

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: CS/SB 710

INTRODUCER: Community Affairs Committee and Senator Baxley

SUBJECT: Administrative Review of Property Taxes

DATE: March 21, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/CS
2.			FT	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 710 provides a timeframe for the filing of certain petitions to the county value adjustment board (VAB) in counties that vote to extend their tax roll submissions. Specifically, late-filed, good cause petitions in these counties must be filed within 55 days after the mailing of notices of proposed property taxes. The bill also provides that in counties with specified high volume VAB petitions, a good cause for rescheduling a hearing does not include being scheduled in different jurisdictions at the same time and place unless the hearings involve the same petitioner or property appraiser and the petitioner agrees to a rescheduling. A VAB clerk in these counties may also request petitioners and property appraisers to identify certain days when either party is unavailable for hearing.

II. Present Situation:

Overview of Property Taxes and Value Adjustment Boards

The Assessment Process

The ad valorem tax or “property tax” is an annual tax levied by counties, cities, 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 “just value”² of property within the taxing authority and then applies applicable exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³

Each property appraiser annually submits the county’s tax roll to the Department of Revenue (DOR) by July 1.⁴ In August, the property appraiser sends a notice of proposed property taxes, commonly known as a Truth-in-Millage or TRIM notice, to each taxpayer providing specific tax information about her or his parcel.⁵ Taxpayers who disagree with the property appraiser’s assessment or the denial of an exemption or property classification may:

- Request an informal meeting with the property appraiser;⁶
- Appeal the assessment by filing a petition with the county VAB;⁷ or
- Challenge the assessment in circuit court.⁸

Taxes become payable on November 1.⁹ If assessments have not become final by then – which is sometimes the case for assessments subject to VAB petitions – the board of county commissioners may vote to request the tax collector to extend the tax roll prior to the completion of VAB proceedings and instruct the tax collector to begin issuing tax notices based on the property appraiser’s initial tax roll.¹⁰ As part of extending the roll, the board may require the VAB to certify the portion of the roll that it has completed.¹¹

The Value Adjustment Board Process

Each county has a VAB, comprised of two members of the governing body of the county, one member of the school board, and two citizen members appointed by the governing body of the county.¹² The county clerk acts as the clerk of the VAB.¹³ A property owner may initiate an assessment valuation challenge by filing a petition with the clerk of the VAB within 25 days after the mailing of the TRIM notice.¹⁴

¹ Both real and tangible personal property are subject to the 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 state 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.

⁴ Section 193.1142(1), F.S.

⁵ Section 194.011(1), F.S. The timing of the TRIM notice varies depending on certain actions by the property appraiser and the taxing authorities. Generally, the notice is mailed in the latter half of August. *See* s. 200.065, F.S.

⁶ Section 194.011(2), F.S.

⁷ Section 194.011(3), F.S.

⁸ Section 194.171, F.S.

⁹ Section 197.333, F.S.

¹⁰ *See* ss. 193.122(1) and 197.323, F.S.

¹¹ *Id.*

¹² Section 194.015, F.S.

¹³ *Id.*

¹⁴ Section 194.011(3)(d), F.S. With respect to an issue involving the denial of an exemption, an agricultural or high-water recharge classification application, an application for classification as historic property used for commercial or certain

The clerk of the VAB will schedule the petition for a hearing, during which a special magistrate will hear testimony and make a recommendation to the VAB on how the petition should be resolved.¹⁵ The VAB renders a written decision within 20 calendar days after the last day the VAB is in session.¹⁶ The decision of the VAB must contain findings of fact and conclusions of law and must include reasons for upholding or overturning the determination of the property appraiser.¹⁷ The clerk of the VAB, upon issuance of a decision, must notify each taxpayer and the property appraiser of the decision of the VAB.¹⁸

Volume, Timing, and Scheduling of Petitions to the Value Adjustment Board

The volume of VAB petitions in counties varies widely across the state. DOR data from 2016 indicates that over 108,000 petitions were filed statewide with Palm Beach County receiving nearly 5,000, Broward County over 17,000 and Miami-Dade County over 65,000.¹⁹

