



141838

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2011	.	
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The Committee on Community Affairs (Storms) recommended the following:

Senate Amendment (with title amendment)

Delete lines 44 - 183
and insert:
their supervision and control, except upon court order or order
of an administrative body having quasi-judicial powers in ad
valorem tax matters, and such returns are exempt from the
provisions of s. 119.07(1). The deliberate or intentional
disclosure of any such records without the written consent of
the taxpayer constitutes misfeasance or malfeasance and may be
grounds for removal from office.

Section 2. Subsection (4) of section 194.011, Florida



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13 Statutes, is amended to read:

14 194.011 Assessment notice; objections to assessments.—

15 (4) (a) At least 15 days before the hearing the petitioner
16 must ~~shall~~ provide to the property appraiser a list of evidence
17 to be presented at the hearing, together with copies of all
18 documentation to be considered by the value adjustment board and
19 a summary of evidence to be presented by witnesses.

20 (b) At least ~~No later than~~ 7 days before the hearing, if
21 the petitioner has provided the information required under
22 paragraph (a), and if requested in writing by the petitioner,
23 the property appraiser must ~~shall~~ provide to the petitioner a
24 list of evidence to be presented at the hearing, together with
25 copies of all documentation to be considered by the value
26 adjustment board and a summary of evidence to be presented by
27 witnesses. The evidence list must contain the property record
28 card if provided by the clerk. ~~Failure of the property appraiser~~
29 ~~to timely comply with the requirements of this paragraph shall~~
30 ~~result in a rescheduling of the hearing.~~

31 (c) The value adjustment board may not consider evidence or
32 documentation that the petitioner or property appraiser failed
33 to provide within the time specified in this subsection to the
34 other party.

35 Section 3. Section 194.034, Florida Statutes, is amended to
36 read:

37 194.034 Hearing procedures; rules.—

38 (1) (a) A petitioner ~~Petitioners~~ before the board may be
39 represented by an attorney or agent and present testimony and
40 other evidence. The property appraiser or his or her authorized
41 representative ~~representatives~~ may be represented by an attorney



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42 in defending the property appraiser's assessment or opposing an
43 exemption and may present testimony and other evidence. The
44 property appraiser, each petitioner, and all witnesses shall be
45 required, upon the request of either party, to testify under
46 oath as administered by the chairperson of the board. Hearings
47 shall be conducted in the manner prescribed by rules of the
48 department. The rules must allow a party to cross-examine, ~~which~~
49 ~~rules shall include the right of cross-examination of any~~
50 witness.

51 (b) This section does not prohibit ~~Nothing herein shall~~
52 ~~preclude~~ an aggrieved taxpayer from contesting his or her
53 assessment in circuit court pursuant to ~~the manner provided by~~
54 s. 194.171, whether or not he or she has initiated an action
55 pursuant to s. 194.011.

56 (c) Hearings shall be conducted in the manner prescribed by
57 rules of the department. The rules must:

58 1. Allow a party to cross-examine any witness; ~~The rules~~
59 ~~shall provide that no evidence shall be considered by~~

60 2. Prohibit the board from considering evidence except when
61 presented during the time scheduled for the petitioner's hearing
62 or at a time when the petitioner has been given reasonable
63 notice;

64 3. Require the board to make ~~that~~ a verbatim record of the
65 proceedings ~~shall be made, to preserve and proof of any~~
66 documentary evidence presented, and to make the evidence ~~shall~~
67 ~~be preserved and made~~ available to the Department of Revenue, if
68 requested; and

69 4. State that the petitioner may appeal the decision of the
70 board pursuant to s. 194.171 or ~~further judicial proceedings~~



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71 ~~shall be as provided in s. 194.036.~~

72 ~~(d) Notwithstanding the provisions of this subsection, no~~
73 ~~petitioner may present for consideration, nor may a board or~~
74 ~~special magistrate accept for consideration, testimony or other~~
75 ~~evidentiary materials that were requested of the petitioner in~~
76 ~~writing by the property appraiser of which the petitioner had~~
77 ~~knowledge and denied to the property appraiser.~~

78 ~~(d)(e)~~ Chapter 120 does not apply to hearings of the value
79 adjustment board.

