municipal purposes,
- 10 mills for school purposes,
- 1 mill for water management purposes, except in Northwest Florida where the limit is .05 mill, and
- Millage authorized by law and approved by voters for special districts.

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 the millage limitations.²

Determination of Millage Rates - Chapter 200, F.S., provides the process by which local governments determine the ad valorem tax millage rates each year. Section 193.023, F.S., requires property appraisers to complete their assessments of all property by July 1 each year. In the same period, local taxing authorities are preparing budgets for their fiscal year which begins October 1. To determine the millage rate for the new tax roll, the property appraiser must first calculate the rolled-back rate for each taxing authority. The rolled-back rate is the millage

¹ Section 1.(a), Art. VII, State Constitution

² Section 9., Art VII, State Constitution.

rate that will provide the same property tax revenue as was levied during the prior year if applied to the new taxable values of properties taxed in the prior year. When property values increase, the rolled-back rate is lower than the prior year's millage rate. New construction and other population-driven changes affecting the tax roll being prepared are not included in the rolled-back rate calculation.

Each taxing authority prepares a tentative budget and computes a proposed millage rate necessary to fund that tentative budget. The property appraiser mails to each taxpayer a notice of proposed taxes (TRIM Notice) based on these proposed millage rates. In addition to the notices mailed to all taxpayers, a local taxing authority must advertise a NOTICE OF PROPOSED TAX INCREASE in a local newspaper if it has tentatively adopted a millage rate greater than the rolled-back rate. Even if the new millage rate is the same as or lower than the prior year rate, it must be called a tax increase, and advertised as such, if it is higher than the rolled-back rate. The reason for this is clear from the calculation because the taxes paid on pre-existing properties increase from the prior year when the rolled-back rate is exceeded.

Revenue Sharing - Florida has three main revenue sharing programs through which the state shares its revenues with local governments. The major source of revenue shared with local governments in all of these programs is the state sales tax. Under Part VI of ch. 218, F.S., the Local Government Half-cent Sales Tax Program, counties and municipalities receive approximately 8.9 percent of sales tax collections and collections of the state portion of the communications services tax remitted by dealers within each county. For fiscal year 2006-07, counties are expected to receive \$1.2 billion and municipalities are expected to receive \$600 million. Distributions to each eligible county and municipality are based on the taxes collected in each county and then apportioned between the county government and the cities based on population.

Community Land Trusts - In an effort to create permanent affordable homeownership opportunities for Florida's workforce, local governments are donating land, or the money to purchase land, to charitable, tax exempt housing organizations known as community land trusts, which then build homes on the property. The community land trust sells the home, but not the land, to an income-eligible buyer. The purchase price of the home is made affordable to the homebuyer, in large part because the buyer is not paying for the land. The homeowner receives a 99-year ground lease interest in the land and pays a nominal monthly fee to the community land trust for the use of the land. After the initial acquisition, resale is limited to a formula contained in the ground lease that restricts the market price of the home to ensure continuous affordability.

According to the Revenue Estimating Conference, as of 2007 there are 17 community land trusts in Florida that are operational or in the incorporation stage, and 13 more under discussion. In Monroe County, the Middle Keys Community Land Trust allows improvements to appreciate by the lesser of 3 percent year or the rate of annual growth in median income in the Keys.

*Holly Ridge Limited Partnership v Pritchard (936 So.2d 694)*³

The Holly Ridge Limited Partnership owns 120 senior rental apartments in Putnam County which were built with tax credit financing under the Low Income Housing Tax Credit program administered by the corporation. This federal program was created in 1986 to encourage the private sector to develop affordable housing projects. Under the federal program, each state receives an annual allocation of low income housing tax credits which equate to a dollar-for-dollar reduction in federal tax liability taken over a 10-year period.

The federal tax credits are awarded on a competitive basis and are used as a financing mechanism for a developer to pay most of a project construction costs. The credits are sold by the developer to a banking institution at a discount, generally about 80 cents per dollar, and the banker becomes a limited partner in the development. Once the project is constructed, the bank is eligible to use the tax credits one year at a time, and after ten years, the credits are exhausted.

In the Holly Ridge development, the developer received \$8 million in tax credits and sold them to the bank for \$6.4 million. As a condition of receiving the tax credits, the developer placed the property under a Land Use Restriction Agreement which restricted the use of the property for 50 years. Part of the agreement requires set-asides in the development based on income restrictions for which tenants may not be charged more than 30 percent of their maximum monthly income as rent. The property can only be used for rental apartments.

