

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Finance and Tax Committee

BILL: SB 1380

INTRODUCER: Finance and Tax Committee

SUBJECT: Assessment of Residential Real Property

DATE: April 9, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Howes	Yeatman	CA	Favorable
2.	Fournier	McKee	FT	Favorable
3.			GA	
4.			WPSC	
5.				
6.				

I. Summary:

This bill implements section 4(i), Article VII, of the State Constitution which prohibits a property appraiser from considering changes or improvements made for the purpose of improving the property's resistance to wind damage in determining the assessed value of residential property. The bill specifies that the provision applies to new and existing construction. However, with respect to a new residential structure, this limit on assessments applies only to the extent that the changes or improvements exceed the requirements of the Florida Building Code or any applicable local building code.

The Revenue Estimating Conference estimates that this bill will decrease local revenue by \$0.3 million in FY 2011-12, and on a recurring basis by \$1.9 million, at current millage rates.

This bill creates 193.624, F.S.

II. Present Situation:

Background

Wind Resistance Incentives

The Florida Statutes do not provide incentives or special treatment for changes or improvement that improve a structure's ability to withstand hurricanes, but attempts to provide such incentives began in 1999, with the introduction of SJR 124, which would have authorized the Legislature to exempt, by general law, the value attributable to improvements made for purposes of disaster preparedness, and SB 122, which provided a statutory exemption for any increase in value which is attributable to the installation of shutters designed to protect the property against damage from hurricanes. Similar legislation was introduced in 2000 (SJR 138, HJR 1731), and 2007 (SB 158).

In November 2008, Florida voters approved a constitutional amendment proposed by the Florida Tax and Budget Reform Commission (TBRC).¹ The amendment added the following language to section 4, Article VII, of the State Constitution:

- (i) The legislature, by general law and subject to conditions specified therein, may prohibit consideration of the following in the determination of the assessed value of real property used for residential purposes:
- 1) Any change or improvement made for the purpose of improving the property's resistance to wind damage.
 - 2) The installation of a renewable energy source device.²

The amendment also repealed the Legislature's then-existing constitutional authority to grant an ad valorem tax exemption to a renewable energy source device and to real property on which such a device is installed and operated.

Assessment of Property for Tax Purposes

Article VII, section 4 of the Florida Constitution requires that regulations must be prescribed by general law to secure a just valuation of all property for ad valorem taxation.³ Under Florida law, just valuation is synonymous with fair market value.⁴ Section 193.011, F.S. requires property appraisers to consider the following eight factors in determining the property's just valuation:

- (1) The present cash value of the property, which is the amount a willing purchaser would pay a willing seller, exclusive of reasonable fees and costs of purchase, in cash or the immediate equivalent thereof in a transaction at arm's length;
- (2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise authorized by applicable law. The applicable governmental body or agency or the Governor shall notify the property appraiser in writing of any executive order, ordinance, regulation, resolution, or proclamation it adopts imposing any such limitation, regulation, or moratorium;

¹ The Florida Tax and Budget Reform Commission (TBRC) was created in 1988 when voters approved an amendment to the State Constitution to transfer the authority to review state and local taxation and budget issues from the Constitution Revision Commission to the TBRC. The TBRC is established every ten years with 11 members appointed by the Governor, none of whom may be a legislator at the time of appointment. The Commission is composed of seven members appointed by the Speaker of the House of Representatives, seven members appointed by the President of the Senate, and four non-voting, ex officio members all of whom must be state legislators at the time of appointment and must meet additional requirements. The 2007-2008 TBRC adopted the working waterfronts proposal as a CS for CP's 6, 8, & 34, Second Engrossed, and the proposal was Revision 6 on the ballot of the 2008 General Election.

² FLA. CONST. art. VII, s.4(i) (2008).

³ Article VII, s. 4, Fla. Constitution

⁴ See *Walter v. Shuler*, 176 So.2d 81 (Fla.1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla.1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).

- (3) The location of said property;
- (4) The quantity or size of said property;
- (5) The cost of said property and the present replacement value of any improvements thereon;
- (6) The condition of said property;
- (7) The income from said property; and
- (8) The net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of the sale, including the costs and expenses of financing, and allowance for unconventional or atypical terms of financing arrangements. When the net proceeds of the sale of any property are utilized, directly or indirectly, in the determination of just valuation of realty of the sold parcel or any other parcel under the provisions of this section, the property appraiser, for the purposes of such determination, shall exclude any portion of such net proceeds attributable to payments for household furnishings or other items of personal property.

Article VII, section 4, further provides for many types of property to be assessed on a basis other than just value. Agricultural land, land producing high water recharge, land used exclusively for noncommercial recreational purposes, and land used for conservation purposes may be classified by general law and assessed solely on the basis of character or use, and the assessment of certain working waterfront properties is based upon the current use of the property. Tangible personal property held for sale as stock in trade and livestock may be assessed at a fraction of its value, may be classified for tax purposes, or may be exempted from taxation. The assessed value of homestead property may not increase over the prior year's assessment more than 3 percent or the percentage change in the Consumer Price Index, and for non-school tax purposes, the assessment of residential real property and non-residential real property may not increase more than 10 percent over the prior year.

III. Effect of Proposed Changes:

The bill provides that in determining the assessed value of real property used for residential purposes, for both new and existing construction, the property appraiser may not consider the following changes or improvements made for the purpose of improving a property's resistance to wind damage, which include any of the following:

- Improving the strength of the roof deck attachment.
- Creating a secondary water barrier to prevent water intrusion.
- Installing hurricane-resistant shingles.
- Installing gable-end bracing.
- Reinforcing roof-to-wall connections.
- Installing storm shutters.
- Installing impact-resistant glazing.
- Installing hurricane-resistant doors.

The bill defines “new residential structure” and “existing residential structure” and provides that for a new residential structure, the limit on assessments applies only to the extent that the changes or improvements exceed the requirements of the Florida Building Code or any applicable local building code.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18(b), Article VII, of the State Constitution requires any general law that reduces a local government’s authority to raise revenues in the aggregate, to be passed by a two-thirds vote of the membership of each house of the Legislature. By reducing the tax base upon which counties and municipalities raise ad valorem revenue, this bill reduces their revenue-raising authority.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that this bill will decrease local revenue by \$0.3 million in FY 2011-12, and on a recurring basis by \$1.9 million, at current millage rates.

B. Private Sector Impact:

This proposed bill may encourage owners and builders of residential property to increase the property’s wind resistance since such improvements will not increase the assessed value of the property.

C. Government Sector Impact:

The impact of this proposed bill on local governments is a reduction in property tax revenue of \$0.3 million in FY 2011-12, and a recurring reduction of \$1.9 million, at current millage rates.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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