

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 Community Affairs Committee

BILL: SB 880

INTRODUCER: Senator Garcia

SUBJECT: Value Adjustment Boards

DATE: March 23, 2011

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Gizzi | Yeatman | CA | Pre-meeting |
| 2. | | | BC | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

This bill requires a value adjustment board petitioner to pay all non-ad valorem assessments and make a partial payment of at least 75 percent of taxes due before he or she can contest an assessment, classification or exemption. The bill requires the value adjustment board to deny the petition if the required payment is not timely made and provides that if the value adjustment board determines that the petitioner owes taxes in excess of the amounts paid, that the unpaid amount shall accrue interest at 12 percent per year from April 1.

This bill also deletes current provisions in law that provide a 4 percent tax discount for taxes that are paid within 30 days after the mailing of a tax notice resulting from value adjustment board action.

This bill creates an undesignated section of law and substantially amends s. 197.162, of the Florida Statutes.

II. Present Situation:

Property Tax Assessments

Chapters 193-195, Florida Statutes, address property assessment procedures. Article VII, section 4 of the Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or what a

willing buyer would pay a willing seller for the property in an arm's length transaction.¹ Property appraisers are required to utilize the factors outlined in s. 193.011, F.S., to determine the property's just valuation as of January 1 of each year.

The State Constitution provides exceptions to this requirement for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Additionally, tangible personal property that is held as inventory may be assessed at a specified percentage of its value or may be totally exempted.²

Article VII of the Florida Constitution, also limits the amount by which assessed value may increase in a given year for certain classes of property, and permits a number of tax exemptions. These include exemptions for homesteads and charitable, religious, or literary properties, as well as tax limitations under the Save Our Homes provisions. After calculating the assessed value of the property, the appraiser subtracts the value of any applicable exemptions to determine the taxable value.

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 good cause is shown for extension.³ As provided by ch. 195, F.S., the Department of Revenue has general supervision of the assessment and valuation of the property. Taxpayers receive a Notice of Proposed Property Taxes (TRIM notice) in August of each year. This notice provides the taxable value of the property and the millage rate⁴ necessary to fund each taxing authority's proposed budget based on the certified tax rolls submitted by the property appraiser.

Locally-elected governing boards prepare a tentative budget for operating expenses following certification of the tax rolls by the tax collector. The millage rate is then set based on the amount of revenue which needs to be raised in order to cover those expenses. The millage rate proposed by each taxing authority must be based on not less than 95 percent of the taxable value according to the certified tax rolls. The Department of Revenue is responsible for ensuring that millage rates are in compliance with the maximum millage rate requirements set forth by law as well as the constitutional millage caps. A public hearing on the proposed millage rate and tentative budget must be held within 65 to 80 days of the certification of the rolls, and a final budget and millage rate must be announced prior to end of said hearing.⁵ The millage rate may be changed administratively without a public hearing if the aggregate change in value from the original certification of value is more than 1% for municipalities, counties, school boards, and water management districts, or more than 3% for other taxing authorities.

¹ 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).

² Section 196.185, F.S.

³ Section 193.1142, F.S.

⁴ The millage rate is the rate at which the property is taxed and is set by county commissioners based on how much revenue is needed for operating expenses. See s. 200.069, F.S. See also Florida Department of Revenue website, *Local Government Property Tax Process*, available at <http://dor.myflorida.com/dor/property/taxpayers/pdf/ptoinfographic.pdf> (last visited on Nov. 3, 2010).

⁵ Section 200.065, F.S.

Value Adjustment Board Hearings

Section 194.015, F.S., states that a value adjustment board (VAB) shall be created for each county composed of two members from the county governing board, one member from the school board and two citizen members. Section 194.035, F.S., requires counties with a population of more than 75,000, and allows counties with a population less than 75,000, to appoint special magistrates to take testimony and provide recommendations to the board.

