

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 Committee on Community Affairs

BILL: SB 1222

INTRODUCER: Senator Flores

SUBJECT: Millage Rates

DATE: January 29, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Pre-meeting
2.			FT	
3.			AP	

I. Summary:

SB 1222 changes the formula for calculating the simple majority vote maximum millage rate. Current law allows a county, municipality, special district, or municipal service taxing unit to levy a millage rate based on a rolled back rate that assumes the previous year's maximum rate was levied. The new formula would use a rolled back rate based upon the prior year's actual levy. The bill will reduce the simple majority maximum tax rate for most counties, cities, and special districts.

II. Present 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.

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 the vehicular items) capable of manual possession and whose chief value is intrinsic to the article itself.

² Fla. Const. art. VII, s. 1(a).

³ Fla. Const. art. VII, s. 2.

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. The property tax is the largest single tax revenue source for local governments in Florida, with approximately \$28.3 billion levied in Fiscal Year 2015-16.⁴ Ad valorem property tax revenues are also the primary tax revenue source for school districts. Of the \$28.3 billion levied statewide for Fiscal Year 2015-16, school districts levied approximately \$12 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

Millage Rates

Property tax rates, or millage rates, are set by each taxing authority and vary throughout the state. Ad valorem property tax revenues result from multiplying the millage rate adopted by counties, municipalities, and school boards, by the taxable value of property within that jurisdiction. The Florida Constitution limits the millage rates that may be levied, depending on the type of taxing authority.

Counties, Municipalities, and Schools

Counties, municipalities, and school districts are each limited to levy up to 10 mills (or 1 percent).⁸ By referendum, local voters may authorize counties, municipalities, and school districts to levy additional mills above the 10 mill limitation to repay bonds to finance capital projects and for other purposes for a period of no longer than 2 years.⁹ Counties providing municipal services may also levy up to an additional 10 mills above the 10 mill county limitation within those areas receiving municipal-type services.¹⁰

Special Districts

Independent special district millage rates are limited by the law establishing such districts and must be approved by the voters within the district. Dependent special district millage rates are included in the limitation applicable to the authority to which they are dependent. Up to 1 mill may be levied for water management purposes, except in northwest Florida where the limit is 0.05 mill.¹¹

⁴ Florida Revenue Estimating Conference, *2016 Florida Tax Handbook*, 195, available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2016.pdf> (last visited Jan. 28, 2016).

⁵ *Id.*

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 Fla Const. art. VII, s. 4.

⁸ Fla. Const. art. VII, s. 9. A rate of 1 mill may be expressed as follows: 1 mill = 0.1 cent or \$0.001; \$1 per \$1,000; or 0.1 percent.

⁹ Fla. Const. art. VII, s. 9.

¹⁰ *Id.*

¹¹ Fla. Const. art. VII, s. 9.

Schools

The Florida Constitution requires that the Legislature provide by law for a uniform, efficient, safe, secure and high quality system of free public schools. The Legislature accomplishes this by providing for the funding of public schools through a combination of ad valorem taxes and other state revenues. In addition to the constitutional millage limitation, school districts are subject to certain statutory requirements in order to participate in the state's K-12 funding program, called the Florida Education Finance Program (FEFP).¹²

Limits on Growth of Property Tax Levies

In 2007, the Legislature enacted statutory changes¹³ that established a maximum millage rate by requiring most taxing authorities to reduce their millage rates below their rolled back rates.¹⁴ The "rolled back rate" is the tax rate that will produce the same amount of tax revenue for the current year that was produced the previous year, after making allowances for some tax base changes.¹⁵ Exceptions were made for certain fiscally limited governments and for certain types of activities. The same legislation created a formula to determine a maximum millage rate (and implicitly a maximum revenue) that could be levied by a county, municipality, or special district governing board by simple majority vote. Exceeding the maximum would require the governing board to achieve certain extraordinary votes.

The maximum millage rate that most non-school taxing authorities can levy by simple majority vote is a rolled back rate based on the amount of taxes which would have been levied in the prior year if the maximum millage rate had been applied in that year, adjusted by the change in Florida per capita personal income.¹⁶ Local governments are allowed to override the prescribed rate reductions by extraordinary votes of their governing boards or by referenda of the electorate. A higher rate may be adopted only under the following conditions:

- A rate of not more than 110 percent of the rolled-back rate based on the previous year's maximum millage rate, adjusted for change in per capita Florida personal income, may be adopted if approved by a two-thirds vote of the membership of the governing body of the taxing authority; or
- A rate in excess of 110 percent may be adopted if approved by a unanimous vote of the membership of the governing body of the taxing authority or by a three-fourths vote of the membership of the governing body if the governing body has nine or more members, or if the rate is approved by a referendum.¹⁷

In 2015, of the 574 local governments subject to simple majority maximum millage rates, 51 (8.9 percent) required a two-thirds vote to approve their adopted millage rates, and six (1 percent) required a unanimous vote.¹⁸ The total taxes levied by these 574 (less one extreme outlier) were

¹² Section 1011.71, F.S.

¹³ Ch. 2007-321, Laws of Fla.

¹⁴ Section 200.065(5), F.S.

¹⁵ Section 200.065(1), F.S.

¹⁶ Section 200.065(5), F.S. Calculation of Florida per capita personal income is to be provided by the Office of Economic and Demographic Research, per s. 200.001(8)(i), F.S.

¹⁷ Section 200.065(5)(a), F.S.

¹⁸ Department of Revenue, 2015 Maximum Millage Compliance Reports, *available at* <http://sdrftp03.dor.state.fl.us/MaximumMillageData/MillCapComp011516.pdf> (last visited Jan. 28, 2016).

almost 27 percent below the taxes that could have been levied at their simple majority maximum tax rates.¹⁹ Thirty-five counties and 64 municipalities had maximum rates in excess of the 10 mill constitutional limit for county or municipal purposes.²⁰

III. Effect of Proposed Changes:

Section 1 amends s. 200.065, F.S., to change the maximum millage rate that a taxing authority can levy to a rolled back rate based on the amount of taxes the taxing authority actually levied in the prior year.

The bill may heighten the voting requirement a local government needs to attain in order to override the prescribed rate reductions by extraordinary vote.

Section 2 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18, Florida Constitution, excuses local governments from complying with state mandates which impose negative fiscal consequences. Subsection (a) provides, “[n]o county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds” unless certain requirements are met. However, the mandates requirement does not apply to laws having an insignificant fiscal impact.

The bill reduces the authority of counties and municipalities to levy taxes. If the fiscal impact of this bill is found to be significant, the bill may require a two-thirds vote of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁹ Department of Revenue, 2015 Comparison of Property Taxes Levied, *available at* <http://sdrftp03.dor.state.fl.us/MaximumMillageData/comp15.pdf> (last visited Jan. 28, 2016).

²⁰ Department of Revenue, 2015 Maximum Millage Compliance Reports, *available at* <http://sdrftp03.dor.state.fl.us/MaximumMillageData/MillCapComp011516.pdf> (last visited Jan. 28, 2016).

B. Private Sector Impact:

Owners of property in a taxing authority that reduces its millage rate may experience a lower property tax liability.

C. Government Sector Impact:

The Revenue Estimating Conference has not met to evaluate this bill. However, the impact on county, municipal, and special district property taxes, while indeterminate, will be negative to the extent that governments cannot achieve the extraordinary votes they might need to exceed the lower maximum tax rates.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 200.065 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.