

1                   A bill to be entitled  
2           An act relating to value adjustment boards; amending  
3           s. 194.015, F.S.; revising the membership of a value  
4           adjustment board; providing for the appointment and  
5           qualifications of a professional member and alternate  
6           professional member of a value adjustment board;  
7           providing for the election of a chairperson and  
8           alternate chairperson of the board and requirements  
9           with respect thereto; revising requirements relating  
10          to the composition of a quorum of the board members;  
11          providing duties for the board and the clerk of the  
12          board; providing oversight responsibilities for the  
13          board with respect to the activities of specified  
14          individuals; creating s. 194.017, F.S.; providing  
15          conditions, requirements, and limitations relating to  
16          the selection, appointment, and service of a board  
17          attorney; providing duties, responsibilities, and  
18          requirements for the board attorney; providing  
19          requirements with respect to verbal or written advice  
20          given by the board attorney; providing requirements  
21          relating to the written contract required between the  
22          board and the board attorney; providing for the  
23          maintenance of records relating to the board and board  
24          attorney; creating s. 194.020, F.S.; providing  
25          legislative intent; providing requirements for written  
26          decisions of the board and special magistrates;  
27          providing requirements for the board, special  
28          magistrates, and the Department of Revenue with

29 |       respect to administrative reviews involving just value  
30 |       assessments of real property; creating s. 194.021,  
31 |       F.S.; providing requirements for the board and special  
32 |       magistrates relating to submission and consideration  
33 |       of recommended decisions; creating s. 194.023, F.S.;  
34 |       requiring the department to provide value adjustment  
35 |       board training for board attorneys and board special  
36 |       magistrates at least once each fiscal year; providing  
37 |       requirements for the content and nature of the  
38 |       training; providing legislative intent; requiring  
39 |       board attorneys and special magistrates to complete  
40 |       the department's value adjustment board training and  
41 |       take examinations; providing procedures to address  
42 |       certain disagreements that may arise with respect to  
43 |       the validity of portions of the training materials;  
44 |       providing for nonapplicability with respect to the  
45 |       Administrative Procedure Act; creating s. 194.025,  
46 |       F.S.; authorizing the department to conduct reviews of  
47 |       the procedures, decisions, and records of value  
48 |       adjustment boards, board attorneys, and special  
49 |       magistrates; requiring the department to notify value  
50 |       adjustment boards of certain defects and provide  
51 |       procedures for resolving the defects; providing for  
52 |       nonapplicability with respect to the Administrative  
53 |       Procedure Act; amending s. 194.034, F.S.; providing  
54 |       requirements relating to the issuance of final  
55 |       decisions of the board; amending s. 194.035, F.S.;  
56 |       requiring special magistrates to be appointed by

57 | written contract; specifying certain conditions and  
 58 | requirements with respect to the content and terms of  
 59 | such written contracts; specifying training  
 60 | requirements for special magistrates; authorizing the  
 61 | appointment of review special magistrates by written  
 62 | contract; specifying certain conditions and  
 63 | requirements with respect to the content and terms of  
 64 | such written contracts; providing conditions,  
 65 | requirements, and limitations relating to the  
 66 | activities of review special magistrates; amending s.  
 67 | 192.0105, F.S.; conforming a cross-reference;  
 68 | providing appropriations; providing an effective date.  
 69 |

70 | Be It Enacted by the Legislature of the State of Florida:  
 71 |

72 | Section 1. Section 194.015, Florida Statutes, is amended  
 73 | to read:

74 | 194.015 Value adjustment board.—There is hereby created a  
 75 | value adjustment board for each county, which shall consist of  
 76 | one member ~~two members~~ of the governing body of the county as  
 77 | elected from the membership of the board of the ~~said~~ governing  
 78 | body, ~~one of whom shall be elected chairperson,~~ and one member  
 79 | of the school board as elected from the membership of the school  
 80 | board, ~~and~~ two citizen members, one of whom shall be appointed  
 81 | by the governing body of the county and must own homestead  
 82 | property within the county and one of whom must be appointed by  
 83 | the school board and must own a business occupying commercial  
 84 | space located within the school district, and one professional

85 member who shall be a resident of the county. The clerk of the  
86 value adjustment board shall appoint the professional member and  
87 shall annually notify eligible individuals or their professional  
88 associations to make them aware that opportunities to serve as a  
89 professional member exist. The professional member or the board  
90 clerk shall select and the board clerk shall appoint an  
91 alternate professional member to serve when necessary in place  
92 of the professional member. The professional member and the  
93 alternate professional member shall be a member of The Florida  
94 Bar, a Florida certified public accountant under chapter 473, or  
95 a Florida certified general appraiser under part II of chapter  
96 475. A professional member or a citizen member shall ~~may~~ not be  
97 a member or an employee of any taxing authority, and shall ~~may~~  
98 not be a person who represents a party ~~property owners~~ in any  
99 administrative or judicial review of property taxes. Members of  
100 the value adjustment board shall elect a chairperson and an  
101 alternate chairperson, each of whom shall be either a  
102 professional member or a citizen member. The county governing  
103 board and school board members of the value adjustment board may  
104 be temporarily replaced by other members of the respective  
105 boards on appointment by their respective chairpersons. ~~Any~~  
106 Three members shall constitute a quorum of the board, except  
107 that each quorum must include at least one member from either  
108 the governing board or school board, at least one citizen  
109 member, and at least one professional member. ~~of said governing~~  
110 ~~board, at least one member of the school board, and at least one~~  
111 ~~citizen member and~~ No meeting of the board shall take place  
112 unless a quorum is present. Members of the board may receive

