

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 213 Property Appraisers

SPONSOR(S): Moraitis, Jr.

TIED BILLS: **IDEN./SIM. BILLS:** SB 266

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	16 Y, 0 N	Dugan	Langston
2) Local & Federal Affairs Committee	15 Y, 0 N	Darden	Kiner

SUMMARY ANALYSIS

Current law provides that property appraisers are to submit a proposed budget for the operation of the appraiser's office to the Department of Revenue (DOR). The DOR may amend the initial budget submission. After reviewing further information that may be submitted by the property appraiser and appropriate board of county commissioners (board), the DOR issues a final budget determination. The property appraiser or board may appeal the DOR's final budget to the Governor and Cabinet sitting as the Administration Commission. The Administration Commission has discretion as to whether to accept the appeal or not. The DOR-approved budget request, as amended by the Administration Commission, shall be the budget for the property appraiser in the ensuing local fiscal year.

The bill provides that boards of county commissioners must fund property appraisers according to the amount determined by the DOR in its final budget determination, and must fund the department-approved budget during the pendency of an ongoing appeal to the Administration Commission. A county's obligation to fund the property appraiser's office at the level set by the DOR is not affected merely by the filing of an appeal to the Administration Commission. Only if the Commission chooses to amend the budget will the county's obligation change.

The bill is expected to have no impact on state or local government revenue or spending levels.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Process for Determining the Property Appraiser's Budget

Current law provides that property appraisers are to submit a proposed budget for the operation of the appraiser's office to the Department of Revenue (DOR) on or before June 1 of each year.¹ The property appraiser is required to submit the proposed budget to the appropriate board of county commissioners (board) at the same time. The DOR reviews the budget request and may amend the budgeted amount "as it deems necessary, in order that the budget be neither inadequate nor excessive."²

On or before July 15, the DOR notifies both the property appraiser and the board of its tentative budget determination. The property appraiser and board have until August 14 to submit additional information to the DOR if they choose to do so. The DOR issues its final budget determination on or before August 15.³

The property appraiser or board may appeal the DOR's final budget to the Governor and Cabinet sitting as the Administration Commission.⁴ The appeal must be filed no later than 15 days after the conclusion of the public hearing held pursuant to s. 200.065(2)(d), F.S. (final adoption of the county millage rate and budget).⁵ The Administration Commission has discretion as to whether to accept the appeal or not. Upon completion of this process, the resulting budget request "as approved by the department and as amended by the commission...become[s] the operating budget of the property appraiser for the ensuing fiscal year beginning October 1..."⁶

In the context of billing procedures between the property appraiser and the board, current law provides that the "budget of the property appraiser's office, as approved by the DOR, shall be the basis upon which the several tax authorities of each county (i.e., the boards)...shall be billed by the property appraiser for services rendered."⁷ Further, current law provides that "payments shall be made quarterly by each such taxing authority."⁸

Board of County Commissioners of Broward County vs. Lori Parrish, Broward County Property Appraiser

The Board of County Commissioners of Broward County (BOCC) disagreed with the Broward County Property Appraiser (Appraiser) as to the appropriate level of funding that it should be required to provide for the operation of the Appraiser's office for Fiscal Year 2014. After going through the statutory budget process described above, the DOR set the Appraiser's final budget at \$18,712,207.⁹ The BOCC appealed the DOR's final budget determination to the Administration Commission,¹⁰ and, despite DOR approval, funded the Appraiser at a lower amount (\$16,882,210).¹¹ The Appraiser sued the BOCC, and asked the court to determine which level the BOCC was required to fund the Appraiser's office at while

¹ S. 195.087(1)(a), F.S.

² Id.

³ Id.

⁴ S. 195.087(1)(b), F.S.

⁵ Id.

⁶ Id.

⁷ S. 192.091(1)(a), F.S.

⁸ S. 192.091(1)(b), F.S.

⁹ *Board of County Commissioners Broward County Florida v. Parrish*, No. 4D14-101 (4th DCA December 10, 2014).

¹⁰ The Administration Commission did not hear the appeal.

¹¹ Broward County, Office of Management and Budget, Budget Archives, Fiscal Year 2014 Adopted Operating Budget, available at:

<http://www.broward.org/Budget/Pages/Archives.aspx> (last visited February 12, 2015).

the appeal was pending: the higher amount approved by the DOR or the lower amount produced by the BOCC.

