

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Attkisson offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsection (5) of section 194.011, Florida
6 Statutes, is amended to read:

7 194.011 Assessment notice; objections to assessments.--

8 (5) (a) The department shall by rule prescribe uniform
9 procedures for hearings before the value adjustment board which
10 include requiring:

11 1. ~~(a)~~ Procedures for the exchange of information and
12 evidence by the property appraiser and the petitioner consistent
13 with s. 194.032. ~~and~~

14 2. ~~(b)~~ That the value adjustment board hold an
15 organizational meeting for the purpose of making these
16 procedures available to petitioners.

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17 (b) The Division of Administrative Hearings shall adopt,
18 with assistance from the department, uniform procedures that
19 shall be used by value adjustment boards, certified attorney
20 special magistrates, taxpayers, certified real property
21 appraisal special magistrates, and certified tangible personal
22 property appraisal special magistrates in proceedings before
23 value adjustment boards. The procedures shall be adopted as
24 rules under the provisions of chapter 120 and shall be based on
25 provisions in chapter 28-106 of the Uniform Rules of Procedure
26 that are modified to promote procedures conducted by value
27 adjustment boards and certified special magistrates that are
28 accessible, fair, impartial, straightforward, and uniform
29 throughout the state. These procedures shall include relevant
30 provisions of chapter 194 and promote uniform and fair processes
31 for the conduct of hearings on value adjustment board petitions
32 that provide an equitable property tax appeal process in
33 furtherance of statutory and constitutional requirements. The
34 procedures shall be made available, at a minimum, on the
35 division's website, the department's website, and on the
36 existing websites of the clerks of circuit courts.

37 (c) The department shall adopt forms that govern the
38 conduct of hearings on value adjustment board petitions.

39 (d) The department shall adopt a manual that shall contain
40 at a minimum, the procedures adopted pursuant to paragraph (b)
41 and the forms adopted pursuant to paragraph (c). The provisions
42 of s. 120.536 shall not apply to this paragraph, and paragraphs
43 (b) and (c).

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44 (e) Hearings on petitions to value adjustment boards and
45 hearings conducted by certified special magistrates are not
46 proceedings governed by s. 120.569 or s. 120.57.

47 Section 2. Section 194.015, Florida Statutes, is amended
48 to read:

49 194.015 Value adjustment board.--There is hereby created a
50 value adjustment board for each county, which shall consist of
51 three members of the governing body of the county as elected
52 from the membership of the board of said governing body, one of
53 whom shall be elected chairperson, and one member ~~two members~~ of
54 the school board as elected from the membership of the school
55 board, and two citizen members, one of whom shall be appointed
56 by the governing body of the county and must own homestead
57 property within the county and one of whom must be appointed by
58 the school board and must own a business occupying commercial
59 space located within the school district. A citizen member may
60 not be a member or an employee of any taxing authority, and may
61 not be a person who represents property owners in any
62 administrative or judicial review of property taxes. The members
63 of the board may be temporarily replaced by other members of the
64 respective boards on appointment by their respective
65 chairpersons. Any three members shall constitute a quorum of the
66 board, except that each quorum must include at least one member
67 of said governing board, ~~and~~ at least one member of the school
68 board, and at least one citizen member and no meeting of the
69 board shall take place unless a quorum is present. Members of
70 the board may receive such per diem compensation as is allowed
71 by law for state employees if both bodies elect to allow such
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72 compensation. The clerk of the governing body of the county
73 shall be the clerk of the value adjustment board. ~~The office of~~
74 ~~the county attorney may be counsel to the board unless the~~
75 ~~county attorney represents the property appraiser, in which~~
76 ~~instance~~ The board shall appoint private counsel who has
77 practiced law for over 5 years and who shall receive such
78 compensation as may be established by the board. The private
79 counsel may not represent the property appraiser, the tax
80 collector, any taxing authority, or any property owner in any
81 administrative or judicial review of property taxes. No meeting
82 of the board shall take place unless counsel to the board is
83 present. ~~However, counsel for the property appraiser shall not~~
84 ~~be required when the county attorney represents only the board~~
85 ~~at the board hearings, even though the county attorney may~~
86 ~~represent the property appraiser in other matters or at a~~
87 ~~different time.~~ Two-fifths of the expenses of the board shall be
88 borne by the district school board and three-fifths by the
89 district county commission.

90 Section 3. Section 194.035, Florida Statutes, is amended
91 to read:

92 194.035 Special magistrates; property evaluators.--

93 (1) Each value adjustment ~~In counties having a population~~
94 ~~of more than 75,000,~~ the board shall appoint special magistrates
95 for the purpose of taking testimony and making recommendations
96 to the board, which recommendations the board may act upon
97 without further hearing. These special magistrates may not be
98 elected or appointed officials or employees of the county but
99 shall be selected from a list of those qualified individuals who

