HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 877 Working Waterfront Real Property
SPONSOR(S): Needelman and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2294

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development	10 Y, 0 N	Suarez	Croom
2) Economic Expansion & Infrastructure Council		Suarez	Tinker
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

This bill creates s. 193.506, F.S. and provides an alternative method for counties and local governments to incentivize the maintenance and preservation of working waterfront real property. The bill provides that an owner of a working waterfront real property may convey all rights to develop the property to the local government where the property is located for a period of seven years. In turn, the county or municipality with taxing jurisdiction over the real property is authorized to accept such conveyance of development rights. The bill then requires the appropriate tax appraiser to recognize the parcel as a working waterfront real property and consider the nature and duration of the conveyance when determining the fair market value of the property. The practical effect of this conveyance is to guarantee the maintenance of the parcel as a working waterfront real property in exchange for a reduction in the taxable value of the parcel.

HB 877 additionally provides for renewal of the conveyance upon expiration of the seven year period; provides for termination prior to the expiration of the seven year period; prohibits a county or municipality from conveying development right or using development right in manner inconsistent with definition of working waterfront real property; defines “working waterfront real property;” requires a county government to include relevant provisions for working waterfront real property in their comprehensive plan; and requires certain reporting requirements by property appraisers.

This bill shall take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes – This bill allows counties and municipalities to enter into agreements that effectively reduce the tax liability of parcels of land qualifying as working waterfront real property.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 14 of Chapter 2005-157, Laws of Florida, created the Working Waterfronts Property Tax Deferral Program (Deferral Program) to address, in part, the need to incentivize the preservation of working waterfronts.[1] The deferral program allows qualified working waterfront property owners to defer a portion or all of their property taxes. The program requires the local governments responsible for taxing the property to adopt an ordinance establishing the program and determining the portion of the ad valorem taxes that may be deferred. The deferral program gives counties the authority to adopt an ordinance to allow for an ad valorem tax deferral for working waterfront properties. The deferral is not allowed if: (1) The deferred amount plus interest and other unsatisfied liens on the property exceed 85% of the assessed value of the property, (2) the primary financing on the property exceeds 70% of the assessed value of the property; or (3) the county where the property is located has not adopted an ordinance approving tax deferrals for working waterfronts.[2]

Furthermore, the deferral program provides that if there is a change in use of the property, all deferred tax and interest become due and payable on November 1 of the year the change in use occurs and delinquent on April 1 of the following year. Similarly, a change in ownership of the property (such as an intra-generational family transfer) causes the deferred taxes to become due and payable.[3]

A study conducted by the University of Florida determined that recreational and commercial working waterfronts have been declining in numbers throughout the state. The study conducted a survey which found that only 20 percent of working waterfront users said that they were likely to use the deferral program. Property owners expressed concern with the inability to transfer ownership of the property to family members without incurring a large tax liability for the property taxes deferred under the deferral program. The survey concluded that while some working water front property owners felt that there were certain benefits to the deferral program, most felt it was not a very practical solution.[4]

The Office of Program Policy Analysis and Government Accountability (OPPAGA) reported in December 2007 that the demand for access to coastal waterways continues to outstrip the supply of public boat ramps and other facilities.[5] OPPAGA estimates that the state's marine industry had a total economic impact of $18.4 billion in 2005 and that more than 220,000 Floridians were employed in marine industry sectors.[6] OPPAGA reported that boat manufacturers that have recently departed Florida have cited high property taxes, among other reasons, as dispositive in their decision to leave the state.

---

[1] s. 197.303, F.S., *et. seq.*,
[2] Id.
[3] s. 197.3043, F.S.
[4] Recreational and Commercial Working Waterfronts in Florida: Perception of the Working Waterfronts Tax Deferral Program. Watson, Grant.
[5] Legislature May Wish to Consider Options for Enhancing Florida's Recreational Marine Industry. Office of Program Policy Analysis and Government Accountability. Report No. 07-48, December 2007.
[6] Id. Citing Florida's Recreational Marine Industry – Economic Impact and Growth 1980-2005. Thomas J. Murray and Associates, Inc. November 2005.

Effect of Proposed Changes

This bill creates s. 193.506, F.S. and provides an alternative method for counties and local governments to incentivize the maintenance and preservation of working waterfront real property. The bill provides that an owner of a working waterfront real property may convey all rights to develop the property to the local government where the property is located for a period of seven years. In turn, the county or municipality with taxing jurisdiction over the real property is authorized to accept such conveyance of development rights. The bill then requires the appropriate tax appraiser to recognize the parcel as a working waterfront real property and consider the nature and duration of the conveyance when determining the fair market value of the property. The practical effect of this conveyance is to guarantee the maintenance of the working waterfront real property in exchange for a reduction in the taxable value of the parcel.