The trial court ruled in the Appraiser's favor,¹² and the BOCC appealed the decision to the Fourth District Court of Appeal. The appellate court also ruled in the Appraiser's favor, deciding that, although each party has the opportunity to file an appeal with the Administration Commission, the DOR's approved budget is final and the Appraiser has an immediate right to be funded so as to discharge its constitutional duties.¹³ The appellate court reasoned that under s. 195.087's budget review system, the board of county commissioners assumes the role of advocate rather than decision-maker.¹⁴ Further, the appellate court reasoned that the discretionary nature of the Administration Commission's review demonstrates the legislative intent that DOR's budget determination is final:

...had the Legislature intended the DOR's final budgetary determination to receive an automatic stay pending appeal to the Administration Commission, it would have provided such remedy, as it has done in similar situations, or at the very least set a timeline for the Administration Commission's action.¹⁵

The BOCC also claimed that the deadline to file an appeal with the Administration Commission within 15 days after the s. 200.065 hearing evidences the Legislature's intent that county commissioners be permitted to set an interim budget pending appeal. However, the appellate court disagreed with the BOCC because the broad, general conferment of power in s. 200.065 does not contravene s. 192.091's specific requirement that the board honor the DOR's decision. Further, the deadline is a procedural convenience to allow the Administration Commission the opportunity to analyze the county's final budget prior to an appeal in order to understand the impact of the property appraiser budget on the county's total budget.

The BOCC asked the appellate court to certify the case to the Florida Supreme Court, but the appellate court denied the BOCC's request on February 3, 2015.¹⁶ The BOCC may seek review by the Florida Supreme Court; however, review is discretionary not mandatory.¹⁷

Role of the Property Appraiser

The Florida Constitution requires each county to have a property appraiser, elected to a four year term, unless the electors have approved an alternative method for administering the functions of the office.¹⁸ Separating the office of the property appraiser from the board of county commissioners is intended to ensure just valuation and uniform assessment of property throughout the state.¹⁹

The concept of uniform assessment has deep roots as a matter of state law. Under the Florida Constitution of 1885, counties and cities were authorized to levy property taxes in a manner based "upon the principles established for State taxation."²⁰ Ad valorem taxes levied by the state under the 1885 constitution were required to be assessed at a "uniform and equal rate" and "secure[d by] a just valuation."²¹

¹² *Parrish v. Board of County Commissioners Broward County Florida*, No. 13-23090 (08) (17th Cir. Ct. December 31, 2013).

¹³ *Board of County Commissioners Broward County Florida v. Parrish*, No. 4D14-101 (4th DCA December 10, 2014).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Board of County Commissioners Broward County Florida v. Parrish*, No. 4D14-101, Order (February 3, 2015).

¹⁷ Fla. Const. art. V, s. 3.

¹⁸ Fla. Const. art. VIII, s. 1. A county charter or special law, approved by electors, may state an alternative method for filling the office of property appraiser or transfer its duties to another office of the county.

¹⁹ *See* s. 195.0012, F.S. (Legislative intent in establishing property assessment administration procedures to "secure a just valuation ... and to provide for a uniform assessment")

²⁰ Fla. Const. of 1885, art. IX, s. 5.

²¹ Fla. Const. of 1885, art. IX, s. 1.

While the current constitution prohibits ad valorem taxation by the state government,²² the underlying principles regarding uniform assessment remain. DOR review of county property appraiser budgets is critical to the process, enabling the property appraiser to have “functional sufficiency to achieve uniform state-wide assessment.”²³ Without this safeguard, property appraisers may face political pressure from the board of county commissions to reach higher property valuations as a more politically palatable means to generate additional revenue.²⁴

Effect of Proposed Changes

The bill provides that boards of county commissioners must fund property appraisers according to the amount determined by the Department of Revenue in its final budget determination, and must fund the department-approved budget during the pendency of an ongoing appeal to the Administration Commission.

This statutory change would codify the result reached by the Fourth District Court of Appeal.

B. SECTION DIRECTORY:

Section 1. Amends s. 195.087, F.S., to state that the property appraiser’s budget is final and shall be funded by the board of county commissioners once the DOR has made its final budget determination. The obligation to fund the property appraiser’s office at the level set by the DOR is not affected by the filing of an appeal to the Administration Commission.

Section 2. Provides an effective date of July 1, 2015.

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:

None.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The final budget of property appraisers should not be affected by the bill. However, the bill may affect the timing of a county’s recognition and implementation of the final budget.

²² Fla. Const. art. VII, s. 1.

²³ 73-389 Fla. Op. Att’y Gen. (1973).

²⁴ *Board of County Commissioners Broward County Florida v. Parrish*, No. 4D14-101 (4th DCA December 10, 2014).

According to the Department of Revenue, the department will not be required to make additional expenditures upon this bill becoming law.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not authorize or require agency rulemaking for implementation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Under current law, a board of county commissioners will transfer budgeted funds in quarterly installments. In an appeal to the Administration Commission, if a board of county commissioners is successful in appealing the DOR's final budget, the amount in question (difference between the DOR budget and county's budget) would be withheld from the next quarterly payment.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES