

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 901 Ad Valorem Taxes and Non-Ad Valorem Assessments Against Subdivision Property

SPONSOR(S): Rooney, Jr.

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	13 Y, 3 N	Wolfgang	Langston
2) Local & Federal Affairs Committee			
3) Appropriations Committee			

SUMMARY ANALYSIS

Currently, s. 193.0235, F.S., requires that the value of the common element(s) of a subdivision must be prorated and applied to the lots with in the subdivision for the purposes of ad valorem tax assessments and special assessments. The bill amends s. 193.0235, F.S., to state that notwithstanding any other provision of law, if a common element is in a different county, municipality, special district, or water management district than the subdivision it benefits, the common element shall be assessed separately, and any applicable ad valorem tax or non-ad valorem assessment shall be assessed against the common element.

The bill has an effective date of January 1, 2015.

The Revenue Estimating Conference met on February 26, 2014 and estimated that the bill would have an indeterminate impact on local governments. The direction of the impact may be positive or negative.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Overview

The ability of local governments to raise revenue for governmental operations is limited by the Florida Constitution. The constitution sets forth a number of restrictions on ad valorem taxation, including s. 2, Article VII of the Florida Constitution, which states, "All ad valorem taxation shall be at a uniform rate within each taxing unit, except the taxes on intangible personal property..."

With the exception of the ad valorem tax and constitutionally and statutorily authorized home-rule revenue sources, local governments are dependent on the Legislature for the authority to levy other forms of taxation. Two county constitutional officers, the property appraiser and tax collector, have primary responsibility for the administration and collection of ad valorem taxes at the local level. The property appraiser is charged with determining the fair market value, the assessed value, and the values of applicable exemptions to arrive at the taxable value of all property within the county, pursuant to constitutional and statutory requirements. The property appraiser is also tasked with maintaining appropriate records related to the valuation of such property. The tax collector is charged with the collection of ad valorem taxes levied by the county, school district, all municipalities within the county, and any special taxing districts within the county.¹

Assessments of Subdivisions

When the property appraiser assesses subdivisions, s. 193.0235, F.S., specifies that ad valorem taxes and non-ad valorem assessments are assessed against the lots within a platted residential subdivision and not upon the subdivision property as a whole. Pursuant to s. 193.0235, F.S., such assessments, including a tax or assessment imposed by a county, municipality, special district, or water management district, may not be assessed separately against common elements utilized exclusively for the benefit of lot owners within the subdivision, regardless of ownership. Property appraisers must prorate the value of the common elements and apply them to all of the lots in the subdivision. The statute has no exception for situations where the common element is in a different taxing unit.

For the purposes of s. 193.0235, F.S., the term "common element" includes:

- Subdivision property not included within lots constituting inventory for the developer which are intended to be conveyed or have been conveyed into private ownership.
- An easement through the subdivision property, which has been dedicated to the public or retained for the benefit of the subdivision.
- Any other part of the subdivision which has been designated on the plat or is required to be designated on the site plan as a drainage pond, or detention or retention pond, for the exclusive benefit of the subdivision.

Example

At present, there is a situation where a subdivision is located in the City of Palm Beach Gardens but its beach club (a "common element") is located in the Town of Juno Beach. Based on s. 193.0235, F.S. the property appraiser had not been assessing and the beach club had not been paying taxes to the Town of Juno Beach. To resolve this issue, the City of Palm Beach Gardens and the Town of Juno Beach have entered into an interlocal agreement² to repay the taxes, and proposed legislation to resolve the issue.

Proposed Changes

¹ See THE FLORIDA LEGISLATURE'S OFFICE OF ECONOMIC AND DEMOGRAPHIC RESEARCH, 2013 LOCAL GOVERNMENT FINANCIAL INFORMATION HANDBOOK (Dec. 2013).

² See Town of Juno Beach, Resolution 2013-06 (2013) (adopting the interlocal agreement).

The bill amends s. 193.0235, F.S., to specify that when a common element is located within a different county, municipality, special district, or water management district than the subdivision it benefits, the common element shall be assessed separately, and any applicable ad valorem tax or non-ad valorem assessment shall be assessed against the common element. It specifies that the value of such a common element may not be prorated by the property appraiser and included in the assessment of all lots within the subdivision.

B. SECTION DIRECTORY:

Section 1: Provides that a common element of a subdivision that is located in a different taxing district than the subdivision shall be assessed separately and not have its value prorated among the subdivision lots.

Section 2: Provides an effective date.

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:

The Revenue Estimating Conference met on February 26, 2014 and estimated that the bill would have an indeterminate impact on local governments. The direction of the impact may be positive or negative.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Article VII, section 18(b) of the Florida Constitution requires any general law that reduces a local government's authority to raise revenues in the aggregate to be passed by a two-thirds vote of the membership of each house of the Legislature. Because this bill may have either a positive or negative fiscal impact on local governments, it is unclear whether article VII, section 18(b) of the Florida Constitution applies.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES