

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 564

INTRODUCER: Senator Hooper

SUBJECT: Truth in Millage Notices

DATE: March 23, 2019

REVISED: _____

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

I. Summary:

SB 564 authorizes property appraisers to post notices of proposed property taxes, commonly known as TRIM notices, on their websites rather than sending them to taxpayers by mail. If choosing to post notices electronically, a property appraiser must present the website plan at a public meeting of the board of county commissioners. In addition, a taxpayer must be given options to receive an e-mail notification of a posted notice or to continue receiving a notice by mail. For the first three years of a website posting system, the property appraiser must annually mail taxpayers a reminder that notices are available online.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the assessed or “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ See s. 192.001(2) and (16), F.S.

November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Determination of Ad Valorem Millage

Each property appraiser must complete an assessment of the value of all property within the appraiser's jurisdiction and certify to the taxing authorities the taxable value of such property no later than July 1 of each year, unless extended for good cause by the Department of Revenue.¹¹ The property appraiser also ensures that all real property is listed on the real property assessment roll.¹² The property appraiser's certification of tax value to each taxing authority must include the procedure for calculating the "rolled-back rate"¹³ as well as the maximum millage rate.¹⁴ Each taxing authority uses the taxable value provided by the property appraiser to prepare a proposed millage rate that is levied on each parcel's taxable value.¹⁵

The following timeline summarizes major steps in the millage determination process, from certification of value to adoption of final millage.

- The first day of the process is July 1 or the date of certification of taxable value, whichever is later.¹⁶
- Within 35 days (early August), each taxing authority must inform the property appraiser of its prior year millage rate, its current year proposed millage rate, its current year rolled-back rate, and the date, time, and location of the public hearing to be held to consider the proposed

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ Section 193.023(1), F.S.

¹² Section 193.085(1), F.S.

¹³ See s. 200.065(1), F.S. In general terms, the "rolled-back rate" represents the rate that would generate the same amount of property tax revenues as approved for the prior year subject to certain calculations.

¹⁴ *Id.* See s. 200.065(5), F.S., for maximum millage limitation requirements.

¹⁵ Section 200.065(2)(a)1., F.S.

¹⁶ See *supra* note 11.

millage rate and tentative budget.¹⁷ This information is used by the property appraiser to prepare notices of proposed property taxes commonly referred to as truth-in-millage (TRIM) notices.¹⁸

- Within 55 days (late August), the property appraiser must mail TRIM notices pursuant to s. 200.069, F.S.¹⁹
- Between 65 and 80 days (early to mid-September), the governing body of each taxing authority must hold a public hearing on the tentative budget and proposed millage rate.²⁰ This hearing is published on the TRIM notice the property appraiser mails.
- Within 15 days of the hearing on the tentative budget and proposed millage rate (mid-September to early October), the governing body of each taxing authority must advertise its intent to adopt a final millage and budget.²¹
- Two to five days after its advertisement (early October), a public hearing must be held to finalize the budget and adopt a millage rate.²²

TRIM Notices

As noted above, the property appraiser must provide TRIM notices by first class mail to each taxpayer listed on the current year's assessment roll within 55 days of certifying the taxable value of a jurisdiction.²³ TRIM notices are prepared using a standardized form specified in s. 200.069, F.S.²⁴

The first page of the TRIM notice states that it is a notice of proposed property taxes and that the notice is not a bill.²⁵ The notice must inform the taxpayer that the taxing authorities which levy property taxes on property will soon hold public hearings to adopt budgets and tax rates for the following year.²⁶ The notice must also include a brief legal description of the property, the name and mailing address of the owner of record, and the tax information applicable to the specific parcel in question.²⁷

The notice must include seven columns labeled as:²⁸

- "Taxing Authority;"
- "Your Property Taxes Last Year;"
- "Last Year's Adjusted Tax Rate (Millage);"
- "Your Taxes This Year IF NO Budget Change Is Adopted;"
- "Tax Rate This Year IF PROPOSED Budget Is Adopted (Millage);"
- "Your Taxes This Year IF PROPOSED Budget Change Is Adopted;" and

¹⁷ Section 200.065(2)(b), F.S.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Section 200.065(2)(c), F.S.

²¹ Section 200.065(2)(d), F.S.

²² *Id.*

²³ Section 200.069, F.S.

²⁴ A county officer may use a form other than that provided by the Department of Revenue (DOR) if her or his office pays the related expenses and she or he obtains prior written permission from the executive director of the DOR.

²⁵ Section 200.069(1), F.S.

²⁶ *Id.*

²⁷ Section 200.069(2)(a), F.S.