The conveyance may be renewed upon agreement of the owner of the property and the local government. A property owner may terminate the conveyance prior to the expiration of the seven year period, but must pay taxes to the county or municipality equal to the difference between the amount actually paid during the time the conveyance was in effect and the amount the owner would have paid had development rights not been conveyed.

The bill provides for a county or municipality to enter into an agreement with the owner of a working waterfront real property to acquire the development rights of a property within the government's taxing authority. If the county or local government accepts such a conveyance, the bill requires the conveyance be filed with the appropriate officer for recording of the conveyance in a manner similar to any other instrument affecting title to real property. The bill prohibits a county or municipality that holds title to a development right pursuant to this bill from conveying the development right or exercising the development right in a manner inconsistent with the definition of a working waterfront real property.

The bill provides that, for purposes of ad valorem taxation, the real property subject to the conveyance be assessed at fair market value as a working waterfront real property. The bill requires that the appraiser recognize the nature and length of the restriction placed on the use of the property pursuant to the terms of the conveyance. The practical effect of this special classification is to reduce the taxable base of the working waterfront real property.

The bill defines a working waterfront real property as land that is used primarily for commercial or industrial water-dependent activities. The definition includes working waterfronts that provide public access to navigable waters and those used primarily for commercial fishing. The definition is not inclusive of hotels and motels. The definition appears to include those properties that are dependent on access to navigable waters in order to transact their normal course of business.

The bill requires that a county or municipality that acquires the development rights to working waterfront real property as provided in this bill must include within the local government comprehensive plan for such county of municipality provisions for protecting such property as a working waterfront.

The bill requires that property appraisers, for purposes of preparing tax rolls, report the assessed value of the property as well as the fair market value of the property irrespective of any negative impact on the value of the property imposed on account of the conveyance. The bill additionally requires that tax appraisers report both the classified use value (as a working waterfront real property) and the just value of the property to the department (presumably Department of Revenue).

C. SECTION DIRECTORY:

Section 1. Creates s. 193.506, F.S., and

(1) Allows the owner of a working waterfront real property to convey development rights of said property to a county or municipality for a period of 7 years for $10 and other due consideration. Provides for the conveyance to be subject to renewal upon agreement of the property owner and the county or municipality.

(2) Allows the county or municipality to accept conveyance of the development rights to a working waterfront real property as provided in section (1) and requires such instrument to be promptly filed with the appropriate officer for recording of the conveyance.

(3) Requires the appraiser to recognize the nature and length of the restriction placed on the use of the working waterfront real property pursuant to the conveyance when assessing the fair market value of the property.

(4) Prohibits the county or municipality holding title of the development right may not convey the right or otherwise exercise the right in a manner inconsistent with working waterfronts.

(5) Defines working waterfront real property.

(6) Requires a county or municipality to include within the local government comprehensive plan provisions for protecting such property as working waterfront real property.

(7) Requires the property appraiser to report the assessed value of property subject to a conveyance as its classified use value and to annually determine and report as just value the fair market value irrespective of the restriction imposed by the conveyance. Requires the property appraiser to report annually to the department the just value and classified use value of property for which the development right has been conveyed.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See FISCAL COMMENTS section below.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners of working waterfront real property may experience reduced ad valorem property taxes to the extent that counties and municipalities choose to enter into agreements pursuant to this bill.

D. FISCAL COMMENTS:

Counties and local municipalities may, to the extent that they choose to enter into agreements pursuant to the terms provided in this bill, experience reduced ad valorem tax revenue from the parcels of working waterfront real property classified and assessed as such.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rule making authority is required to implement the full provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

As presently filed, the following technical drafting issues should be considered:

1. The term “appraiser” and “property appraiser” is used interchangeably in subsections (3) and (7)(a).
2. Subsection (4), as presently drafted, may be interpreted to imply that a county or municipality may exercise a development right acquired pursuant to the provisions of this bill so long as the exercise of such right is consistent with the definition of working waterfront real property. It does not appear that the bill otherwise intends to grant a local government or municipality this authority.
3. The term “department” as used in subsection (7)(b) is not defined. Presumably, the term refers to the Department of Revenue.

D. STATEMENT OF THE SPONSOR

No statement was submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On Thursday, March 13, 2008, the Committee on Economic Development adopted four amendments without objection. Amendment No. 1 clarifies the term “appraiser” on line 53 to conform with the term “property appraiser” as used in line 85. Amendment No. 2 removes language in subsection (4) to clarify that a county or municipality many not exercise the development right conveyed under the provisions of this bill in any manner. Amendment No. 3 removes subsection (6), that would require a county or municipality accepting a conveyance pursuant to this bill to provide protection for working waterfronts in their local government comprehensive plan. Amendment No. 4 clarifies the term “department” in line 86 to clearly indicate “Department of Revenue”.