The value adjustment board is required to meet no earlier than 30 and no later than 60 days after the mailing of assessment notices pursuant to s. 194.011, F.S. The value adjustment board shall meet for the following purposes:

- To hear petitions relating to assessments, pursuant to 194.011(3), F.S.;
- To hear complaints relating to homestead exemptions, pursuant to s. 196.151, F.S.;
- To hear appeals from tax exemptions that have been denied, or disputes pertaining to granted exemptions, filed pursuant to s. 196.011, F.S.; and
- To hear appeals concerning ad valorem tax deferrals and classifications.⁶

Chapter 194, F.S., provides taxpayers with the right to appeal a property appraiser's assessment, the denial of a classification, a tax exemption, or a tax deferral by filing a petition to the value adjustment board. Taxpayers must file assessment appeals within 25 days after the TRIM notice is mailed.⁷ Tax exemption or classification appeals must be filed by the taxpayer within 30 days after the property appraiser mails a notice denying an application.⁸ Appeals on denied tax deferrals must be filed within 20 days after the tax collector mails the denial.⁹ A county value adjustment board may charge a taxpayer a nonrefundable fee up to \$15 upon filing a petition.¹⁰

After filing a petition and at least 25 days prior to the hearing, the taxpayer receives notice of the date, time, and location of the hearing along with the property record card containing relevant information that was used in computing the taxpayer's current assessment.¹¹ Prior to the hearing, the taxpayer will be given the option to exchange evidence with the property appraiser; any information that is requested by the property appraiser and not provided by the taxpayer may not be used at the hearing.¹²

At the hearing, both the petitioner and the property appraiser may be represented by an attorney or agent and shall present testimony and other evidence.¹³ The hearing shall be conducted in the manner prescribed by Department of Revenue rules, with the ability of either party to request that all witnesses be sworn in. Following the decision by the VAB, the property appraiser submits a revised certified tax roll to each taxing authority. If the taxpayer does not agree with

⁶ Section 194.032(1)(a)1.-4., F.S.

⁷ Section 194.011(3), F.S.

⁸ *Id.*

⁹ Florida Department of Revenue website, *Petitions to the Value Adjustment Board* available online at <http://dor.myflorida.com/dor/property/vab/pdf/vabguide.pdf> (last visited on March 7, 2011).

¹⁰ See 194.013, F.S. "However, this fee is \$5 per parcel in cases where a petition includes multiple parcels with similar characteristics." See Office of Program Policy Analysis and Gov't Accountability, Florida Legislature, *Time and Costs Are Increasing for Counties to Complete the Value Adjustment Board Process*, Report No. 10-64 (Dec. 2010).

¹¹ Section 194.032(2), F.S.

¹² Section 194.032(1)(d), F.S.

¹³ Section 194.032(1)(a), F.S.

the VAB's final decision, he or she may appeal the decision within 60 days to the circuit court pursuant to the provisions in s. 194.171(2), F.S.

2010 OPPAGA Report

In December 2010, the Office of Program Policy Analysis & Government Accountability (OPPAGA) issued a report discussing the increased time and costs associated with county value adjustment board procedures.¹⁴ The report indicated that the number of petitions filed has increased significantly over the years, lengthening the value adjustment board process. These delays have created problems for both taxpayers awaiting tax refunds and local governments waiting to certify their tax rolls which in some counties is taking up to two years. "Miami-Dade counties did not complete value adjustment board hearings for the 2008 tax year until 2010."¹⁵ These delays can also create local government budget concerns for entities, such as school districts, waiting for funding.¹⁶

The report focused on four main areas that may have attributed to the substantial increase in the number of value adjustment board appeals:

- 2009 Legislation that eliminated the 'presumption of correctness' of property appraisers (prior to this the property appraiser had to overcome this burden of proof).
- Department administrative rule changes that allow petitioners to reschedule once for no cause, and allow the board to reschedule for good cause.
- Increasing no-shows by petitioners.
- More property owners are hiring property tax professionals to assist with their value adjustment board appeals.¹⁷

Counties that have a high volume of value adjustment board appeals have tried to combat the increased workload by "creating informal dispute resolution processes, establishing performance requirements in magistrate contracts, and using innovative scheduling techniques."¹⁸

