

**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.)

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Prepared By: The Professional Staff of the Committee on Finance and Tax

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BILL: SB 1126

INTRODUCER: Senator Harrell

SUBJECT: Exemption from Taxation for Educational Properties

DATE: February 8, 2022

REVISED: \_\_\_\_\_

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

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## I. Summary:

SB 1126 deems an educational institution leasing property that it uses for an educational purpose to be the owner of such property if the lease payment is for a nominal amount per year and the lease has an original term of 98 years or more. Deeming the property owned by the lessee will exempt it from property taxation.

The Revenue Estimating Conference determined that the bill will reduce property tax revenue by \$0.1 million beginning in Fiscal Year 2023-2024.

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.<sup>1</sup> The property appraiser annually determines the “just value”<sup>2</sup> of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and

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<sup>1</sup> 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.

<sup>2</sup> 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).

exemptions to determine the property's "taxable value."<sup>3</sup> Tax bills are mailed in November of 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,<sup>4</sup> and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.<sup>5</sup>

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;<sup>6</sup> 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; land used for conservation purposes; historic properties when authorized by the county or municipality; and certain working waterfront property.<sup>7</sup>

### **Educational Institution Property Tax Exemption**

Florida exempts from ad valorem tax property owned by an educational institution and used exclusively for educational purposes.<sup>8</sup> 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:<sup>9</sup>

- 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.<sup>10</sup> The exemption also extends to educational institutions that lease property used to teach students to perform services in connection with motion picture production.<sup>11</sup>

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<sup>3</sup> See s. 192.001(2) and (16), F.S.

<sup>4</sup> FLA. CONST. art. VII, s. 1(a).

<sup>5</sup> See FLA. CONST. art. VII, s. 4.

<sup>6</sup> Section 193.011(2), F.S.

<sup>7</sup> FLA. CONST. art. VII, s. 4.

<sup>8</sup> 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.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* See also s. 212.0602, F.S.

### III. Effect of Proposed Changes:

SB 1126 deems an educational institution leasing property that it uses for an educational purpose to be the owner of such property if the lease payment is for a nominal amount per year and the lease has an original term of 98 years or more. Deeming the property owned by the lessee will exempt it from property taxation.

The bill takes effect on July 1, 2022.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

Article VII, section 18 (b) of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirement does not apply to laws having an insignificant impact,<sup>12, 13</sup> which for Fiscal Year 2022-2023, is forecast at \$2.3 million.<sup>14</sup>

The Revenue Estimating Conference determined that the bill will reduce property tax by an amount less than \$2.3 million. Therefore, the bill is not a mandate subject to the requirements of Article VII, section 18 of the Florida Constitution.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

The bill does not create or raise a state tax or fee. Therefore, the requirements of Article VII, s. 19 of the Florida Constitution do not apply.

#### E. Other Constitutional Issues:

None identified.

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<sup>12</sup> FLA. CONST. art. VII, s. 18(d).

<sup>13</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 26, 2022).

<sup>14</sup> Based on the Demographic Estimating Conference's population estimates adopted on March 3, 2021. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/archives/210303demographic.pdf> (last visited Jan. 26, 2022).

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

The Revenue Estimating Conference determined that the bill will reduce property tax revenue by \$0.1 million beginning in Fiscal Year 2023-2024. The tax levied for school districts is estimated to be reduced by an insignificant amount.

**B. Private Sector Impact:**

The bill will reduce property taxes for some educational institutions.

**C. Government Sector Impact:**

None.

**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.