

## **FINAL BILL ANALYSIS**

**BILL #:** CS/CS/CS/HB 281

**FINAL HOUSE FLOOR ACTION:**

113 Y's 1 N's

**SPONSOR:** Rep. Logan

**GOVERNOR'S ACTION:** Approved

**COMPANION BILLS:** CS/SB 880

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### **SUMMARY ANALYSIS**

CS/ CS/CS/HB 281 was passed by the House on April 28, 2011, and subsequently passed the Senate on May 3, 2011. The bill was approved by the Governor on June 21, 2011, chapter 2011-181, Laws of Florida, and becomes effective July 1, 2011. The bill provides that a petitioner before a value adjustment board (VAB) challenging an assessment of property for property tax purposes must make a partial payment of at least 75 percent of ad valorem taxes before those taxes become delinquent, less any applicable discount. A petitioner before a VAB challenging the denial of a classification or an exemption must make a payment of the amount of tax which the taxpayer admits in good faith to owe before such taxes become delinquent, less any applicable discount. If the good faith payment made is grossly disproportionate to the amount found to be due by the VAB, a 10 percent per year penalty applies.

The bill provides that if the VAB determines that the petitioner owes ad valorem taxes in excess of the amounts paid, the unpaid amount accrues interest at the rate of 12 percent per year from April 1. If the VAB determines that the petitioner is owed a refund, the amount paid in excess of the amount due accrues interest at the rate of 12 percent per year from April 1.

The bill also eliminates current language which provides for a four percent discount that applies for 30 days after the mailing of a tax notice resulting from the action of a value adjustment board when the tax notice is issued after the taxes become delinquent.

If the payments required under the bill are not made, the VAB must deny the petition in writing by April 20.

The bill does not apply to a petitioner challenging a tax deferral denial.

This bill has an effective date of July 1, 2011, and is effective for VAB petitions filed on or after July 1, 2011.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Present Situation

##### Ad Valorem Taxation/Value Adjustment Boards

The Florida Constitution reserves ad valorem taxation to local governments. While Florida's property tax system is established by state law, it is implemented at the local level.

County property appraisers establish a property's just value as of January 1 of each year, and apply any valid exemptions, classifications or assessment limitations to determine a parcel's taxable value. Local taxing authorities, with the exception of district school boards,<sup>1</sup> set a millage rate that is levied on a property's taxable value. Each August, county property appraisers send property owners a Notice of Proposed Property Taxes, which identifies the just, assessed and taxable value of a parcel and the tax that will be due based on the millage rates proposed by local governments. Property taxes are due November 1 or as soon thereafter as the certified tax roll is received by the tax collector. Pending any appeals, unpaid taxes are delinquent after March 31 of the following year.

Property owners who object to the assessment placed on their property may request an informal conference with the county property appraiser,<sup>2</sup> file a petition with the value adjustment board (VAB) in the county where the property is located,<sup>3</sup> or file an action in circuit court to contest the assessment.<sup>4</sup> Property owners can pay property taxes in advance of the VAB hearing or may wait until the hearing process is complete.<sup>5</sup> Before an action to contest a tax assessment may be brought in circuit court, the taxpayer must pay the tax collector not less than the amount of tax which the taxpayer admits in good faith to owe.<sup>6</sup> If the court finds that the amount of tax owed by the taxpayer is greater than the amount the taxpayer has in good faith admitted and paid, it enters a judgment against the taxpayer for the deficiency and for interest on the deficiency at the rate of 12 percent per year from the date the tax became delinquent.<sup>7</sup> Participation in an informal conference is not a prerequisite to any administrative or judicial review available to the taxpayer.

Filing deadlines for petitions to the VAB vary depending on the subject of the petition. If the petition deals with a valuation issue, it must be filed on or before the 25<sup>th</sup> day following the mailing of the Notice of Proposed Property Taxes. If the petition deals with the denial of an exemption or a classification, it must be filed on or before the 30<sup>th</sup> day following the mailing of the notice denying the application for exemption or classification.<sup>8</sup> Current law is silent regarding late-filed petitions.

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<sup>1</sup> For district school boards, the Legislature establishes, via the General Appropriations Act and implementing legislation, the amount of revenue that must be raised for property taxes in order for school districts to receive state funds through the Florida Education Finance Program (FEFP) funding formula. No later than July 19 of each year, the Commissioner of Education certifies each district's required local effort millage rate after the Department of Revenue certifies the property tax valuations of each district. Millage rates are also adjusted because required local effort may not exceed 90 percent of a district's total FEFP entitlement.