Value adjustment board operating costs have also increased significantly in recent years. County officials report that the current \$15 filing fee does not cover value adjustment board expenses. According to officials, filing fees only covered between 5.1% and 66.6% of board expenses in the 2009 tax year.¹⁹ The report stated that VAB appeals can also have fiscal implications on local governments by reducing property values. In 2008, successful value adjustment board appeals reduced property values statewide by approximately \$7.8 billion with a net property tax reduction of approximately \$159 million.²⁰

¹⁴ Office of Program Policy Analysis and Gov't Accountability, Florida Legislature, *Time and Costs Are Increasing for Counties to Complete the Value Adjustment Board Process*, Report No. 10-64 (Dec. 2010).

¹⁵ *Id.* at 5.

¹⁶ The report stated that "[a]s of November 2010, a number of school districts, including those in Miami-Dade, Duval, and Broward counties, were unable to recover \$51.8 million in uncollected taxes for the Fiscal Year 2008-2009."

¹⁷ *Id.* at 6-7.

¹⁸ *Id.* at 8.

¹⁹ *See id.* at 9.

²⁰ *Id.*

In response to these findings, OPPAGA recommended that the Legislature consider one of the following options should they choose to amend the value adjustment board process:

- Shorten the process;
- Address board costs and other fiscal implications; or
- Increase accountability in the process.²¹

Property Tax Discounts

Florida has provided a discount for early payment of property taxes since 1907. Pursuant to s. 197.162, F.S., when a taxpayer pays the full amount of their property tax bill by the end of November, they receive a 4% discount; by the end of December, a 3% discount; by the end of January, a 2% discount; and by the end of March, a 1% discount. Under current law, the initial 4% discount deadline is extended if the original tax notice is not mailed prior to November, and can be extended if an adjustment is made by a value adjustment board or if a deferral application is granted.

III. Effect of Proposed Changes:

Section 1 creates an undesignated section of law to require a petitioner before a value adjustment board that is challenging an assessment, denial of classification, or an exemption to pay all of the non-ad valorem assessments and to make a partial payment of at least 75 percent of the taxes due before April 1 of the year, less the applicable discount in s. 197.162, F.S. This section directs the value adjustment board to deny the petition if the required payment is not made by that date.

This section also provides that if the value adjustment board determines that the petitioner owes taxes in excess of the amounts paid, that the unpaid amount accrues interest at the rate of 12 percent per year from April 1.

Section 2 amends s. 197.162, F.S., to delete a current provision in law that provides a 4 percent discount for taxes paid within 30 days after the mailing of a tax notice resulting from value adjustment board action.

Section 3 provides that this act shall take effect July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²¹ *Id.* at 10.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

As a result of this bill, a petitioner before the value adjustment board will be required to pay all non-assessments and pay at least 75 percent of taxes due before contesting an assessment, classification or exemption. Taxes owed in excess of the amounts paid by the taxpayer will accrue 12 percent interest per year from April 1.

In addition, tax payers will no longer receive a 4 percent tax discount for taxes that are paid within 30 days after mailing of a tax notice resulting from a value adjustment board action.

B. Private Sector Impact:

As a result of this bill, value adjustment board petitioners will be required to pay all non-ad valorem assessments and pay at least 75 percent of taxes due before contesting an assessment, classification or exemption. Taxes owed in excess of the amounts paid by the taxpayer will accrue 12 percent interest per year from April 1.

In addition, tax payers will no longer receive a 4 percent tax discount for taxes that are paid within 30 days after mailing of a tax notice resulting from a value adjustment board action.

C. Government Sector Impact:

Value adjustment boards will be required to deny a petition to the board if the petitioner fails to timely pay the required amount of taxes as prescribed under this section.

As a result of this bill, the Florida Department of Revenue will need to make amendments to the following rules: Chapter 12D-13.002 and 13.005.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²² Florida Department of Revenue, *Senate Bill 880 Fiscal Analysis*, at 3 (Feb. 28, 2011) (on file with the Senate Committee on Community Affairs).

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.
