

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 Policy and Steering Committee on Ways and Means

BILL: CS/CS/SB 2450

INTRODUCER: Policy and Steering Committee on Ways and Means; Community Affairs Committee and Senator Bennett

SUBJECT: Assessment of Property for Back Taxes

DATE: April 20, 2010 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	Fav/CS
2.	Fournier	Coburn	WPSC	Fav/CS
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

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|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This committee substitute for CS/SB 2450 creates an exception from the assessment of back taxes on property that was not assessed by a property appraiser.

The Revenue Estimating Conference has estimated that the provisions of this bill related to back taxes will have a negative indeterminate fiscal impact on local government revenues.

This bill substantially amends section 193.092 of the Florida Statutes.

II. Present Situation:

Property Tax Assessments

Chapters 193-195, Florida Statutes, address property assessment procedures. On January 1 of each year, local property appraisers are required to assess all real and tangible personal property located within the county by determining the property’s just value.¹ Under Florida Statutes, “just

¹ FLA. CONST. art. VII, s. 4.

value” is defined as what a willing buyer would pay a willing seller for the property in an arm’s length transaction.² To determine the property’s just valuation, property appraisers are required to utilize the factors outlined in s. 193.011, F.S.

The Florida Constitution authorizes certain alternatives to the just valuation standard for special classes of property.³ Agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.⁴ Livestock and tangible personal property that are held for sale as stock in trade may be assessed at a specified percentage of value or may be totally exempted from taxation.⁵ The “Save Our Homes” provision limits the amount a homestead’s assessed value can increase annually to the lesser of 3 % or the consumer price index.⁶ Counties and municipalities may authorize historic properties to be assessed solely on the basis of character and use.⁷ Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents that are 62 years of age or older.⁸ The assessed value of nonhomestead residential property and nonresidential property may not increase by more than 10 percent over the previous year’s assessment unless there has been a change in ownership or control or, in the case of nonresidential property, a qualifying improvement has been made.⁹

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes. Such exemptions include, but are not limited to: homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.¹⁰

The property appraiser’s assessment roll must be completed and submitted to the executive director of the Department of Revenue for approval by July 1 of each year, unless the Department determines that there is good cause for extension.¹¹ Section 193.023, F.S., provides that in making the assessment of the value of real property, the property appraiser must physically inspect each property every five years to ensure that the tax roll meets all the requirements of law.¹² However, the property appraiser must also physically inspect any parcel of taxable real property upon the request of the taxpayer or owner.¹³

If a property appraiser discovers property that was mistakenly not assessed and levied upon for which ad valorem taxes are assessable by state or county authority, s. 193.092, F.S., requires the

² Section 193.011, F.S. *See also* *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 exceptions are implemented in Part II of ch. 193, F.S.

⁴ Art. VII, section 4(a) of the State Constitution.

⁵ Art. VII, section 4(c) of the State Constitution.

⁶ Art. VII, section 4(d) of the State Constitution.

⁷ Art. VII, section 4(e) of the State Constitution.

⁸ Art. VII, section 4(f) of the State Constitution.

⁹ Art. VII, sections 4(g), (h) of the State Constitution.

¹⁰ Art. VII, sections 3 and 6 of the State Constitution. *See also* ch.196, F.S.

¹¹ Section 193.023, F.S.

¹² Section 193.023(2), F.S.

¹³ *Id.*

property appraiser to retroactively assess that property for each year in which it escaped taxation, for a period of up to three years.¹⁴

III. Effect of Proposed Changes:

This bill amends s. 193.092, F.S., to provide that the retroactive assessment and collection of ad valorem taxes is not applicable if:

- The owner of a building, structure, or improvement that was not previously assessed, complied with all necessary permitting requirements when the improvement was built; or
- The owner of real property that was not previously assessed voluntarily disclosed the existence of the property to the property appraiser before January 1 of the year in which the property was first assessed, on a form provided by the property appraiser.

The provisions of this bill shall take effect July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18(b), Article VII, of the Florida Constitution provides that, “except upon approval by a two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989.”¹⁵ Subsection (d) of that section provides that laws adopted to require funding of pension benefits existing on the effective date of this section, criminal laws, election laws, the general appropriations act, special appropriations acts, laws reauthorizing but not expanding then-existing statutory authority, laws having insignificant fiscal impact, and laws creating, modifying, or repealing noncriminal infractions, are exempt from the requirements of this section.

The provisions of this bill would reduce a county or municipality’s authority to collect certain back taxes. None of the exemptions, including the exemption for laws having insignificant fiscal impact, applies.¹⁶

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁴ Section 193.092(1), F.S.

¹⁵ FLA. CONST. art. VII, s. 18(b).

¹⁶ FLA. CONST. art. VII, s. 18(d). See below for estimated fiscal impact.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The bill provides that the statutory requirement for assessment and collection of back taxes does not apply to certain real property.

B. Private Sector Impact:

The bill will reduce the tax burden for certain property owners that would have otherwise been subject to back taxes under s. 193.092, F.S.

C. Government Sector Impact:

The Revenue Estimating Conference¹⁷ has estimated that the provisions of this bill related to back taxes will have a negative but indeterminate fiscal impact on local government revenues.¹⁸

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.)

CS by Policy and Steering Committee on Ways and Means on April 20, 2010:

The committee substitute removed the section creating a whistleblower program for improperly granted homestead exemptions.

CS by Community Affairs on April 14, 2010:

Authorizes an individual to report a possible homestead exemption violation to his local property appraiser's office. If the property appraiser verifies that a homestead exemption

¹⁷ Revenue Estimating Conference, *Fiscal Analysis on Senate Bill 2450* (March 26, 2010) (on file with the Senate Committee on Community Affairs) (These results were based on a survey of selected counties with 263,992 reported just value changes. Of this number only 77,563 showed a positive change in just value and approximately 18,000 of those were made by the property appraiser due to correction of a material mistake of fact relating to the physical characteristics of the property.)

¹⁸ *Id.* at 314-15. The Revenue Estimating Conference stated that there was no information available to determine if the changes in just value resulted in the assessment of back taxes. But stated that based on conversations with property appraisers, the number involving back taxes is estimated to be small. Additionally, the Conference stated that if the term "retroactive" is interpreted to mean changes made in the same year after the tax bill was sent out, then the provisions of this bill may have more of an impact.

was illegally or improperly obtained, the “whistleblower” is entitled to a reward of up to \$500.

B. Amendments:

None.

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