113 such per diem compensation as is allowed by law for state  
 114 employees if both bodies elect to allow such compensation. The  
 115 clerk of the governing body of the county shall be the clerk of  
 116 the value adjustment board. To ensure fair and consistent value  
 117 adjustment board proceedings, the board shall have oversight of  
 118 the board attorney, board clerk, any special magistrates, and a  
 119 review special magistrate and shall require written legal  
 120 justification for any advice provided by the board attorney. ~~The~~  
 121 ~~board shall appoint private counsel who has practiced law for~~  
 122 ~~ever 5 years and who shall receive such compensation as may be~~  
 123 ~~established by the board. The private counsel may not represent~~  
 124 ~~the property appraiser, the tax collector, any taxing authority,~~  
 125 ~~or any property owner in any administrative or judicial review~~  
 126 ~~of property taxes. No meeting of the board shall take place~~  
 127 ~~unless counsel to the board is present.~~ Two-fifths of the  
 128 expenses of the board shall be borne by the district school  
 129 board and three-fifths by the district county commission.

130 Section 2. Section 194.017, Florida Statutes, is created  
 131 to read:

132 194.017 Value adjustment board attorney.-

133 (1) The value adjustment board shall select and appoint a  
 134 private board attorney, by written contract, who shall be a  
 135 member of the Florida Bar with no less than 5 years' experience  
 136 in the area of ad valorem taxation and shall annually complete  
 137 the department's value adjustment board training and pass the  
 138 corresponding training examination. The board attorney shall  
 139 receive such compensation as may be established by the board.  
 140 Before appointing a board attorney as its legal counsel, the

141 board shall verify the qualifications of the attorney. The board  
 142 attorney shall not represent a property appraiser, tax  
 143 collector, taxing authority, or property taxpayer in any  
 144 administrative or judicial review of property taxes in any  
 145 county either during the same calendar period or during  
 146 administrative reviews for the same tax year and shall not have  
 147 done so in the county where appointed in the 2-year period  
 148 before appointment. The board attorney shall not be appointed  
 149 and shall not serve simultaneously as a special magistrate or  
 150 review special magistrate in any county either during the same  
 151 calendar period or during administrative reviews for the same  
 152 tax year. The board attorney may serve in multiple counties. A  
 153 meeting of the board may not take place unless the board  
 154 attorney is present.

155 (2) (a) The board attorney's duty shall be to support the  
 156 laws of this state and the board-related activities necessary  
 157 for promoting and maintaining a high level of public trust in  
 158 the value adjustment board process. Such public trust requires  
 159 ethical behavior, fairness, consistency, competence,  
 160 transparency, and uniform application of the law by the board,  
 161 special magistrates, review special magistrates, board clerk,  
 162 and board attorney. The board attorney shall adhere to the  
 163 ethics provisions in part III of chapter 112, the open  
 164 government provisions of s. 286.011, the provisions on taxpayer  
 165 rights in s. 192.0105, the provisions of parts I and III of  
 166 chapter 194, and all other applicable law.

167 (b) The board attorney shall not act as an advocate for a  
 168 taxing authority and shall avoid any appearance of such

169 advocacy. The board attorney's legal advice shall be based  
 170 solely on the law and shall not be influenced by the amount of  
 171 property tax involved in any petition or decision.

172 (3) (a) The board attorney shall advise and assist the  
 173 board, board clerk, and special magistrates, including review  
 174 special magistrates, on all aspects of the value adjustment  
 175 board process so that all board-related activities comply with  
 176 the law and promote a high level of public trust. If a board  
 177 member, board clerk, or special magistrate does not timely  
 178 follow the advice of the board attorney, the board attorney  
 179 shall timely notify the department in writing and include the  
 180 facts and law involved.

181 (b) The board attorney shall advise the board, board  
 182 clerk, and special magistrates, including review special  
 183 magistrates, on the existence and use of the department's  
 184 uniform policies and procedures manual and accompanying  
 185 documents, as well as the department's training materials. The  
 186 board attorney shall advise the board on public trust, the  
 187 ethics provisions in part III of chapter 112, the rights of  
 188 taxpayers in s. 192.0105, the open government provisions in s.  
 189 286.011, the provisions of parts I and III of chapter 194, the  
 190 requirements for training and examinations, statutory criteria  
 191 that apply to the issue under administrative review, the  
 192 consideration of evidence, requirements for written decisions,  
 193 requirements for consideration and adoption of recommended  
 194 decisions, the prohibition against the board or a special  
 195 magistrate allowing the amount of property tax involved in any  
 196 petition or decision to influence the proper outcome under the

197 | law, and all other applicable law.

198 |       (4) Verbal or written advice from the board attorney  
 199 | regarding any part of the value adjustment board process shall  
 200 | be transparent and be part of the public record.

201 |       (a)1. When a board member requests verbal or written  
 202 | advice from the board attorney regarding any part of the value  
 203 | adjustment board process, the attorney shall timely provide such  
 204 | legal advice. If a board member believes the legal advice to be  
 205 | in error, the board member shall immediately notify the board,  
 206 | board attorney, board clerk, and the department in writing and  
 207 | shall include facts and reasons that support the board member's  
 208 | belief.

209 |       2. Verbal or written advice from the board attorney to a  
 210 | board member, directly or indirectly, shall be noted on the next  
 211 | meeting agenda with documentation of the advice provided to each  
 212 | board member and made available to the public.

213 |       (b)1. When a special magistrate requests verbal or written  
 214 | legal advice from the board attorney regarding the special  
 215 | magistrate's duties, the board attorney shall timely provide  
 216 | such legal advice. If the special magistrate believes the legal  
 217 | advice to be in error, the special magistrate shall immediately  
 218 | notify the board, board attorney, board clerk, and the  
 219 | department in writing and shall include facts and reasons that  
 220 | support the special magistrate's belief.