80 ~~(e)(f)~~ An assessment may not be contested until a return
81 required by s. 193.052 has been filed.

82 (2) In each case, except when a complaint is withdrawn by
83 the petitioner or is acknowledged as correct by the property
84 appraiser, the value adjustment board shall render a written
85 decision. All such decisions shall be issued within 20 calendar
86 days of the last day the board is in session under s. 194.032.
87 The decision of the board shall contain findings of fact and
88 conclusions of law and shall include reasons for upholding or
89 overturning the determination of the property appraiser. ~~If~~ When
90 a special magistrate ~~is has been~~ appointed, the recommendations
91 of the special magistrate ~~must shall~~ be considered by the board.
92 The clerk, upon issuance of the decisions, ~~must shall~~, on a form
93 provided by the Department of Revenue, notify by first-class
94 mail each taxpayer, the property appraiser, and the department
95 of the decision of the board.

96 (3) ~~Appearance before an advisory board or agency created~~
97 ~~by~~ The county may not require a taxpayer to appear before an
98 advisory board or agency created by the county ~~be required~~ as a
99 prerequisite condition to appearing before the value adjustment



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100 board.

101 (4) A condominium homeowners' association may appear before
102 the board to present testimony and evidence regarding the
103 assessment of condominium units that ~~which~~ the association
104 represents. Such testimony and evidence must ~~shall~~ be considered
105 by the board with respect to hearing petitions filed by
106 individual condominium unit owners, unless the owner requests
107 otherwise.

108 (5) For the purposes of review of a petition, the board may
109 consider assessments among comparable properties within
110 homogeneous areas or neighborhoods.

111 (6) For purposes of hearing joint petitions filed pursuant
112 to s. 194.011(3)(e), each included parcel shall be considered by
113 the board as a separate petition. Such separate petitions shall
114 be heard consecutively by the board. If a special magistrate is
115 appointed, such separate petitions must ~~shall all~~ be assigned to
116 the same special magistrate.

117 Section 4. Subsection (1) of section 194.035, Florida
118 Statutes, is amended to read:

119 194.035 Special magistrates; property evaluators.—

120 (1) (a) In counties having a population of more than 75,000,
121 the board shall appoint special magistrates for the purpose of
122 taking testimony and making recommendations to the board, which
123 recommendations the board may act upon without further hearing.
124 These special magistrates may not be elected or appointed
125 officials or employees of the county but shall be selected from
126 a list of those qualified individuals who are willing to serve
127 as special magistrates. Employees and elected or appointed
128 officials of a taxing jurisdiction or of the state may not serve



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129 as special magistrates. The clerk of the board shall annually
130 notify such individuals or their professional associations to
131 make known to them that opportunities to serve as special
132 magistrates exist. The Department of Revenue shall provide a
133 list of qualified special magistrates to any county with a
134 population of 75,000 or less. Subject to appropriation, the
135 department shall reimburse counties with a population of 75,000
136 or less for payments made to special magistrates appointed for
137 the purpose of taking testimony and making recommendations to
138 the value adjustment board pursuant to this section. The
139 department shall establish a reasonable range for payments per
140 case to special magistrates based on such payments in other
141 counties. Requests for reimbursement of payments outside this
142 range shall be justified by the county. If the total of all
143 requests for reimbursement in any year exceeds the amount
144 available pursuant to this section, payments to all counties
145 shall be prorated accordingly. If a county having a population
146 less than 75,000 does not appoint a special magistrate to hear
147 each petition, the person or persons designated to hear
148 petitions before the value adjustment board or the attorney
149 appointed to advise the value adjustment board shall attend the
150 training provided pursuant to subsection (3), regardless of
151 whether the person would otherwise be required to attend, but
152 shall not be required to pay the tuition fee specified in
153 subsection (3). A special magistrate appointed to hear issues of
154 exemptions and classifications shall be a member of The Florida
155 Bar with no less than 5 years' experience in the area of ad
156 valorem taxation. A special magistrate appointed to hear issues
157 regarding the valuation of real estate shall be a state