<sup>2</sup> Section 194.011(2), F.S.

<sup>3</sup> Section 194.011(3), F.S.

<sup>4</sup> Section 194.171, F.S.

<sup>5</sup> Section 197.323(2), F.S., specifies that a tax certificate cannot be issued with respect to delinquent taxes on property for the current year if a petition filed with the value adjustment board has not received final action.

<sup>6</sup> Section 194.171(3), F.S.

<sup>7</sup> Section 194.192(2), F.S.

<sup>8</sup> Section 194.011(3), F.S.

The VAB may require a petition filing fee of up to \$15 for each separate parcel of property. However, a condominium association, a cooperative association, a homeowners' association, and the owner of contiguous undeveloped parcels may file a single petition covering multiple parcels, if certain conditions are met.<sup>9</sup> The filing fee for these joint petitions is calculated as the cost of the special magistrate for the time involved in hearing the joint petition, not to exceed \$5 per parcel.

The VAB is required to render a written decision in each case, except when a petition is withdrawn by the petitioner or is acknowledged as correct by the property appraiser.<sup>10</sup>

### Problems with the Value Adjustment Board Process

A December 2010 study by the Florida Legislature's Office of Program Policy Analysis & Government Accountability found that the time value adjustment boards take to complete the process has increased in recent years due to factors such as a growing number of petitions, changes in state law and administrative rules, and the involvement of property tax representatives, individuals who typically work on a contingency basis and may actively solicit appeals. Some property owners may use the process in order to realize a financial benefit by not paying taxes until after a board has completed its hearing.

The value adjustment board process typically takes a few months to complete, but can take as long as one to two years in larger counties.<sup>11</sup> Recently, more counties have been unable to certify their tax rolls by April 1, when property taxes are due. Delays in the value adjustment board process and subsequent delays in the certification of tax rolls can cause problems for local governments that cannot finalize revenues, and create cash flow issues for school districts, which establish their annual budgets based on anticipated revenues. A lengthy hearing process also can create problems for taxpayers who are anticipating tax refunds.<sup>12</sup>

### **Effect of the Bill**

The bill provides that a petitioner before a value adjustment board challenging an assessment of property must make a partial payment of at least 75 percent of ad valorem taxes before those taxes become delinquent, less any applicable discount. A petitioner before a VAB challenging the denial of a classification or an exemption must make a payment of the amount of tax which the taxpayer admits in good faith to owe before such taxes become delinquent, less any applicable discount. If the good faith payment made is grossly disproportionate to the amount found to be due by the VAB, a 10 percent per year penalty applies.

The bill provides that if the VAB determines that the petitioner owes ad valorem taxes in excess of the amounts paid, the unpaid amount accrues interest at the rate of 12 percent per year from April 1. If the VAB determines that the petitioner is owed a refund, the amount paid in excess of the amount due accrues interest at the rate of 12 percent per year from April 1.

The bill also eliminates current language which provides for a four percent discount that applies for 30 days after the mailing of a tax notice resulting from the action of a value adjustment board when the tax notice is issued after the taxes become delinquent.

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<sup>9</sup> Section 194.013, F.S.

<sup>10</sup> Section 194.034, F.S.

<sup>11</sup> As of May 2010, value adjustment boards in Broward, Duval, and Miami-Dade counties were at least one year behind in completing their hearings.

<sup>12</sup> Office of Program Policy Analysis & Government Accountability, Report No. 10-64, December 2010.

If the payments required under the bill are not made, the VAB must deny the petition in writing by April 20, 2011.

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## **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:**

On April 11, 2011, the Revenue Estimating Conference adopted an indeterminate positive impact to local governments and school boards as a result of this bill becoming law.

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

This bill will require those challenging an assessment of property before a value adjustment board to pay at least 75 percent of the taxes and those challenging the denial of an exemption or classification to make a good faith payment of tax before those taxes become delinquent. Petitioners who do not prevail before the board are additionally charged 12 percent interest on any unpaid amounts from April 1, while those that do prevail receive 12 percent interest on any amounts of tax paid in excess of amounts ultimately found owing.

### **D. FISCAL COMMENTS:**

None.