Holly Ridge sued the Putnam County property appraiser over unfavorable ad valorem tax assessments for the years 2002 and 2003. The trial court found in favor of the property appraiser, and Holly Ridge appealed. In August of 2006, the Fifth District Court of Appeals determined that the property appraiser failed to comply with state law (s. 420.5099, F.S.) in determining just valuation when he factored in the impact of tax credits to derive a capitalization rate, instead of using a market capitalization rate. In the court's view, he derived an unreasonably low capitalization rate, resulting in an excessive assessment.. The District Court reversed the trial court's judgment and remanded the case for a new trial. The Florida Supreme Court denied review.

Florida Housing Finance Corporation -The Florida Housing Finance Corporation (corporation), formerly the Florida Housing Finance Agency, is the primary state entity responsible for encouraging the construction of affordable housing in Florida. The corporation operates several housing programs financed with state and federal dollars, and state funding is provided from documentary stamp tax revenues which are distributed to the State Housing Trust Fund and then used for the various corporation programs. The 2005 Legislature capped the distribution of documentary stamp tax revenues effective July 1, 2007, and in the 2007-2008 fiscal year, the State Housing Trust Fund is eligible to receive a maximum of \$243 million.

³ (Fla. Dist. Ct. App. 5th Dist, 2006)

Affordable Housing Income Requirements – s. 420.0004, F.S.

- Extremely-low-income: (ELI) Annual household income does not exceed 30 percent of median annual adjusted household income in the state and may be adjusted up or down according to area of the state.
- Very-low-income: (VLI) Annual household income does not exceed 50 percent of median annual adjusted household income in state.
- Low-income: (LI) Annual household income does not exceed 80 percent of median annual adjusted household income in state.
- Moderate-income: (MI) Annual household incomes does not exceed 120 percent of median annual adjusted household income in state.
- Workforce housing: (WH) Affordable to natural persons or families whose total annual household income does not exceed 140 percent of the area median income, adjusted for household size. (150 percent for areas of critical state concern)

Income Limits for 4-persons household

Area	ELI	VLI	LI	MI	WH
Clay/Duval/ St. Johns/ Nassau	\$ 18,100	\$ 30,150	\$ 48,250	\$ 72,360	\$ 84,420
Collier	\$ 20,950	\$ 34,900	\$ 55,850	\$ 83,760	\$ 97,720
Glades	\$ 13,250	\$ 22,050	\$ 35,300	\$ 52,920	\$ 61,740
Lake/Orange/ Osceola/ Seminole	\$ 17,200	\$ 28,700	\$ 45,900	\$ 68,880	\$ 80,360
Monroe	\$ 18,300	\$ 30,500	\$ 48,800	\$ 73,200	\$ 91,500
Palm Beach	\$ 19,300	\$ 32,200	\$ 51,500	\$ 77,280	\$ 90,160
Walton	\$ 13,650	\$ 22,750	\$ 36,400	\$ 54,600	\$ 63,700

2005 Gap Between Buying Power and Median Sales Price by County for Homesteaded Single Family Homes under the Community Workforce Housing Innovative

The Shimberg Center at the University of Florida is responsible for developing and maintaining the statewide data on housing needs and production and operating an information clearinghouse on housing program. The Center also coordinates state housing initiatives with local government and federal programs. The following information is from the Shimberg Center and is compiled using county property appraiser data provided by the Department Revenue:

County	Median Annual Income for a Family of Four	Buying Power (Income x 3)	Median Sales Price	Gap Between Buying Power and Sales Price
Broward	\$ 58,100	\$ 174,300	\$ 330,000	\$ 155,700
Hillsborough	\$ 52,150	\$ 156,450	\$ 230,000	\$ 73,550
Monroe	\$ 58,450	\$ 175,350	\$ 660,000	\$ 484,650
Palm Beach	\$ 62,100	\$ 186,300	\$ 396,800	\$ 210,500
St. Lucie	\$ 52,450	\$ 157,350	\$ 237,000	\$ 79,650
Seminole	\$ 55,100	\$ 165,300	\$ 260,000	\$ 94,700
Walton	\$ 44,000	\$ 132,000	\$ 320,000	\$ 188,000
Statewide Average	\$ 52,550	\$ 157,650	\$ 235,000	\$ 77,350

Section 4, Article VII, State Constitution - Section 4, Article VII, of the State Constitution, requires that all property be assessed at just value for ad valorem taxing purposes. The Florida Supreme Court has construed “just value” to be “fair market value” and “fair market value” to be the amount a purchaser willing but not obliged to buy, would pay to one willing but not obliged to sell. Certain exceptions to just value assessment, such as the “Save Our Homes” limitation and the exception for agricultural land, are constitutionally authorized.