As noted above, a property owner may initiate a challenge of her or his tax assessment valuation by filing a petition with the clerk of the VAB within 25 days after the mailing of the TRIM notice. 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.²⁰

Petitioners and property appraisers are authorized to reschedule a hearing before a VAB a single time for good cause.²¹ “Good cause” is defined to mean circumstances beyond the control of the person seeking to reschedule the hearing which would reasonably prevent adequate representation at the hearing.²²

DOR rule provides that “good cause” means the verifiable showing of extraordinary circumstances, as follows:

- Personal, family, or business crisis or emergency at a critical time or for an extended period of time;
- Physical or mental illness, infirmity, or disability;
- Miscommunication with, or misinformation received from, the board clerk, property appraiser, or their staff;
- Any other cause beyond the control of the petitioner that would prevent a reasonably prudent petitioner from timely filing.²³

nonprofit purposes, or a deferral, the petition must be filed at any time during the taxable year on or before the 30th day following the mailing of the notice by the property appraiser.

¹⁵ Section 194.035, F.S.

¹⁶ Section 194.034(2), F.S.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See DOR, VAB Summary Table, available at <http://floridarevenue.com/property/Pages/DataPortal.aspx> (select the link for VAB Summary) (last visited Mar. 13, 2019).

²⁰ See Rule 12D-9.015(11), F.A.C.

²¹ Section 194.032(2)(a), F.S.

²² *Id.* The phrase “circumstances beyond the control of the person” is not further delineated.

²³ See *supra* note 19.

Given the current parameters governing late-filed, good cause petitions, VAB hearings to review petitions in some counties often occur long after --- sometimes months after --- the initial filing deadline for petitions has passed.

III. Effect of Proposed Changes:

Section 1 amends s. 194.011, F.S., to permit counties that vote to extend the tax roll to allow a person to file a good cause, late-filed petition objecting to a tax assessment. “Good cause” means circumstances beyond the control of the person seeking the late-filed petition. Late-filed petitions must be filed within 55 days after the property appraiser’s mailing of the assessment notice.

Section 2 amends s. 194.032, F.S., on the rescheduling of a VAB hearing for “good cause.” In counties where the number of petitions exceeds 5,000 in a year the term “good cause” does not include being scheduled for two separate hearings in different jurisdictions at the same time and date unless the hearings involve the same petitioner or property appraiser and the petitioner agrees to reschedule the hearing. Before the VAB hearings begin for the year in these counties, the VAB clerk may request the property appraiser and the petitioner to identify up to 10 business days each on which the two parties are *unavailable* for hearing.

Section 3 provides an effective date of July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

VAB petitioners in counties with a high volume of petitions who are simultaneously scheduled for hearings in different locations will be limited in using this circumstance as a justification to reschedule a hearing.

C. Government Sector Impact:

The bill's deadline for late-filed petitions to the VAB in affected counties may result in timelier VAB reviews and assessment roll certifications in those counties. The ability of certain VAB clerks to request availability dates from persons involved in the process may have a similar affect. DOR would need to amend rules 12D-9.015(14) and 12D-16.002, F.A.C, and the DR-486 form series.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 194.011, 194.032.

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

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

CS by Community Affairs on March 20, 2019:

- Provides a 55-day time window for late-filed VAB petitions.
- Provides that a “good cause” definition for rescheduling a hearing in counties with over 5,000 VAB petitions does not include being scheduled for two separate hearings in different jurisdictions at the same time and date unless the hearings involve the same petitioner or property appraiser and the petitioner agrees to reschedule the hearing.
- Provides that in counties with over 5,000 VAB petitions, prior to beginning VAB hearings, a VAB clerk may request the property appraiser and a petitioner to identify up to 10 business days each on which the two parties are *unavailable* for hearing.

B. Amendments:

None.