²⁸ *Id.*

- “A Public Hearing on the Proposed Taxes and Budget Will Be Held.”²⁹

The “taxing authority” column contains the brief, commonly used name for each taxing authority or its governing body.³⁰ The “public hearing” column states the times and places for local government board meetings at which tentative budgets and proposed tax rates are to be considered, prior to final approval.³¹ The bottom of the notice contains a final entry labeled “Total Property Taxes,” listing the total amount of taxes due to all taxing authorities levying ad valorem taxes on the property for the present year.³²

The second page of the TRIM notice states the property’s market value, value of exemptions, and taxable values for the previous and current year for each taxing authority that is levying ad valorem tax against the property.³³ The second page also provides the taxpayer notice of how to challenge the assessed value of the property.³⁴ A taxpayer wishing to challenge the assessed value in front of the Value Adjustment Board (VAB) must submit a petition to the VAB no later than the 25th day following the mailing of the TRIM notice by the property appraiser.³⁵ The deadline date by which a taxpayer must file a VAB petition is printed on the TRIM notice.³⁶

If a local governing board is levying non-ad valorem assessments against the property, this information may be included in the notice, but must be clearly delineated from information concerning proposed property taxes.³⁷

Existing Provisions on Electronic Transmission of Documents

Section 192.048, F.S., provides that the following documents may be transmitted electronically rather than by regular mail:

- TRIM notices;
- Tax exemption renewals;
- Notifications of an intent to deny tax exemptions; and
- Decisions of a value adjustment board.

Electronic transmission is authorized only under the following conditions:

- The recipient consents in writing to the electronic submission;

²⁹ Section 200.069(3), F.S., further specifies notice formatting entries for the county, school district levies, the municipality or municipal service taxing unit (if any), the water management district, any independent special districts, and all voted levies for debt service (if any).

³⁰ Section 200.069(4)(a), F.S.

³¹ Section 200.069(4)(g), F.S.

³² Section 200.069(5), F.S.

³³ Section 200.069(6)(a), F.S.

³⁴ Section 200.069(7), F.S.

³⁵ Section 194.011(3)(d), F.S. Chapter 194, F.S., provides for VABs in each county to hear property assessment appeals. Following a hearing decision by a VAB, the property appraiser submits a revised certified tax roll to each taxing authority. If the taxpayer does not agree with the VAB’s final decision, he or she may appeal the decision within 60 days to the circuit court pursuant to the provisions in s. 194.171(2), F.S.

³⁶ Section 200.069(7), F.S. While the VAB may not extend the time for filing a petition, nor set a deadline for late-filed petitions, the VAB is not barred from considering a petition filed after the statutory deadline (*see* Rule 12D-9.015(11), F.A.C.).

³⁷ Section 200.069(10), F.S.

- The form used to obtain consent for electronic transmission contains a statement that e-mail addresses are public records;
- A sender-recipient response verification of the electronic address;
- Documents comply with the same timing and form requirements as if sent by mail; and
- The sender renews consent and verification requirements every five years.³⁸

III. Effect of Proposed Changes:

Section 1 amends s. 200.069, F.S., to authorize notices of proposed property taxes be made available on property appraisers' websites rather than delivered by mail. If the property appraiser elects to post notices electronically in lieu of mailing notices, a presentation of the website plan is required at a public meeting of the board of county commissioners. Also required are:

- Website options and instructions for taxpayers to receive an e-mail notification of notice postings and their ability to continue receiving notices via first class mail.
- Three years of annual informational mailings to taxpayers about website posting of notices and the process for taxpayers to follow if they wish to continue receiving notices by mail. Information, similar to that found in s. 200.069 F.S., on the process for appealing a property's valuation or exemption status to the VAB must also be provided. For changes in ownership of property, the property appraiser must mail a notice of the aforementioned appeal process and timing deadlines to the new property owner.

Section 2 amends s. 192.0105, F.S., to add a conforming reference concerning website posting of notices to the Taxpayer's Bill of Rights.

Section 3 amends s. 193.073, F.S., to add a conforming reference concerning website posting of notices when property appraisers inform a taxpayer of an erroneous or incomplete statement of personal property.

Section 4 amends s. 193.114, F.S., to add a conforming reference concerning website posting of notices for the preparation of assessment rolls.

Section 5 amends s. 193.1142, F.S., to add a conforming reference concerning website posting of notices for the approval assessment rolls.

Section 6 amends s. 194.011, F.S., to revise the deadline to file a petition to the VAB to the later of a mailed notice or an electronically posted notice.

Section 7 provides an effective date of July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³⁸ Section 192.048(2)(a)-(f), F.S. If an electronic document is returned as undeliverable, the sender must send the document by regular mail, as required by law.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Property appraiser offices may initially incur additional costs associated with providing both mail and electronic versions of property tax notifications. In the longer term, a transition away from the paper and postage needs for TRIM notices will likely save money.

The Department of Revenue (DOR) would need to amend several agency rules and forms to accommodate the bill provisions.³⁹

VI. Technical Deficiencies:

The DOR suggested that lines 93 and 123 should be amended to include “classification” with “valuation or exemption.”⁴⁰

VII. Related Issues:

The DOR identified the following potential implementation and administration issues:

- Compatibility with current provisions in s. 192.048, F.S., on electronic transmission;
- Absence of a deadline for the notice of website posting;

³⁹ Florida Department of Revenue, *2019 Agency Legislative Bill Analysis for SB 564* (Feb. 21, 2019) (on file with the Senate Committee on Community Affairs)

⁴⁰ *Id.*

- Lack of standardized language used for the various required website-posted statements;
- An apparent conflict with practice and custom related to ‘good cause’ late-filed VAB petitions at lines 105-107.
- Inability to implement agency-related provisions by the effective date of July 1, 2019.⁴¹

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 200.069, 192.0105, 193.073, 193.114, 193.1142, and 194.011.

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

⁴¹ *Id.*