Tangible Personal Property – Section 4, Article VII also grants exclusive authority to local governments to levy ad valorem taxes on real and tangible personal property,⁴ and establishes requirements that the state legislature and local governments must follow when levying and administering ad valorem property taxes. It requires that all ad valorem taxation be at a uniform

⁴ Sections 1(a) and 9(a), Art. VII, State Constitution.

rate within each taxing district⁵ and that property must be assessed at just value unless the Constitution provides for a different assessment standard.⁶ Tangible personal property is singled out for special treatment by the following constitutional provisions:

SECTION 1. Taxation; appropriations; state expenses; state revenue limitation.--

(b) Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes, as defined by law, shall be subject to a license tax for their operation in the amounts and for the purposes prescribed by law, but shall not be subject to ad valorem taxes.

SECTION 3. Taxes; exemptions.--

(b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.

(d) By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years.

SECTION 4. Taxation; assessments.--By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

Tangible personal property not excluded by the above provisions is subject to ad valorem taxation.

Section 193.052, F.S. requires that tax returns be filed for tangible personal property in the county where the property is located. The Department of Revenue is directed to promulgate rules to ensure that all railroad and utility property is properly returned in the appropriate county. However, the evaluating or assessing of utility property in each county is the duty of the property appraiser. Department of Revenue form DR-405 requires that a separate return must be filed by a taxpayer for each location in the county, except for owners of vending machines, propane tanks and similar free-standing property at many locations, who may submit a single return.

⁵ Section 2, Art. VII, State Constitution.

⁶ Section 4, Art. VII, State Constitution.

In 2006, 1.3 million tangible personal property tax returns were filed with a total taxable value of \$103.7 billion. The 997,109 returns with taxable amounts less than \$25,000 accounted for only \$4.5 billion of the total taxable value.

Save Our Homes - In 1992, Florida voters approved an amendment to s. 4, Art. VII of the State Constitution which is popularly known as the “Save Our Homes” amendment. Beginning with the 1994 tax roll, the growth in assessed value of homestead property was limited to the Consumer Price Index or 3 percent, whichever is lower, and was first applied to the January 1, 1995 assessment.

As provided by general law, after any change in ownership, homestead property must be assessed at just value as of January 1 of the following year. Thereafter the property is subject to the Save Our Homes assessment limitation. New homestead property must be assessed at just value as of January 1 of the first year the property owner establishes homestead. Thereafter the property is subject to the Save Our Homes assessment limitation. Changes, additions, reductions, and improvements to homestead property are assessed as provided by general law, but after its initial assessment, this property is subject to the Save Our Homes assessment limitation. If homestead status is terminated, the property is assessed at just value.

Purpose of the Save Our Homes Amendment - In *Smith v. Welton*,⁷ the First District Court of Appeal said:

The purpose of the amendment is to encourage the preservation of homestead property in 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.

Impact of Save Our Homes - In the twelve years since Save Our Homes first limited the assessment of homestead property, its impact on the assessed value of this property has far exceeded original expectations. By 1997, the third year of assessment limitations, Save Our Homes reduced the assessed value of homestead property by 3 percent. In 2006, Save Our Homes had reduced homestead just value by more than 38 percent, \$405 billion, which is equal to approximately 25 percent of the statewide total taxable value.

Homestead Exemption, Section 6, Article VII, Florida Constitution - Subsection (a) provides that every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another person legally or naturally dependent upon the owner, shall be exempt from taxation up to the assessed value of five thousand dollars. Subsection (b) provides that only one exemption shall be allowed to any individual or family unit. Subsections (c) and (d) provide that under certain conditions the homestead exemption is \$25,000, which is, in fact, the effective homestead exemption. Subsection (f) provides that, by local option, an additional homestead exemption of up to \$50,000 is available to low-income

⁷ 710 So. 2d 135, 137 (Fla. App. 1998)

seniors, and subsection (g) provides an ad valorem tax discount for homestead property owned by disabled veterans who were Florida residents at the time they entered military service. In 2006, there were 4,368,937 homesteads in Florida, and the homestead exemption reduced the 2006 tax roll by \$108.9 billion, or 17 percent.

