

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1015 Determination of Maximum Millage Rates

SPONSOR(S): Local & Federal Affairs Committee, Local Government Affairs Subcommittee, Nuñez

TIED BILLS: **IDEN./SIM. BILLS:** SB 1222

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	16 Y, 0 N	Dugan	Langston
2) Local Government Affairs Subcommittee	8 Y, 4 N, As CS	Monroe	Miller
3) Local & Federal Affairs Committee	17 Y, 0 N, As CS	Monroe	Kiner

SUMMARY ANALYSIS

Property tax rates (i.e., millage rates) are set by local government governing boards each year and applied to local property tax bases to generate funding for local government uses. The procedures for levying the millage rate are governed by Section 200.065, F.S. That statute contains provisions intended to inform the public about the property tax process including requiring the mailing of a TRIM notice to each taxpayer and the advertisement of the certain information in local newspapers. Counties, municipalities, and special districts are also required to post their tentative and final budgets on their websites.

Under this bill taxing authorities would be required to post the information contained in the newspaper advertisements on their websites as well as the vote record for the final adoption of the millage rate which shall include the percentage increase in property taxes and the name of each member of the governing body of the taxing authority and each member's vote on the resolution or ordinance adopting the final millage rate.

This bill has no fiscal impact.

The bill has an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Ad Valorem Taxation Overview

The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts. The amount of tax levied is based on the taxable value of real and tangible personal property as of January 1 of each year and the tax rate (millage rate) applied to such value.¹ The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.²

The Florida Constitution requires that “all ad valorem taxation shall be at a uniform rate within each taxing unit . . .”³ Generally, this requirement means that a taxing authority may not levy different rates on property located in different geographic areas within the taxing authority nor levy different rates on different types of property.

With the exception of the ad valorem tax and other home-rule revenue sources, local governments are dependent on the Legislature for authority to levy any other form of taxation. Local governments in Florida, levied approximately \$28.3 billion in Fiscal Year 2015-16.⁴ Ad valorem property tax revenues are also a major revenue source for school districts. Of the \$28.3 billion levied statewide for FY 2015-16, school districts levied approximately \$12.0 billion in property taxes.⁵

The “taxable value” of real and tangible personal property is the fair market value, or “just value,” of the real and tangible personal property adjusted for any exclusions, differentials, or exemptions allowed by the Constitution or the statutes.⁶ The Florida Constitution strictly limits the Legislature’s authority to provide exemptions or adjustments to fair market value.⁷

Levying Millage Rates

Property tax rates, or millage rates, are set by each taxing authority and vary throughout the state. Section 200.065, F.S., outlines the procedures used by taxing authorities to set their millage rates and levy ad valorem taxes. Generally, by August 4 of each year, the taxing authority provides to property appraiser both its proposed tentative millage rate (which is the highest rate they are considering levying to fund their budget) and its rolled-back rate (which is the tax rate which would produce the same amount of ad valorem revenue as was levied the previous year). These rates are used by the property appraiser to generate the TRIM notice which is sent to each taxpayer during the month of August. This notice informs taxpayers of how much they paid to each taxing authority last year (last year’s actual millage rate times last year’s taxable value), how much they will pay if no budget changes are made (which is the rolled-back rate times this year’s taxable value), and how much they will pay if the

¹ Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. The terms “land,” “real estate,” “realty,” and “real property” may be used interchangeably. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value (but does not include motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes as stated in art. VII, s. 1(b), Fla. Const., and defined in other statutes) capable of manual possession and whose chief value is intrinsic to the article itself.

² Art. VII, s. 1(a), Fla. Const.

³ Art. VII, s. 2, Fla. Const.

⁴ *Florida Tax Handbook*, p. 195 (2016).

⁵ *Florida Tax Handbook*, p. 195 (2016).