221 |       2. Verbal advice from the board attorney to a special  
 222 | magistrate or review special magistrate must be described in  
 223 | writing by the special magistrate. Written or verbal advice from  
 224 | the board attorney to a special magistrate or review special



225 magistrate must be documented in every affected recommendation  
226 along with the steps taken by the special magistrate or review  
227 special magistrate in response to such advice.

228 (c) Verbal or written advice from the board attorney to  
229 the board clerk or staff shall be noted on the next meeting  
230 agenda with documentation of the advice provided to each board  
231 member along with the steps taken by the board clerk or staff in  
232 response to such advice.

233 (5) A review special magistrate, as described in s.  
234 194.035(2), may seek advice from the board attorney and, if so,  
235 the board attorney shall timely provide such advice. If a review  
236 special magistrate disagrees with the board attorney's advice,  
237 whether or not provided upon request, the review special  
238 magistrate shall proceed based on his or her own belief of the  
239 correct course of action, but shall immediately document in  
240 writing the facts, law, and reasons for the disagreement, along  
241 with the course of action taken and shall immediately provide  
242 the documentation to the board, board attorney, board clerk, and  
243 the department.

244 (6) The board, board attorney, board clerk, and all  
245 special magistrates, including review special magistrates, shall  
246 ensure the complete and accurate keeping of all records  
247 pertaining to the value adjustment board process. Such records  
248 must include all written communication on subjects related to  
249 board activities between the board attorney and another board  
250 attorney, a property appraiser or staff, a property owner or  
251 representative, an attorney for a party, a special magistrate, a  
252 review special magistrate, a board member, the board clerk, or

253 | the department.

254 |       (7) (a) At the beginning of a petition hearing conducted by  
255 | the board, the board attorney shall ensure that each board  
256 | member has a copy of the statutory criteria that apply to the  
257 | issue under administrative review and shall provide the advice  
258 | and assistance necessary to ensure that each board member  
259 | understands the proper use of the statutory criteria in  
260 | considering the evidence. The board attorney shall clearly,  
261 | completely, and timely answer any questions a board member may  
262 | have regarding the evidence and such criteria.

263 |       (b) Before the beginning of a petition hearing conducted  
264 | by a special magistrate, the board attorney shall ensure that  
265 | the special magistrate has a copy of the statutory criteria that  
266 | apply to the issue under administrative review and shall provide  
267 | the advice and assistance necessary to ensure that the special  
268 | magistrate understands the proper use of the statutory criteria  
269 | in considering the evidence. The board attorney shall clearly,  
270 | completely, and timely answer any questions a special magistrate  
271 | may have regarding the evidence and such criteria.

272 |       (8) (a) The executed written contract between the value  
273 | adjustment board and the board attorney shall extend for no  
274 | longer than the period of time necessary for the board to  
275 | complete its duties in reviewing the original assessments of a  
276 | single tax year.

277 |       (b) A value adjustment board may not use any contract to  
278 | appoint its board attorney unless such contract is in writing  
279 | and specifies agreement between the board and the board attorney  
280 | regarding the following elements:

281        1. The board attorney shall support and promote the board-  
282 related activities necessary for promoting and maintaining a  
283 high level of public trust in the value adjustment board  
284 process. In all board-related activities, the board attorney  
285 will conduct herself or himself in a manner that promotes such  
286 high level of public trust. Such public trust requires fairness,  
287 consistency, transparency, ethical behavior, competence, and  
288 uniform application of the law by the board attorney.

289        2. The board attorney shall not be an advocate for a  
290 taxing authority, but shall be an independent advocate for  
291 adherence by the board and special magistrates to the laws of  
292 the state, including, but not limited to, the ethics provisions  
293 in part III of chapter 112, the rights of property taxpayers in  
294 s. 192.0105, the open government provisions in s. 286.011, and  
295 the provisions of parts I and III of chapter 194.

296        3. In all board-related activities, the board attorney  
297 shall adhere to the laws of the state, including, but not  
298 limited to, the ethics provisions in part III of chapter 112,  
299 the rights of property taxpayers in s. 192.0105, the open  
300 government provisions in s. 286.011, and the provisions of parts  
301 I and III of chapter 194. In performing the board attorney's  
302 duties, the board attorney's legal advice shall be based solely  
303 on the law and shall not be influenced by the amount of property  
304 tax involved in any petition or decision.

305        4. As necessary for compliance with law or when requested,  
306 the board attorney shall provide timely advice to board members,  
307 the board clerk, and special magistrates, including review  
308 special magistrates, to ensure that all board-related activities

309 meet all requirements of law. The board attorney shall advise  
310 the board and special magistrates, including review special  
311 magistrates, of the prohibition against the board or a special  
312 magistrate allowing the amount of property tax involved in a  
313 petition or decision to influence the proper outcome under the  
314 law.

315 5. The board attorney shall advise the board and special  
316 magistrates, including review special magistrates, on public  
317 trust, the ethics provisions in part III of chapter 112, the  
318 rights of property taxpayers in s. 192.0105, the open government  
319 provisions in s. 286.011, the provisions of parts I and III of  
320 chapter 194, the requirements for training and examinations,  
321 statutory criteria that apply to the issue under administrative  
322 review, the consideration of evidence, requirements for written  
323 decisions, requirements for consideration of recommended  
324 decisions, and all other applicable law.

325 6. The board attorney shall ensure the maintenance of  
326 complete and accurate records regarding any and all written  
327 communication on board-related subjects between the board  
328 attorney and another board attorney, a property appraiser or  
329 staff, a property owner or representative, an attorney for a  
330 party, a special magistrate, including a review special  
331 magistrate, a board member, the board clerk, or the department.

332 7. All other elements necessary for the orderly and timely  
333 performance of board duties with adherence to all requirements  
334 of law, which elements must include duties, standards of  
335 conduct, and performance standards for the board attorney.