Chapter 2006-311, Laws of Florida, provides for an in-depth study of the property tax system, with emphasis on the taxation of homestead property. In accordance with the law, the Department of Revenue submitted its final data report on January 18, 2007, and the Legislature’s Office of Economic and Demographic Research (EDR) submitted its Interim Report on February 15, 2007. EDR’s report contained the required findings and discussion of the principals of taxation; however, the identification and analysis of specific policy options were to be included in the final report due September 1, 2007.

The legislation also specified certain elements for particular review by EDR. Many of these items became the subject of a contract with the University of Florida which had put together a cross-university consortium with Florida State University consisting of the Shimberg Center for Affordable Housing (UF), the Bureau of Economic and Business Research (UF), Center for Real Estate Education and Research (FSU), Center for Real Estate Studies (UF), and the Pepper Institute on Aging and Public Policy (FSU). The final deliverables are due from the consortium no later than July 31, 2007.

III. Effect of Proposed Changes:

PROPERTY TAX REFORM

SB 2-B provides tax relief in fiscal year 2007-08 by requiring reductions in property tax revenue for counties, cities, and special districts based on the growth in the per capita property tax revenue of each taxing jurisdiction. Future tax relief is assured by limiting growth in property tax revenue to the growth in population in each jurisdiction as measured by new construction and adjusted for growth in per capita Florida personal income. Counties, cities, taxing districts within counties and cities, and independent special districts may override these maximum millage rates under specified circumstances. Any county or city that exceeds the maximum total ad valorem tax revenue allowed (including all dependent districts and MSTUs) cannot participate in the half-cent revenue sharing program.

Fiscal Year 2007-08 - For fiscal year 2007-08, property tax levies must be reduced to the FY 2006-07 level (determined by the rolled-back) rate minus a specified percentage factor. Cities and counties are grouped according to how much their per capita property taxes have grown over the past five years. Per capita values are used to allow comparisons of revenue growth across cities and across counties. The table below summarizes these percentage reduction factors.

Revenue Growth		
Reduction Factor	Counties	Cities
3%	up to 7%	Up to 7.5%
5%	7.1% - 9%	7.6% - 10.5%
7%	9.1% - 11%	10.6% - 12.4%
9%	11.1% and higher	12.5% and higher

Counties and cities of special financial concern are placed in the 3 percent cut bracket. Counties of special financial concern are counties currently defined in statute as “fiscally constrained” and for which one mill will raise less than \$100 per capita. The revenue value limitation has the effect of removing Gulf and Franklin counties, as these counties have the fifth- and first-highest per capita revenue capacity in the state. Cities of special financial concern 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.

Certain very low-growth counties and cities are not required to reduce their tax levies. All independent special districts are treated uniformly with a 3 percent 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 certain voted levies.

A taxing jurisdiction may override the limitation through a series of actions. To exceed the reduced tax level up to the 2006-07 revenue level, plus new construction, (levy the 2007-08 rolled-back rate) requires a 2/3 vote of the governing board. By unanimous vote of the governing board, the jurisdiction may levy the 2006-07 millage rate. Above this level requires voter approval. If a county or city exceeds the required millage limitation without meeting the appropriate extraordinary vote requirement, that county or city will not receive its half-cent sales tax distribution.

Revenue Limitations

The bill provides two revenue limiting mechanisms for FY 2008-09, one that will apply if the constitutional amendment in SB-4 is approved by the voters, and one that will apply if the constitutional amendment is not approved.

If the constitutional amendment is not approved, in FY 2008-09 counties, cities, and special districts may increase tax revenues by the growth in per capita Florida personal income, but the revenue growth must be based on the 2007-2008 tax revenue minus the override amount, if any. With a 2/3 vote, the governing body of the taxing jurisdiction may levy a millage rate of up to 10 percent above the rolled-back rate. With a unanimous vote or referendum, the governing body may levy any rate.

In FY 2009-10 and thereafter, the maximum millage rate that may be levied by a local government (not including school districts) is a rolled-back rate based on the previous year's maximum millage rate. With a 2/3 vote, the governing body of the taxing jurisdiction may levy a millage rate of up to 10 percent above the rolled-back rate. With a unanimous vote or referendum, it may levy any rate.