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158 certified real estate appraiser with not less than 5 years'
159 experience in real property valuation. A special magistrate
160 appointed to hear issues regarding the valuation of tangible
161 personal property shall be a designated member of a nationally
162 recognized appraiser's organization with not less than 5 years'
163 experience in tangible personal property valuation. A special
164 magistrate need not be a resident of the county in which he or
165 she serves. A special magistrate may not represent a person
166 before the board in any tax year during which he or she has
167 served that board as a special magistrate. Before appointing a
168 special magistrate, a value adjustment board shall verify the
169 special magistrate's qualifications. ~~The value adjustment board~~
170 ~~shall ensure that the selection of special magistrates is based~~
171 ~~solely upon the experience and qualifications of the special~~
172 ~~magistrate and is not influenced by the property appraiser.~~ The
173 special magistrate shall accurately and completely preserve all
174 testimony and, in making recommendations to the value adjustment
175 board, shall include proposed findings of fact, conclusions of
176 law, and reasons for upholding or overturning the determination
177 of the property appraiser. The expense of hearings before
178 magistrates and any compensation of special magistrates shall be
179 borne three-fifths by the board of county commissioners and two-
180 fifths by the school board.

181 (b) The department shall create a process by rule for the
182 random selection of special magistrates by a value adjustment
183 board. The process may not allow the property appraiser to have
184 any influence over the selection of a special magistrate. An
185 attempt by a property appraiser to influence the selection of a
186 special magistrate constitutes misfeasance or malfeasance and



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187 may be grounds for removal from office.

188 Section 5. Subsection (3) of section 195.027, Florida
189 Statutes, is amended to read:

190 195.027 Rules and regulations.—

191 (3)(a) The rules and regulations shall provide procedures
192 whereby the property appraiser, the Department of Revenue, and
193 the Auditor General may ~~shall be able to obtain~~ access, if ~~where~~
194 necessary, the ~~to~~ financial records of a taxpayer relating to
195 nonhomestead property which records are required to make a
196 determination of the proper assessment as to the particular
197 property in question. Access to a taxpayer's records shall be
198 provided only in those instances in which it is determined that
199 such records are necessary to determine either the
200 classification or the value of the taxable nonhomestead
201 property. Access shall be provided only to those records which
202 pertain to the property physically located in the taxing county
203 as of January 1 of each year and to the income from such
204 property generated in the taxing county for the year in which a
205 proper assessment is made. The failure of a taxpayer to provide
206 the financial records does not preclude the trier of fact in an
207 administrative or judicial proceeding from considering those
208 records to determine the just value of the taxpayer's property.
209 All records produced by the taxpayer under this subsection are
210 ~~shall be~~ deemed to be confidential in the hands of the property
211 appraiser, the department, the tax collector, and the Auditor
212 General and may ~~shall~~ not be divulged to any person, firm, or
213 corporation, except upon court order or order of an
214 administrative body having quasi-judicial powers in ad valorem
215 tax matters, and such records are exempt from the provisions of



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 4 - 17

and insert:

valorem taxation; amending s. 193.074, F.S.; providing that the disclosure of a confidential property tax return without the written consent of the taxpayer may be grounds for removal from office; amending s. 194.011, F.S.; prohibiting the value adjustment board from considering certain evidence or documentation that was not timely disclosed; amending s. 194.034, F.S.; deleting a provision prohibiting a value adjustment board or special magistrate from considering certain evidence from a petitioner which was not timely provided to the property appraiser; amending s. 194.035, F.S.; requiring the Department of Revenue to create a process by rule for the random selection of special magistrates by a value adjustment board; providing that an attempt to influence the selection of a special magistrate by the property appraiser constitutes misfeasance or malfeasance and may be grounds for removal from office;