336 (9) Information received by the department under this

337 section must be considered by the department in its oversight  
338 and training role.

339 Section 3. Section 194.020, Florida Statutes, is created  
340 to read:

341 194.020 Requirements for written decisions.—

342 (1) To promote public trust in the value adjustment board  
343 process, the Legislature intends that the requirements of this  
344 section facilitate the development of fair, lawful, and  
345 consistent written decisions by boards and special magistrates.  
346 Accordingly, there must be no substantial errors in the  
347 development of any written decision by a board or special  
348 magistrate.

349 (2) (a) For each petition, with the exception of a petition  
350 that is withdrawn by the petitioner or acknowledged as correct  
351 by the property appraiser, the value adjustment board shall  
352 render a written final decision. If a special magistrate has  
353 been appointed, the board shall consider the written recommended  
354 decisions produced by the special magistrate. Each written final  
355 decision of the board must include specific findings of fact and  
356 conclusions of law and specific reasons for upholding or  
357 overturning the determination of the property appraiser. All  
358 recommended and final decisions must meet the requirements of  
359 this section, ss. 194.021, 194.301, and 194.3015, and other  
360 statutory criteria that apply to the issue under administrative  
361 review. Substantial errors of fact or law in the development of  
362 a written recommended decision must be corrected before the  
363 board adopts the recommended decision as final.

364 (b) For each petition considered by a special magistrate,

365 with the exception of a petition that is withdrawn by the  
366 petitioner or acknowledged as correct by the property appraiser,  
367 the special magistrate shall produce a written recommended  
368 decision for consideration by the board. Each written  
369 recommended decision must include specific findings of fact and  
370 conclusions of law and specific reasons for upholding or  
371 overturning the determination of the property appraiser. Each  
372 written recommended decision must meet the same requirements  
373 provided in this section for the board's final decisions.

374 (3) The board attorney's or review special magistrate's  
375 advice relating to the facts involved in a petition or the  
376 applicable law, if in writing, shall be included in the record  
377 and documented within the findings of fact and conclusions of  
378 law in the written decisions of the board and special  
379 magistrates. If not in writing, such advice shall be documented  
380 within the findings of fact and conclusions of law in the  
381 written decision of the board and special magistrates.

382 (4) (a) 1. The findings of fact in a final decision must be  
383 based on the relevant and credible evidence and specifically  
384 identify the supporting evidence, or lack thereof, that relates  
385 to each of the statutory criteria that apply to the issue under  
386 administrative review. The findings of fact must include logical  
387 reasoning that connects the evidence in the record with the  
388 findings of fact and must support the conclusions of law.

389 2. Based on the evidence, the value adjustment board shall  
390 determine and report as findings of fact in a written final  
391 decision each statutory criterion applied by the property  
392 appraiser, the reasons why each applied factor was applied, and

393 | how each applied factor was applied. The board shall also  
394 | identify, and report as findings of fact, each statutory  
395 | criterion not applied by the property appraiser and must  
396 | determine and report the reasons why each such criterion was not  
397 | applied by the property appraiser in developing the assessment.

398 | 3. The Legislature intends for the value adjustment board  
399 | to disallow the creation of a special class of property  
400 | consisting of property that is the subject of a board petition.  
401 | Accordingly, in administrative reviews involving real property  
402 | just value assessments, the board and special magistrates shall  
403 | take administrative or judicial notice, on the board or a  
404 | special magistrate's own motion, of the property appraiser's  
405 | adjustments to recorded selling prices or fair market value made  
406 | under s. 193.011(8), if any, and of the forms on which the  
407 | property appraiser reports these adjustments under s.  
408 | 192.001(18). The department shall make these completed and  
409 | signed forms available on its website for the benefit of  
410 | taxpayers, boards, and special magistrates. By these  
411 | requirements, the Legislature intends for these forms to be part  
412 | of the record evidence in each board petition involving real  
413 | property just value, regardless of whether the parties presented  
414 | the forms as evidence. The board and special magistrates shall  
415 | deem any adjustment reported on the forms, for the property  
416 | group of which the petitioned property is part, as sufficient  
417 | evidence to show an appraisal practice applied by the property  
418 | appraiser to comparable real property within the same county as  
419 | provided in s. 194.301(2)(a)3. For each petition involving real  
420 | property just value, the board and special magistrates shall

421 make a finding of fact identifying such appraisal practice  
422 applied by the property appraiser to comparable real property  
423 within the county. Additionally, for each petitioned real  
424 property parcel, the board and special magistrates shall make  
425 findings of fact on what the property appraiser actually did and  
426 did not do under s. 193.011(8) in developing the original  
427 assessment. Where necessary for consistency with appraisal  
428 practices applied by the property appraiser to comparable real  
429 property within the county and to avoid the unauthorized  
430 creation of a special class of property, the board and special  
431 magistrates shall apply, in administrative reviews involving  
432 real property just value assessments, the same type of  
433 adjustments applied by the property appraiser under s.  
434 193.011(8), and reported under s. 192.001(18), in an amount that  
435 does not result in double-counting the adjustment. The  
436 department shall address this requirement in its value  
437 adjustment board training.

438 (b) The conclusions of law in a final decision must be  
439 stated in the terms of the legal criteria that apply to the  
440 issue under administrative review and must be logically  
441 connected to the findings of fact. The conclusions of law must  
442 be made in the statutory order of proof that applies to the  
443 issue under administrative review.

444 (c) The value adjustment board's reasons for its decisions  
445 must be expressed in findings of fact and conclusions of law and  
446 be sufficiently detailed to enable the parties to understand the  
447 evidence, findings of fact, and law on which the decisions are  
448 based.