The revenue limitations apply to each taxing jurisdiction. The maximum revenue allowed for a county is the sum of the taxes levied at the maximum millage rate by each dependent district in the county and each MSTU, plus the taxes levied by the county at its maximum millage rate. The maximum revenue allowed for a municipality is the sum of the taxes levied at the maximum millage rate by every dependent district in the municipality, plus the taxes levied by the municipality at its maximum millage rate. An individual jurisdiction within a county or

municipality may exceed its rate if the total does not exceed its maximum, i.e., some other jurisdiction is at less than its maximum.

The Department of Revenue is given emergency rulemaking authority to administer the provisions of SB 2-B.

Implementation of Constitutional Changes

If the constitutional amendment offered in SJR 4-B is approved, sections 13 through 28 of SB 2-B implement its provisions for the 2008 tax roll. Those sections:

- Increase the homestead exemption to 75 percent of the first \$200,000 in just value, and 15 percent of just value from \$200,001 to \$500,000. The \$500,000 limit is indexed to per capita Florida personal income and may be increased by a 2/3 vote of the Legislature. The minimum exemption is \$50,000, increased to \$100,000 for low-income seniors;
- Limit the existing Save Our Homes assessment limitation to those homesteads for which it provides a greater benefit than the increased homestead exemption;
- Create an exemption from ad valorem taxes for tangible personal property up to \$25,000;
- Allow affordable housing property that is subject to rent restrictions imposed by a government agency to be assessed by general law; and,
- Require the legislature to limit the authority of local governments, except school districts, to increase property taxes.

SB 2-B amends s. 196.031, F.S., to conform the existing homestead benefit to the proposed constitutional amendment. It increases the homestead exemption from \$25,000 to 75 percent of the first \$200,000 of just value, and to 15 percent of just value from \$201,000 to \$500,000. The \$500,000 limit is automatically adjusted each year by changes in per capita Florida personal income, and may be increased by a 2/3 vote of the legislature. The minimum homestead exemption is \$50,000. For low income seniors, the minimum homestead exemption is \$100,000.

The bill amends the Save Our Home statutes, ss. 193.155 and 193.1551, F.S., so that the assessment limitation applies only to homestead property that receives a higher tax benefit on January 1, 2008, under Save Our Homes than under the new homestead exemption. Those homesteads will continue to be assessed under the Save Our Homes limitation. They will not receive the new homestead exemption but will receive the homestead exemption to which they were entitled as of December 31, 2007.

The bill creates s. 196.183, F.S., which provides an exemption for each tangible personal property tax return up to \$25,000, and waives the requirement that an annual return be filed for tangible personal property valued less than \$25,000. This exemption does not apply to a mobile home that is assumed to be tangible personal property because it does not have a current license plate.

Because the provisions of the constitutional amendment will decrease the value of local tax rolls, the bill provides a mechanism by which rolled-back rate will be calculated for each jurisdiction to prevent an offsetting millage increase. For fiscal year 2008-09, if SJR 4-B is approved, a rolled-back rate will be calculated as if the tax base had not been reduced, and that rolled-back rate, adjusted for growth in per capita Florida personal income, is the maximum tax rate that may be levied without an extraordinary vote of the governing body. By a 2/3 majority, the rate may be increased by 67 percent of the difference between the rate calculated above and the true rolled-back rate. By a unanimous vote or referendum, any rate may be levied. After the 2008-09 fiscal year, local government revenues, except for school district revenue, will be capped as described above.

Following these two transition years, property taxes for a jurisdiction may grow with population and the growth of per capita Florida personal income. Caps do not apply to school district taxes. Increases of up to 10 percent over the cap may be achieved by a 2/3 vote of the governing board. Larger increases require a unanimous vote of the governing board or a referendum.

WORKFORCE AND AFFORDABLE HOUSING TAX REFORM

SB 2-B provides for the assessment of workforce and affordable rental housing under the following:

Community Land Trusts: The bill provides for the assessment of structural improvements on lands owned by a community land trust and used to provide affordable housing. The bill defines “community land trust” as a nonprofit entity that qualifies as a charitable entity under s. 501(c)(3) of the Internal Revenue Code and which has as one of its purposes the acquisition of land to be held in perpetuity for the primary purpose of providing affordable housing, and codifies in statute the responsibility of a community land trust to convey structural improvements located on specifically identified parcels of land belonging to the land trust to persons who qualify for affordable housing under the income limits of s. 420.0004, F.S., or workforce housing under the income limits of s. 420.5095, F.S.

