

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 Finance and Tax

BILL: SB 1322

INTRODUCER: Senator Ingoglia

SUBJECT: Millage Rates

DATE: February 7, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Shuler</u>	<u>Khan</u>	<u>FT</u>	Pre-meeting
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1322 provides that a county, municipality, or independent special district may not increase a previous millage rate unless approved by a two-thirds vote of the membership of the governing body of the county, municipality, or independent special district.

The bill takes effect July 1, 2024.

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 a 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 relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³

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, e.g., Walter v. Schuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *S. Bell Tel. & Tel. Co. v. Dade Cnty.*, 275 So. 2d 4 (Fla. 1973).

³ *See* ss. 192.001(2) and (16), F.S.

Local governments, including counties, school districts, and municipalities, have the constitutional authority to levy ad valorem taxes. Special districts may also be given this authority by law.⁴

County, Municipal, and Special District Millage

Governing bodies of counties, municipalities, and other taxing authorities are responsible for determining the millage (tax) rate for the real property for which they are levying the tax.⁵ The millage rate is the amount of property tax charged per \$1,000 of taxable property value.⁶ County and municipal millages are set forth in four categories:

- General county and municipal nonvoted millage set by the respective governing body;
- County and municipal debt service millage necessary to pay for debt service as authorized by a vote of the electors;
- County and municipal voted millage set by the respective governing body as authorized by a vote of the electors; and
- County and municipal dependent special district millage.⁷

County and municipality ad valorem millage is limited to 10 mills, except as approved by voters.⁸ County and municipal millage may be increased beyond 10 mills for periods not exceeding 2 years, provided such levy has been approved by majority vote of the qualified electors in the county or municipality voting in an election called by the governing body for that purpose.⁹ The referendum to levy voted millage above 10 mills must specify the amount of millage sought to be levied and the purpose for which the proceeds will be expended.¹⁰

Special district millage rate limitations are specified by the Florida Constitution and in statute, and in the case of dependent special districts, are also contingent on the millage of its governing body. Independent special districts are limited to millage levies authorized by general law and approved by a vote of electors, except for water management districts.¹¹ Article VII, Section 9 of the Florida Constitution prescribes maximum millage rates for water management districts¹² and additional limits on water management districts are imposed by statute.¹³ Dependent special district millage, when added to the millage of the governing body to which it is dependent, may not exceed the maximum millage for its respective governing body.¹⁴

⁴ FLA. CONST. art VII, s. 9.

⁵ Section 200.065, F.S.

⁶ Florida Department of Revenue, A Florida Homeowner's Guide: Millage, *available at* https://floridarevenue.com/property/Documents/homeowner_guide_millage.pdf (last visited Feb. 2, 2024).

⁷ Section 200.001(1) and (2), F.S.

⁸ FLA. CONST. art VII, s. 9; sections 200.071 and 200.081, F.S.

⁹ FLA. CONST. art VII, s. 9; sections 200.091 and 200.101, F.S.

¹⁰ Section 200.091, F.S.

¹¹ Section 200.01(4), F.S.

¹² The constitutional limit for the Northwest Florida Water Management District is 0.05 mill, while the others are subject to a constitutional limit of 1.0 mill.

¹³ Section 373.503(3)(a), F.S. As specified in s. 373.503(3)(a), the maximum total millages for the districts are: Northwest Florida WMD: 0.05 mill; Suwannee River WMD: 0.75 mill; St. Johns River WMD: 0.6 mill; Southwest Florida WMD: 1.0 mill; South Florida WMD: 0.80 mill.

¹⁴ Section 200.01(8)(d).

Method of Fixing Millage

After the property appraiser assesses all property in a jurisdiction, the property appraiser certifies to the governing board of the jurisdiction the taxable value of the property within the jurisdiction of the taxing authority.¹⁵ The form that the property appraiser uses for providing each taxing authority the certified value must also include instructions to allow the taxing authority to compute what is referred to as the “rolled-back rate.”¹⁶ The rolled-back rate is the millage rate that would provide the same ad valorem tax revenue for each taxing authority as what was raised the previous year, minus certain adjustments to value.¹⁷

The taxing authority must prepare a tentative budget and compute the millage rate necessary to fund the tentative budget.¹⁸ The taxing authority gives public notice and holds hearings regarding a proposed millage rate, and ultimately adopts a proposed millage rate.¹⁹ If the proposed millage exceeds the rolled-back rate, additional notices related to proposed tax increases are required.²⁰

Maximum Millage Rate

In 2007, the Legislature restricted the ad valorem tax levies of counties, municipalities, dependent and independent special districts, and municipal service taxing units, and set a maximum rate which could be levied based on then-current revenues.²¹ This maximum millage rate increases each year through a formula based on the growth of per capita Florida personal income.²² A millage rate up to this maximum rate, or the previous year’s adopted millage rate if higher, may be enacted by simple majority. By super-majority, a taxing authority may levy millage not exceeding 110 percent of this rate; and a higher rate may be authorized either by unanimous vote, three quarters’ vote if the governing body has nine or more members, or if approved by referendum.²³

III. Effect of Proposed Changes:

The bill amends s. 200.065, F.S., to provide that in each fiscal year the previous millage rate may only be increased if approved by a two-thirds vote of the membership of the governing body of the county, municipality, or independent special district. When increasing millage rate beyond the rolled-back rate, a taxing authority must work through the procedures for a proposed millage

¹⁵ Section 200.065(1), F.S.

¹⁶ *Id.*

¹⁷ *Id.* The calculation requires excluding value attributable to “new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation which increased the assessed value of such improvements by at least 100 percent, property added due to geographic boundary changes, total taxable value of tangible personal property within the jurisdiction in excess of 115 percent of the previous year’s total taxable value, and any dedicated increment value” when determining the millage rate that will provide the same revenue as was levied the previous year and subtracting any amount paid or applied due to obligations measured by the dedicated increment value. *Id.* “Dedicated increment value” refers to the proportion of the increase in taxable value used to determine amounts to be paid for tax increment financing. Section 200.001(8)(h).

¹⁸ Section 200.065(2), F.S.

¹⁹ For precise notice, hearing, and advertisement requirements, see s. 200.065(2) and (3), F.S.

²⁰ Section 200.065(3), F.S.

²¹ Chapter 2007-321, Laws of Fla.

²² Section 200.065(5), F.S.

²³ *Id.*

rate provided in statute, and ultimately levy millage by resolution or ordinance. This vote would require a two-thirds vote of the membership of the governing body under the bill.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

This bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may create certain scenarios where a local government must revise its budget downward due to inability to raise millage 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.

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