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100 are willing to serve as special magistrates. Employees and
101 elected or appointed officials of a taxing jurisdiction or of
102 the state may not serve as special magistrates. The clerk of the
103 board shall annually notify such individuals or their
104 professional associations to make known to them that
105 opportunities to serve as special magistrates exist. The
106 Department of Revenue shall provide a list of qualified special
107 magistrates to any county with a population of 75,000 or less.
108 Subject to appropriation, the department shall reimburse
109 counties with a population of 75,000 or less for payments made
110 to special magistrates appointed for the purpose of taking
111 testimony and making recommendations to the value adjustment
112 board pursuant to this section. The department shall establish a
113 reasonable range for payments per case to special magistrates
114 based on such payments in other counties. Requests for
115 reimbursement of payments outside this range shall be justified
116 by the county. If the total of all requests for reimbursement in
117 any year exceeds the amount available pursuant to this section,
118 payments to all counties shall be prorated accordingly. A
119 special magistrate appointed to hear issues of exemptions and
120 classifications shall be a member of The Florida Bar with no
121 less than 5 years' experience in the area of ad valorem
122 taxation. A special magistrate appointed to hear issues
123 regarding the valuation of real estate shall be a state
124 certified real estate appraiser with not less than 5 years'
125 experience in real property valuation. A special magistrate
126 appointed to hear issues regarding the valuation of tangible
127 personal property shall be a designated member of a nationally

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128 recognized appraiser's organization with not less than 5 years'
129 experience in tangible personal property valuation. A special
130 magistrate need not be a resident of the county in which he or
131 she serves. A special magistrate may not represent a person
132 before the board in any tax year during which he or she has
133 served that board as a special magistrate. Before appointing a
134 special magistrate, a value adjustment board shall verify the
135 special magistrate's qualifications. The value adjustment board
136 shall ensure that the selection of special magistrates is based
137 solely upon the experience and qualifications of the special
138 magistrate and is not influenced by the property appraiser. The
139 special magistrate shall accurately and completely preserve all
140 testimony and, in making recommendations to the value adjustment
141 board, shall include proposed findings of fact, conclusions of
142 law, and reasons for upholding or overturning the determination
143 of the property appraiser. ~~The board shall appoint special~~
144 ~~magistrates from the list so compiled prior to convening of the~~
145 ~~board.~~ The expense of hearings before magistrates and any
146 compensation of special magistrates shall be borne three-fifths
147 by the board of county commissioners and two-fifths by the
148 school board.

149 (2) The value adjustment board of each county may employ
150 qualified property appraisers or evaluators to appear before the
151 value adjustment board at that meeting of the board which is
152 held for the purpose of hearing complaints. Such property
153 appraisers or evaluators shall present testimony as to the just
154 value of any property the value of which is contested before the

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155 board and shall submit to examination by the board, the
156 taxpayer, and the property appraiser.

157 (3) The department shall provide and conduct training for
158 special magistrates at least once each state fiscal year in at
159 least five locations throughout the state. Such training shall
160 emphasize the department's standard measures of value, including
161 the guidelines for real and tangible personal property.

162 Notwithstanding subsection (1), a person who has 3 years of
163 relevant experience and who has completed the training provided
164 by the department under this subsection may be appointed as a
165 special magistrate. The training shall be open to the public.
166 The department shall charter tuition fees to any person attending
167 this training in an amount sufficient to fund the department's
168 costs to conduct all aspects of the training. The department
169 shall deposit the fees collected into the Certification Program
170 Trust Fund pursuant to s. 195.002(2).

171 Section 4. Section 194.0355, Florida Statutes, is created
172 to read:

173 194.0355 Motion to consider violation of uniform practices
174 and procedures governing hearing before value adjustment boards
175 or special masters.--

176 (1) This section applies when there is a motion filed by
177 the taxpayer or the property appraiser asserting that there was
178 a material violation of the law or the rules governing the
179 hearing of a petition.

180 (2) The motion must be filed by the taxpayer or the
181 property appraiser initially to the value adjustment board. In
182 support of the motion, the taxpayer or property appraiser shall

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183 include a copy of the record of the hearing at which the
184 asserted material violation occurred and a motion stating the
185 particular circumstances of the violation. The value adjustment
186 board shall make a written determination concerning the motion
187 material violation within in 14 days of receipt of the motion.

188 (3) If the concerns of the taxpayer or property appraiser
189 are not resolved by the value adjustment board, the party
190 asserting a material violation may appeal to the board of county
191 commissioners.

192 (4) The appeal to the board of county commissioners must
193 be in the form prescribed by the department and must be
194 accompanied by a copy of the record of the proceedings.

195 (5) Boards of county commissioners shall place the
196 consideration of such assertions on their next available agenda,
197 which shall be no later than 30 days after the filing of the
198 form and record with the governing body of the county. In all
199 circumstances, the board of county commissioners shall issue a
200 written decision. The written decision shall contain findings of
201 fact and conclusions of law and shall include reasons for a
202 finding that a material violation of the law has occurred.

203 (6) If the board of county commissioners finds that a
204 material violation of law occurred, the board shall issue
205 appropriate instructions to the value adjustment board or
206 certified special magistrate that may include directions that a
207 new hearing be held or that a different certified special
208 magistrate be assigned to hear the case.

209 (7) The value adjustment board shall not render a decision
210 until the procedures in this section are exhausted.