⁶ Sections 192.001(2) and (16), F.S., define the terms “assessed value” and “taxable value.” “Assessed value” is generally synonymous with “just value” unless a constitutional exception such as Save Our Homes applies to reduce the value of the property. “Taxable value” is the assessed value minus any applicable exemptions such as the \$25,000 homestead exemption. “Just value” is the estimated market value of the property.

⁷ Art. VII, s. 4, Fla. Const.

proposed budget is adopted (which is the tentative millage rate times this year's taxable value). It also provides the dates and times of the tentative budget hearing of each taxing authority so that interested taxpayers can provide their input into the process.

At the tentative budget hearing, the taxing authority adopts both its tentative millage rate (which cannot exceed the amount stated in the TRIM notice) and its tentative budget. After this hearing, the taxing authority places an ad in the newspaper advertising when and where the final meeting adopting the millage rate and budget will occur. If the tentative millage rate equals or is less than the rolled-back rate (which means there is no increase in the taxes being levied) the taxing authority publishes a Notice of Budget Hearing. If the tentative millage rate exceeds the rolled-back rate (which means the amount of ad valorem taxes being levied is increasing), the taxing authority must publish a Notice of Proposed Tax Increase⁸ which clearly states the percentage increase in property taxes being considered by the taxing authority. Whichever ad is published, it must be accompanied by a budget summary ad. A county⁹, municipality¹⁰ or special district¹¹ must also post their tentative budget on their website at least two days before the final hearing occurs.

At the final hearing the millage rate is actually levied and the budget is adopted. Counties¹², municipalities¹³ and special districts¹⁴ are required to then post their final budget on their website within 30 days after adoption.

Proposed Changes

This bill imposes new requirements on taxing authorities for posting information on their websites. Under this bill, within 15 days after the meeting adopting the tentative millage rate and tentative budget, a taxing authority will have to post on their website:

- The Notice of Budget hearing, Notice of Proposed Tax Increase, or Notice of Tax Increase, as applicable, and
- The budget summary.

Within 15 days after adopting the final millage rate, the taxing authority will need to post on their website post the vote record for the final adoption of the millage rate. That vote record must include:

- The percent, if any, by which the final adopted millage rate exceeds the rolled-back rate, which shall be characterized as the percentage increase in property taxes adopted by the governing body, and
- The name of each member of the governing body of the taxing authority and each member's vote on the resolution or ordinance adopting the millage rate.

If the taxing authority does not operate and official website, then the required information shall be provided to the county or counties in which the authority operates, and it shall be posted on the county's website.

The effective date of the bill is July 1, 2016.

B. SECTION DIRECTORY:

8 School Boards differ in that they publish a Notice of Tax Increase instead of a Notice of Proposed Tax Increase. See s. 200.065(3)(g), F.S.

9 Section 129.03(3)(c), F.S.

10 Section 166.241(3), F.S.

11 Section 189.016(4), F.S. If the special district does not maintain a website this information may be pasted on an appropriate general government website.

12 Section 129.03(3)(c), F.S.

13 Section 166.241(3), F.S.

14 Section 189.016(4), F.S. If the special district does not maintain a website this information may be pasted on an appropriate general government website.

Section 1. Amends s. 200.065(2), F.S., to require the posting of certain information on the websites of taxing authorities.

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:

None.

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:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires implementation by executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 1 2016, the Local Government Affairs Subcommittee adopted a strike-all amendment to the bill which provides that if the change in the Florida per capita personal income is negative, the maximum millage rate shall be equal to the rolled-back rate. In addition, it amends s. 200.065(5)(a)1., F.S., to change the definition of the maximum millage rate to conform with the change in that definition made in s. 200.065(5)(a), F.S.

On February 25, 2016, the Local and Federal Affairs Committee adopted a strike-all amendment as amended which removed the changes to s. 200.065(5), F.S., which changed the calculation of the maximum millage rate, and added language to s. 200.065(2), F.S., which requires taxing authorities to publish certain information on their websites.

This analysis is draft to CS/CS/HB 1015.