

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 Education

BILL: SB 1126

INTRODUCER: Senator Harrell

SUBJECT: Exemption from Taxation for Educational Properties

DATE: January 31, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Palazes</u>	<u>Bouck</u>	<u>ED</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1126 provides an educational institution tax exemption if the educational institution is a lessee that owns the leasehold interest in a bona fide lease for a nominal amount per year having an original term of 98 years or more.

The Revenue Estimating Conference has not analyzed the bill. See Section V. Fiscal Impact Statement for more information.

The bill takes effect on July 1, 2022.

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 “just value”² of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of

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.

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

The Florida Constitution prohibits the state from levying ad valorem taxes,⁴ and it 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 results 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

Educational Institution Property Tax Exemption

Florida exempts from ad valorem tax property owned by an educational institution and used exclusively for educational purposes.¹¹ The exemption applies to any educational institution that uses the property for educational purposes; the institution can be for-profit or private. Property used exclusively for educational purposes is deemed owned by an educational institution if:¹²

- The entity that owns the educational institution is owned by the individuals that own the property.
- The entity that owns the educational institution and the entity that owns the property are owned by the same individuals.

The exemption has been expanded to include unique ownership situations. For instance, land, buildings, and other improvements used exclusively for educational purposes is deemed to be owned by an educational institution (and therefore exempt) if the entity that owns the land is a nonprofit entity and the land is leased by an educational institution that is a 501(c)(3) entity that provides education limited to kindergarten through grade 8.¹³

An entity, institution, or organization that teaches students to perform services in connection with motion picture production may receive a sales tax exemption for their purchase or lease of

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 196.198, F.S. The exemption includes sheltered workshops providing rehabilitation and retraining for specified individuals with disabilities, property of fraternities and sororities as designated by the college or university president, and specified public fairs and expositions. *Id.*

¹² *Id.*

¹³ *Id.*

tangible personal property or real property. Such institution must have enrolled at least 500 students and conduct classes at a fixed location in this state.¹⁴

III. Effect of Proposed Changes:

SB 1126 extends the educational institution exemption to include if the educational institution is a lessee that owns the leasehold interest in a bona fide lease for a nominal amount per year having an original term of 98 years or more.

The bill takes effect on July 1, 2022.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Revenue Estimating Conference has not analyzed the bill. However, analysis of the companion House bill, although substantively different, estimated a reduction to local property tax revenue of \$0.1 million recurring in FY 2022-2023.

¹⁴ Section 212.0606, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.198 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.