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211 Section 5. Subsection (1) of section 194.037, Florida
212 Statutes, is amended to read:

213 194.037 Disclosure of tax impact.--

214 (1) After hearing all petitions, complaints, appeals, and
215 disputes, the clerk shall make public notice of the findings and
216 results of the board in at least a quarter-page size
217 advertisement of a standard size or tabloid size newspaper, and
218 the headline shall be in a type no smaller than 18 point. The
219 advertisement shall not be placed in that portion of the
220 newspaper where legal notices and classified advertisements
221 appear. The advertisement shall be published in a newspaper of
222 general paid circulation in the county. The newspaper selected
223 shall be one of general interest and readership in the
224 community, and not one of limited subject matter, pursuant to
225 chapter 50. The headline shall read: TAX IMPACT OF VALUE
226 ADJUSTMENT BOARD. The public notice shall list the members of
227 the value adjustment board and the taxing authorities to which
228 they are elected. The form shall show, in columnar form, for
229 each of the property classes listed under subsection (2), the
230 following information, with appropriate column totals:

231 (a) In the first column, the number of parcels for which
232 the board granted exemptions that had been denied or that had
233 not been acted upon by the property appraiser.

234 (b) In the second column, the number of parcels for which
235 petitions were filed concerning a property tax exemption.

236 (c) In the third column, the number of parcels for which
237 the board considered the petition and reduced the assessment

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238 from that made by the property appraiser on the initial
239 assessment roll.

240 (d) In the fourth column, the number of parcels for which
241 petitions were filed but not considered by the board because
242 such petitions were withdrawn or settled prior to the board's
243 consideration.

244 (e)~~(d)~~ In the fifth ~~fourth~~ column, the number of parcels
245 for which petitions were filed requesting a change in assessed
246 value, including requested changes in assessment classification.

247 (f)~~(e)~~ In the sixth ~~fifth~~ column, the net change in
248 taxable value from the assessor's initial roll which results
249 from board decisions.

250 (g)~~(f)~~ In the seventh ~~sixth~~ column, the net shift in taxes
251 to parcels not granted relief by the board. The shift shall be
252 computed as the amount shown in column 6 ~~5~~ multiplied by the
253 applicable millage rates adopted by the taxing authorities in
254 hearings held pursuant to s. 200.065(2)(d) or adopted by vote of
255 the electors pursuant to s. 9(b) or s. 12, Art. VII of the State
256 Constitution, but without adjustment as authorized pursuant to
257 s. 200.065(6). If for any taxing authority the hearing has not
258 been completed at the time the notice required herein is
259 prepared, the millage rate used shall be that adopted in the
260 hearing held pursuant to s. 200.065(2)(c).

261 Section 6. It is the express intent of the Legislature
262 that a taxpayer shall never have the burden of proving that the
263 property appraiser's assessment is not supported by any
264 reasonable hypothesis of a legal assessment and all cases
265 setting out such a standard were expressly rejected

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266 legislatively upon the adoption of chapter 97-85, Laws of
267 Florida. It is the further intent of the Legislature that any
268 cases of law published since 1997 citing the every-reasonable-
269 hypothesis standard are expressly rejected to the extent that
270 they are interpretive of legislative intent.

271 Section 7. This act shall take effect July 1, 2008.

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275 **T I T L E A M E N D M E N T**

276 Remove the entire title and insert:

277 A bill to be entitled

278 An act relating to value adjustment boards; amending s. 194.011,
279 F.S.; requiring the Division of Administrative Hearings to
280 develop a uniform policies and procedures manual and forms for
281 use in proceedings before value adjustment boards; providing
282 requirements for the manual and procedures; specifying certain
283 hearings as not governed by certain provisions of the
284 Administrative Procedures Act; amending s. 194.015, F.S.;
285 revising the membership of value adjustment boards; providing
286 for citizen members; revising criteria related to appointment to
287 such boards; revising quorum requirements; deleting provisions
288 authorizing county attorneys to act as counsel for value
289 adjustment boards; limiting private counsel representation of
290 certain persons; amending s. 194.035, F.S.; providing that a
291 requirement that value adjustment boards appoint special
292 magistrates for certain purposes applies to all counties;
293 requiring value adjustment boards to verify the qualifications

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294 of special magistrates prior to appointment; providing selection
295 criteria; requiring the department to provide and conduct
296 training for special magistrates; providing training
297 requirements; requiring the department to charge tuition fees;
298 providing for deposit of such fees; creating s. 194.0355, F.S.;
299 providing application; providing requirements for motions
300 asserting violations of law or rules governing hearing
301 petitions; providing for appeal to the board of county
302 commissioners; providing requirements for appeal; providing
303 requirements for boards of county commissioners in hearing such
304 appeals; requiring the board to issue instructions to the value
305 adjustment board under certain circumstances; prohibiting value
306 adjustment boards from rendering decisions until certain
307 procedures are exhausted; amending s. 194.037, F.S.; revising
308 information required to be provided on the disclosure of tax
309 impact form; providing legislative intent; specifying that
310 taxpayers are precluded from having certain burdens of proof;
311 providing an effective date.