449 Section 4. Section 194.021, Florida Statutes, is created  
450 to read:

451 194.021 Consideration of recommended decisions.—

452 (1) A special magistrate shall not submit to the value  
453 adjustment board, and the board shall not adopt, any recommended  
454 decision that does not comply with ss. 194.020, 194.301, and  
455 194.3015, and with other statutory provisions that apply to the  
456 issue under administrative review.

457 (2) (a) In considering written recommended decisions before  
458 adoption, the board shall first determine whether each  
459 recommended decision meets the requirements of law. A review of  
460 the entire record is not required for such determination unless  
461 warranted under the circumstances. The board attorney or a  
462 review special magistrate shall assist the board in making the  
463 determination. Issues brought to the board's attention shall be  
464 appropriately addressed before the board adopts any recommended  
465 decision.

466 (b) A board member is authorized to review any recommended  
467 decision before adoption and to question, verbally or in  
468 writing, the special magistrate, the review special magistrate,  
469 or the board attorney regarding the sufficiency of the  
470 recommended decision. The special magistrate, the review special  
471 magistrate, or the board attorney shall timely respond in  
472 writing to a board member's questions and concerns regarding a  
473 recommended decision. Any substantial errors of fact or law in  
474 the development of a written recommended decision must be  
475 corrected before the board may adopt the recommended decision as  
476 final.

477 (3) If the board properly determines that a recommended  
 478 decision meets the requirements of law, the board shall adopt  
 479 the recommended decision without further hearing.

480 (4) If the board determines that a recommended decision  
 481 does not meet the requirements of law, the board shall not adopt  
 482 such recommended decision and shall place in the record relating  
 483 to the petition, the reasons for such determination. The board  
 484 attorney shall advise the board regarding further action and  
 485 provide legal justification for the advice. The board shall take  
 486 the steps necessary for producing a final decision that complies  
 487 with law. The board may direct the original or a different  
 488 special magistrate to produce a recommended decision that  
 489 complies with law and that is based on, if necessary, a review  
 490 of the entire record. If necessary, the board may direct the  
 491 original or a different special magistrate to conduct a new  
 492 hearing and then produce a written recommended decision that  
 493 complies with law. The board shall retain any recommended  
 494 decisions and all other records of actions taken under this  
 495 section.

496 Section 5. Section 194.023, Florida Statutes, is created  
 497 to read:

498 194.023 Value adjustment board training; examinations.—

499 (1) The Department of Revenue shall annually develop and  
 500 provide to the clerk of the value adjustment board a list of  
 501 members of the Florida Bar who have completed the department's  
 502 training for board attorneys and who have passed the  
 503 accompanying examination.

504 (2) (a) The department shall provide and conduct value

505 adjustment board training for board attorneys and board special  
506 magistrates, including review special magistrates, at least once  
507 each state fiscal year. Such training shall emphasize ethics and  
508 public trust, procedures for administrative reviews,  
509 consideration of evidence, requirements for written decisions,  
510 consideration of recommended decisions, applicable law, and the  
511 department's standard measures of value, including the  
512 guidelines for real and tangible personal property. The training  
513 shall be open to the public. The department shall charge tuition  
514 fees to any person attending this training in an amount  
515 sufficient to fund the department's costs to conduct all aspects  
516 of the training. The department shall deposit the fees collected  
517 into the Certification Program Trust Fund pursuant to s.  
518 195.002 (2).

519 (b) The legislative intent is that the department's  
520 training inform boards, the board attorney, and special  
521 magistrates, including review special magistrates, of the law  
522 and other information necessary for conducting board-related  
523 activities in accordance with law and public trust. The training  
524 materials shall consist of any content designated by the  
525 department from time to time as being part of the training,  
526 including, but not limited to, any training update bulletins or  
527 other advisory communication. The training materials shall  
528 include the department's observations, explanations, examples,  
529 and recommendations for the purpose of assisting boards, board  
530 attorneys, and special magistrates in performing their duties in  
531 accordance with law. The department's explanations and  
532 recommendations may include legal opinions. Boards, board

533 attorneys, and special magistrates shall comply with law, and  
534 the department's training must inform boards, board attorneys,  
535 and special magistrates, including review special magistrates,  
536 of the actions the department believes must be taken or avoided  
537 for compliance with law. The department's training materials  
538 must include a checklist or worksheet of requirements necessary  
539 for fair, lawful, and consistent written decisions.

540 (3) (a) Each fiscal year, the department shall make  
541 available a value adjustment board training examination for the  
542 board attorney. The board attorney shall annually complete all  
543 portions of the department's value adjustment board training and  
544 shall annually take and pass the accompanying training  
545 examination.

546 (b)1. Each fiscal year, the department shall make  
547 available a value adjustment board training examination for each  
548 of the three types of special magistrates specified in s.  
549 194.035(1). Each special magistrate shall annually complete the  
550 applicable portions of the department's value adjustment board  
551 training and shall annually take and pass the accompanying  
552 training examination.

553 2. Each review special magistrate shall annually complete  
554 the appropriate portions of the value adjustment board training  
555 and annually take and pass the corresponding examinations. A  
556 review special magistrate must complete the portions of the  
557 training and pass the exams that correspond to the type of  
558 special magistrate that produced the recommended decisions to be  
559 reviewed by the review special magistrate. If a review special  
560 magistrate is appointed to review recommended decisions

561 pertaining to all assessment types, then he or she shall  
562 annually take all portions of the department's training and  
563 shall take and pass the examinations for each of the three types  
564 of special magistrates.