The structural improvements are each subject to a ground lease of at least 99 years, and the lease contains a formula limiting the amount for which the improvement may be resold. The land trust retains the first right to purchase at the time of resale. When determining just value of the structural improvements, a property appraiser must assess the improvement based on the sale price determined by a willing buyer and a willing seller, subject to the formula contained in the ground lease.

Workforce and Affordable Rental Housing – SB 2-B 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, or 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.

SB 2-B 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.

The sections of SB 2-B that require revenue reductions in 2007-08 and limit future revenue increases take effect upon becoming a law; sections that are contingent upon approval by the voters take effect on the effective date of the amendment and apply to the 2008 tax roll.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18, of the State Constitution, provides that the legislature shall not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities have to raise revenue in the aggregate, as such authority existed on February 1, 1989, without approval by two-thirds of the membership of each house. The conditions imposed by SB 2-B on local governments could be considered to trigger this requirement. However, many of the requirements in the bill would be authorized by SJR 4-B. The bill requires supermajority votes or referenda by local governing bodies to adopt millage rates that can be adopted under current law with a simple majority vote. The sections of the bill that implement the proposed changes to the State Constitution have the effect of reducing the property tax base, and will reduce local revenue unless an offsetting millage rate increases are imposed.

Further, Article VII, section 18(c) of the State Constitution, provides that "the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the percentage of a state tax shared with counties and municipalities as an aggregate on February 1, 1989." Several exceptions are provided. SB 2-B provides circumstances where a county or municipality that does not comply with the revenue limitations of the bill will forfeit the distribution of local government half-cent sales tax revenues (ss. 200.065(13)(d), 218.63(3), 200.185(6), and 200.186(2), F.S.).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Property Tax Reform Impacts:

If taxing authorities levy millage rates that do not require extraordinary votes or referenda, they will experience a decline in ad valorem revenues relative to levies at current millage rates. If all taxing authorities do not exceed these rates, the estimated statewide ad valorem revenue reductions to local government from this bill are 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)

If SJR 4-B is enacted by the voters, the implementing provisions of this bill will increase the revenue impact of the bill. The revenue reductions, including the provisions in SJR 4-B, are estimated to 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 exemptions will reduce school revenues by \$1.589 billion in 2008, \$1.735 billion in 2009, \$1.877 billion in 2010, and \$1.957 billion in 2011.

Workforce and Affordable Housing Impacts:

On March 30, 2007, the Revenue Estimating Conference adopted a negative indeterminate fiscal impact on local governments for provisions of the bill relating to **community land trust valuation** but did note that due to the limited number of community land trust properties, the impact is expected to be minor.

On April 21, 2007, the Revenue Estimating Conference adopted the following negative low estimated impact on local government for the ad valorem exemption on **property owned by a nonprofit corporation or a limited partnership for which the sole general partner is a nonprofit corporation**:

	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
Local:	(\$1.9 million)	(\$2.0 million)	(\$2.1 million)

On March 30, 2007, the Revenue Estimating Conference adopted a negative indeterminate fiscal impact to local government when assessing affordable housing property under the rental income approach. However, the Conference noted the following impact adopted during the 2006 regular session:

Section 8 housing and affording housing properties serving persons meeting the income limits in s. 420.0004, F.S. – (\$49 million)

Properties receiving low income housing tax credit from the FHFC – (\$26 million)

The total statewide impact from affordable housing provisions are included in the total Property Tax Reform Impacts.

B. Private Sector Impact:

Property Tax Reform Impacts:

The property tax cuts and limitations will reduce tax burdens for owners of all types of real and tangible personal property. If SJR 4-B is approved by the voters, property used to provide affordable housing in rent-restricted programs will be assessed based on actual rents and tangible personal property will be exempt up to \$25,000 per tax return. The other provisions of SJR 4-B are self-implementing, but this bill will prevent tax rates on other property from increasing to offset those reductions to the tax base.

Workforce and Affordable Housing Impacts:

To the extent that SB 2-B reduces the assessed value of affordable housing projects, property taxes paid by owners of these projects will be lower.

C. Government Sector Impact:

To the extent that they do not override the revenue caps imposed in this bill, local governments will have lower revenue than under current law and will like limit or reduce spending.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