565 (4) (a) A board member, board attorney, special magistrate,  
566 or review special magistrate may not disregard and must properly  
567 consider the department's training materials. If a board special  
568 magistrate, or review special magistrate, believes that a  
569 portion of the training materials is contrary to law and should  
570 not be followed, the board special magistrate or review special  
571 magistrate shall immediately request a legal opinion from the  
572 board attorney. In response to this request, the board attorney  
573 shall timely provide a written legal opinion that specifically  
574 identifies the portion of the training materials at issue,  
575 describes the facts involved, cites and describes applicable  
576 law, states whether the board attorney agrees or disagrees with  
577 the training materials and provides reasons why, and provides  
578 specific conclusions for resolving the matter. The board  
579 attorney shall timely send a copy of this opinion to the  
580 department.

581 (b) If the board attorney concludes in his or her opinion  
582 that a portion of the training materials is incorrect, the board  
583 attorney shall produce written recommended revisions that the  
584 board attorney believes would correct that portion of the  
585 training materials and timely send these revisions to the  
586 department. The department shall consider the board attorney's  
587 legal opinion and recommended revisions and evaluate whether a  
588 significant difference still exists between the department's

589 training materials and the board attorney's legal opinion. The  
590 department shall notify the board in writing regarding the  
591 results of its evaluation and shall include appropriate  
592 recommendations which the board must properly consider.

593 (5) Information received by the department under this  
594 section must be considered by the department as part of its  
595 oversight and training role.

596 (6) Chapter 120 does not apply to the training or the use  
597 of training and does not apply to this section.

598 Section 6. Section 194.025, Florida Statutes, is created  
599 to read:

600 194.025 Reviews; notification of defects.-

601 (1) The department is authorized to conduct reviews of the  
602 procedures, decisions, and records of value adjustment boards,  
603 board attorneys, special magistrates, and review special  
604 magistrates. The purpose of these reviews is to evaluate  
605 adherence to law and promote public trust, and the board, board  
606 attorney, board clerk, special magistrates, and review special  
607 magistrates shall cooperate with the department in these  
608 reviews. The department is entitled to receive from the board,  
609 upon written request and at no cost to the department, any  
610 records and information pertaining to the value adjustment board  
611 process.

612 (2) (a) Upon evaluation of any reviews of the department  
613 under subsection (1), the executive director of the department,  
614 or his or her designee, shall issue a notice of defects to any  
615 value adjustment board whenever the executive director, or his  
616 or her designee, has determined that the board, board attorney,

617 a special magistrate, or review special magistrate, has  
618 repeatedly failed to properly perform board duties in accordance  
619 with law. The executive director, or his or her designee, shall  
620 specify in such notice, the board duties that have not been  
621 properly performed, the type and extent of the defects, and the  
622 department's requirements for the board to obtain the  
623 department's approval of the performance of the board's duties.

624 (b) Not later than 20 days after receipt of a notice of  
625 defects, the value adjustment board shall either notify the  
626 executive director, or his or her designee, in writing of the  
627 board's intention to comply or request an immediate conference  
628 between the board chairperson, or his or her designee, and the  
629 executive director, or his or her designee, for the purpose of  
630 attempting to resolve differences between the value adjustment  
631 board and the executive director, or his or her designee. Such  
632 conference shall be held not later than 20 days after the  
633 department's receipt of the board's notification. Not later than  
634 15 days after the conclusion of the conference, and if the  
635 executive director, or his or her designee, finds that the  
636 differences have not been resolved, the executive director, or  
637 his or her designee, shall issue an administrative order, which  
638 order shall incorporate the corrective actions, if any, to be  
639 taken by the value adjustment board to ensure that all board  
640 duties are properly performed by the board, board attorney, a  
641 special magistrates, and a review special magistrate. The  
642 executive director, or his or her designee, shall also issue an  
643 administrative order in the case if a value adjustment board has  
644 stated its intention to comply.

645 (c) Not later than 20 days after receipt of an  
646 administrative order issued under this subsection, the value  
647 adjustment board shall notify the department of the board's  
648 intent to comply with the order or shall notify the department  
649 of the facts, law, and reasons for the board's intended  
650 noncompliance. The administrative order shall contain reasonable  
651 timeframes for the board's prompt compliance with the order. The  
652 department shall monitor a board's efforts to comply with an  
653 administrative order and shall issue a written determination of  
654 whether the board has complied with the department's order. Upon  
655 receipt of a notice of intended noncompliance or upon the  
656 department's determination that a board has failed to properly  
657 perform board duties in accordance with an administrative order,  
658 the department shall take such action as the department deems  
659 necessary pursuant to s. 195.092.

660 (3) Chapter 120 does not apply to this section.

661 Section 7. Subsection (2) of section 194.034, Florida  
662 Statutes, is amended to read:

663 194.034 Hearing procedures; rules.—

664 ~~(2) In each case, except if the complaint is withdrawn by~~  
665 ~~the petitioner or if the complaint is acknowledged as correct by~~  
666 ~~the property appraiser, The value adjustment board shall issue~~  
667 ~~all of its render a written final decisions decision. All such~~  
668 ~~decisions shall be issued within 20 calendar days after the last~~  
669 ~~day the board is in session under s. 194.032. The decision of~~  
670 ~~the board must contain findings of fact and conclusions of law~~  
671 ~~and must include reasons for upholding or overturning the~~  
672 ~~determination of the property appraiser. If a special magistrate~~



673 ~~has been appointed, the recommendations of the special~~  
674 ~~magistrate shall be considered by the board.~~ The clerk, upon  
675 issuance of a final decision, shall, on a form provided by the  
676 Department of Revenue, notify by first-class mail each taxpayer  
677 and the property appraiser of the decision of the board. If  
678 requested by the Department of Revenue, the clerk shall provide  
679 to the department a copy of the decision or information relating  
680 to the tax impact of the findings and results of the board as  
681 described in s. 194.037 in the manner and form requested.

682 Section 8. Section 194.035, Florida Statutes, is amended  
683 to read:

684 194.035 Special magistrates; property evaluators.—

685 (1) (a) In counties having a population of more than  
686 75,000, the board shall appoint special magistrates, by  
687 individual written contract, for the purpose of taking testimony  
688 and making recommendations to the board, ~~which recommendations~~  
689 ~~the board may act upon without further hearing.~~ Each contract  
690 between the board and a special magistrate must specify duties,  
691 standards of conduct, and performance standards for the special  
692 magistrate. A special magistrate shall not advocate for a taxing  
693 authority, but rather the special magistrate's duty shall be to  
694 support the laws of the state and to support the board-related  
695 activities necessary for promoting and maintaining a high level  
696 of public trust in the value adjustment board process. Such  
697 public trust requires ethical behavior, fairness, consistency,  
698 competence, transparency, and uniform application of the law.  
699 Each special magistrate shall adhere to the ethics provisions in  
700 part III of chapter 112, the rights of property taxpayers in s.

701 192.0105, the open government provisions in s. 286.011, the  
702 provisions of parts I and III of chapter 194, and all other  
703 applicable law. A special magistrate shall not allow the amount  
704 of property tax involved in any petition or decision to  
705 influence the proper outcome under the law. These special  
706 magistrates may not be elected or appointed officials or  
707 employees of the county but shall be selected from a list of  
708 those qualified individuals who are willing to serve as special  
709 magistrates. Employees and elected or appointed officials of a  
710 taxing jurisdiction or of the state may not serve as special  
711 magistrates. The clerk of the board shall annually notify such  
712 individuals or their professional associations to make known to  
713 them that opportunities to serve as special magistrates exist.  
714 The Department of Revenue shall provide a list of qualified  
715 special magistrates to any county with a population of 75,000 or  
716 less. Subject to appropriation, the department shall reimburse  
717 counties with a population of 75,000 or less for payments made  
718 to special magistrates appointed for the purpose of taking  
719 testimony and making recommendations to the value adjustment  
720 board pursuant to this section. The department shall establish a  
721 reasonable range for payments per case to special magistrates  
722 based on such payments in other counties. Requests for  
723 reimbursement of payments outside this range shall be justified  
724 by the county. If the total of all requests for reimbursement in  
725 any year exceeds the amount available pursuant to this section,  
726 payments to all counties shall be prorated accordingly. ~~If a~~  
727 ~~county having a population less than 75,000 does not appoint a~~  
728 ~~special magistrate to hear each petition, the person or persons~~

729 ~~designated to hear petitions before the value adjustment board~~  
730 ~~or the attorney appointed to advise the value adjustment board~~  
731 ~~shall attend the training provided pursuant to subsection (3),~~  
732 ~~regardless of whether the person would otherwise be required to~~  
733 ~~attend, but shall not be required to pay the tuition fee~~  
734 ~~specified in subsection (3).~~

735 (b)1. A special magistrate appointed to hear issues of  
736 exemptions and classifications shall be a member of The Florida  
737 Bar with no less than 5 years' experience in the area of ad  
738 valorem taxation and shall have annually completed the  
739 department's value adjustment board training and passed the  
740 corresponding training examination. An attorney special  
741 magistrate shall not be appointed and serve simultaneously as  
742 board legal counsel or review special magistrate in any county,  
743 either during the same calendar period or during administrative  
744 reviews for the same tax year.

745 2. A special magistrate appointed to hear issues regarding  
746 the valuation of real estate shall be a state certified real  
747 estate appraiser with not less than 5 years' experience in real  
748 property valuation and shall have annually completed the  
749 department's value adjustment board training and passed the  
750 department's corresponding training examination.

751 3. A special magistrate appointed to hear issues regarding  
752 the valuation of tangible personal property shall be a  
753 designated member of a nationally recognized appraiser's  
754 organization with not less than 5 years' experience in tangible  
755 personal property valuation and shall have annually completed  
756 the department's value adjustment board training and passed the

757 department's corresponding training examination and shall have  
758 provided to the board clerk sufficient evidence of having  
759 completed at least 120 hours of professional coursework in  
760 tangible personal property valuation of which at least 30 hours  
761 was completed within the 5-year period preceding appointment.  
762 Alternatively, a tangible personal property special magistrate  
763 shall be a member of a nationally recognized appraisal  
764 organization and have a nationally recognized professional  
765 designation in tangible personal property valuation and shall  
766 have annually completed the department's value adjustment board  
767 training and passed the department's corresponding training  
768 examination.

769 (c) A special magistrate need not be a resident of the  
770 county in which he or she serves. A special magistrate shall ~~may~~  
771 not represent a property appraiser, tax collector, taxing  
772 authority, or property taxpayer in an administrative or judicial  
773 review of property taxes ~~a person before the board~~ in any tax  
774 year during which he or she has served ~~that board~~ as a special  
775 magistrate. Before appointing a special magistrate, a value  
776 adjustment board shall verify the special magistrate's  
777 qualifications. In the appointment of special magistrates and  
778 the scheduling of special magistrates for hearings, the board,  
779 board attorney, and board clerk shall ensure that no  
780 consideration whatsoever is given to the dollar amount or  
781 percentage amount of any assessment reductions recommended by  
782 any special magistrate either in the current year or in any  
783 prior year. The value adjustment board shall ensure that the  
784 appointment of special magistrates and the scheduling ~~selection~~

785 of special magistrates for hearings is based solely upon the  
786 experience and qualifications of the special magistrate and is  
787 not influenced by the property appraiser. The special magistrate  
788 shall accurately and completely preserve the record relating to  
789 the petition, including all testimony and documents all  
790 ~~testimony and, in making recommendations to the value adjustment~~  
791 ~~board, shall include proposed findings of fact, conclusions of~~  
792 ~~law, and reasons for upholding or overturning the determination~~  
793 ~~of the property appraiser.~~

794 (d) The expense of hearings before magistrates and any  
795 compensation of special magistrates shall be borne three-fifths  
796 by the board of county commissioners and two-fifths by the  
797 school board.

798 (2) (a) A value adjustment board is authorized to appoint,  
799 by written contract, a qualified review special magistrate for  
800 the purpose of assisting the board with reviewing written  
801 recommended decisions to determine whether such decisions comply  
802 with law. A contract between the board and a review special  
803 magistrate must specify duties, standards of conduct, and  
804 performance standards for the review special magistrate. If a  
805 board elects not to appoint a review special magistrate, the  
806 board attorney shall assist the board with such reviews. A  
807 review special magistrate shall be a member of The Florida Bar  
808 with no less than 5 years' experience in the area of ad valorem  
809 taxation and shall have completed the department's training and  
810 passed the training examination for the type of special  
811 magistrate that produced the recommended decisions to be  
812 reviewed by the review special magistrate. A review special

813 magistrate shall not be appointed and shall not serve  
814 simultaneously as the board attorney or attorney special  
815 magistrate in any county either during the same calendar period  
816 or during administrative reviews for the same tax year. A review  
817 special magistrate shall not represent any property appraiser,  
818 tax collector, taxing authority, or property taxpayer in any  
819 administrative or judicial review of property taxes and shall  
820 not have done so in the two-year period preceding appointment.

821 (b) A review special magistrate shall not advocate for the  
822 board or a taxing authority, but rather the review special  
823 magistrate's duty shall be to support the laws of the state and  
824 to support the board-related activities necessary for promoting  
825 and maintaining a high level of public trust in the value  
826 adjustment board process. Such public trust requires ethical  
827 behavior, fairness, consistency, competence, transparency, and  
828 uniform application of the law. Each review special magistrate  
829 shall adhere to the ethics provisions in part III of chapter  
830 112, the rights of property taxpayers in s. 192.0105, the open  
831 government provisions in s. 286.011, the provisions of parts I  
832 and III of chapter 194, and to all other applicable law. A  
833 review special magistrate shall not allow the amount of property  
834 tax involved in any petition or decision to influence the proper  
835 outcome under the law.

836 (3) ~~(2)~~ The value adjustment board of each county may  
837 employ qualified property appraisers or evaluators to appear  
838 before the value adjustment board at that meeting of the board  
839 which is held for the purpose of hearing complaints. Such  
840 property appraisers or evaluators shall present testimony as to

841 the just value of any property the value of which is contested  
 842 before the board and shall submit to examination by the board,  
 843 the taxpayer, and the property appraiser.

844 ~~(3) The department shall provide and conduct training for~~  
 845 ~~special magistrates at least once each state fiscal year in at~~  
 846 ~~least five locations throughout the state. Such training shall~~  
 847 ~~emphasize the department's standard measures of value, including~~  
 848 ~~the guidelines for real and tangible personal property.~~

849 ~~Notwithstanding subsection (1), a person who has 3 years of~~  
 850 ~~relevant experience and who has completed the training provided~~  
 851 ~~by the department under this subsection may be appointed as a~~  
 852 ~~special magistrate. The training shall be open to the public.~~  
 853 ~~The department shall charge tuition fees to any person attending~~  
 854 ~~this training in an amount sufficient to fund the department's~~  
 855 ~~costs to conduct all aspects of the training. The department~~  
 856 ~~shall deposit the fees collected into the Certification Program~~  
 857 ~~Trust Fund pursuant to s. 195.002(2).~~

858 Section 9. Paragraph (f) of subsection (2) of section  
 859 192.0105, Florida Statutes, is amended to read:

860 192.0105 Taxpayer rights.—There is created a Florida  
 861 Taxpayer's Bill of Rights for property taxes and assessments to  
 862 guarantee that the rights, privacy, and property of the  
 863 taxpayers of this state are adequately safeguarded and protected  
 864 during tax levy, assessment, collection, and enforcement  
 865 processes administered under the revenue laws of this state. The  
 866 Taxpayer's Bill of Rights compiles, in one document, brief but  
 867 comprehensive statements that summarize the rights and  
 868 obligations of the property appraisers, tax collectors, clerks

869 of the court, local governing boards, the Department of Revenue,  
 870 and taxpayers. Additional rights afforded to payors of taxes and  
 871 assessments imposed under the revenue laws of this state are  
 872 provided in s. 213.015. The rights afforded taxpayers to assure  
 873 that their privacy and property are safeguarded and protected  
 874 during tax levy, assessment, and collection are available only  
 875 insofar as they are implemented in other parts of the Florida  
 876 Statutes or rules of the Department of Revenue. The rights so  
 877 guaranteed to state taxpayers in the Florida Statutes and the  
 878 departmental rules include:

879 (2) THE RIGHT TO DUE PROCESS.—

880 (f) The right, in value adjustment board proceedings, to  
 881 have all evidence presented and considered at a public hearing  
 882 at the scheduled time, to be represented by an attorney or  
 883 agent, to have witnesses sworn and cross-examined, and to  
 884 examine property appraisers or evaluators employed by the board  
 885 who present testimony (see ss. 194.034(1)(a) and (c) and (4),  
 886 and 194.035 ~~194.035(2)~~).

887 Section 10. (1) The sum of \$208,369 in nonrecurring funds  
 888 from the General Revenue Fund is appropriated to the Department  
 889 of Revenue for the 2012-2013 fiscal year to implement this act.

890 (2) The sum of \$326,782 in recurring funds and \$18,810 in  
 891 nonrecurring funds from the General Revenue Fund and five full-  
 892 time equivalent positions and associated salary rate of 225,038  
 893 are appropriated to the Department of Revenue for the 2013-2014  
 894 fiscal year to implement this act.

895 Section 11. This act shall take effect July 1, 2013.