

CS/SB 1588 — Implementation of Amendment 1

by Finance and Tax Committee and Senator Haridopolos

CS/SB 1588 implements Amendment 1 to the State Constitution, which was approved by the voters in January 2008, and makes technical corrections to Chapter 2007-321, L.O.F.. It also imposes an additional limitation on the maximum millage that may be levied by local governments other than school districts in FY 2008-2009.

Section 1. Amends s. 193.114, F.S., to include on the tax rolls submitted by the property appraisers to the Department of Revenue data that have been identified by the department and the Revenue Estimating Conference as necessary to improve the ability to forecast revenues or estimate impacts of proposed changes in property tax laws. This applies to 2009 and later tax rolls.

Section 2. Amends s. 193.1142, F.S., to authorize the executive director of the Department of Revenue to require additional data to be provided on assessment rolls, and to require data to be provided in a specified format.

Section 3. Amends subsection (8) of s. 193.155, F.S., to clarify the rules under which a Save-Our-Homes differential may be transferred to a new homestead. It provides that if a husband and wife both owned and permanently resided on a homestead each is considered to have received it, even if only one or the other had applied for the exemption on the previous homestead. It provides that the full allowable differential may be transferred if all persons who qualify for the homestead exemption in the new homestead also qualified for and received the exemption in the old homestead and no additional person qualifies for the exemption in the new homestead. It allows the transfer of differential proportionate to ownership shares contained on the title to the property. It specifies how the transferable assessment differential is calculated for property with an assessment reduction for living quarters of parents or grandparents. It allows a person to abandon a homestead even though it remains his or her primary residence, and for that residence to be assessed under this subsection.

This section requires the Department of Revenue to provide a form for applying for assessment under this subsection, and creates responsibilities for property appraisers to supply information necessary for calculating assessment limitations available to be transferred. It allows a person who is qualified to have his or her property assessed under this subsection but who fails to file a timely application to apply to the value adjustment board. It requires the property appraiser to notify a property owner who has applied for assessment under this subsection if the application is disapproved.

Section 4. Amends s. 193.1554, F.S., to clarify that any increase in value of nonhomestead residential property that is attributable to combining or dividing parcels shall be assessed at just value, and the just value shall be apportioned among the parcels created.

Section 5. Amends s. 193.1555, F.S., to clarify that any increase in value of certain residential and nonresidential property that is attributable to combining or dividing parcels shall be assessed at just value, and the just value shall be apportioned among the parcels created.

Section 6. Amends s. 193.1556, F.S., to remove the annual application requirement.

Section 7. Amends s. 194.011, F.S., to specifically authorize a taxpayer who objects to the assessment placed on his or her property, including the assessment of homestead property at less than just value under s. 193.155(8), F.S., to appeal the assessment to the value adjustment board. If the taxpayer does not agree with the amount of assessment differential identified by the previous property appraiser the appeal is to the value adjustment board in the previous county.

Section 8. Amends s. 196.031, F.S., provides specific instructions for the order in which homestead exemptions are applied to a single parcel to give the maximum benefit of each exemption to the taxpayer.

Section 9. Amends s. 196.183, F.S., to provide that the \$25,000 exemption for freestanding property placed at multiple locations must be allocated in equal amounts to each taxing authority levying a tax on the property. It also provides an expanded explanation of what is meant by a "site where the owner of tangible personal property transacts business" by listing examples. It says the property appraiser may allow owners of certain property to qualify for the tangible personal property exemption without filing an initial return. It clarifies that the tangible personal property exemption does not apply in any year a taxpayer fails to timely file a return that is not otherwise waived, and it requires the property appraiser to notify by mail all taxpayers whose requirement for filing an annual tangible personal property tax return was waived in the previous year.

Section 10. Amends s. 197.3632, F.S., to require the tax collectors to provide information on non-ad valorem assessment rolls to the executive director of the Department of Revenue.

Section 11. Amends s. 200.065, F.S., to clarify that the maximum millage rate is adjusted for "change" in per capita Florida personal income instead of "growth." It clarifies that supermajority votes are based on the membership of the governing body, and provides for administrative adjustments to millage rates when the tax roll changes after the millage rate is calculated. It clarifies the special provision for calculating the millage for a county authorized to levy a public hospital surtax. It says that for certain downtown development authorities, the governing body of the municipality that approves its millage shall be considered its governing body.

Section 12. Amends s. 200.185, F.S. to change the calculation of the maximum millage rate that a county, municipality, or special district may levy by a majority vote. It provides that the rolled back rate used for determining the millage rate that can be levied by a majority vote must be calculated as if the tax base had not been reduced by Amendment 1. The millage rate that may be levied by a 2/3 vote or unanimous vote of the membership of the governing body is not changed. The bill also clarifies that the maximum millage rate is adjusted for "change" in per capita Florida personal income instead of "growth." It clarifies that supermajority votes are based on the membership of the governing body, and provides for administrative adjustments to millage rates when the tax roll changes after the millage rate is calculated. It clarifies the special provision for calculating the millage for a county authorized to levy a public hospital surtax. It says that for certain downtown development authorities, the governing body of the municipality that approves its millage shall be considered its governing body.

Section 13. Authorizes the executive director of the Department of Revenue to adopt emergency rules for the purpose of implementing this act, and says those rules shall remain in effect for 18 months after the date of adoption and may be renewed during the pendency of procedures to adopt rules.

Section 14. Requires the property appraisers to accept applications for assessment under s. 193.155(8) until May 1, 2008.

Section 15. Directs the Department of Revenue to report to the Legislature on tax notification issues arising from recent changes in property tax law.

Section 16. Provides for appropriation of funds to fiscally constrained counties.

Section 17. Provides that, except as otherwise provided, this act shall take effect upon becoming a law and shall apply to the 2008 and subsequent tax rolls.

If approved by the Governor, these provisions take effect upon becoming law and shall apply to the 2008 and subsequent tax rolls.

Vote: Senate 40-0; House 115-1

CS/HB 909 — Property Taxation and Value Adjustment Boards

by Government Efficiency and Accountability Council and Rep. Nehr and others
(CS/CS/SB 2080 by General Government Appropriations Committee; Finance and Tax Committee; and Senators Haridopolos and Baker; and SB 822 by Senator Atwater)

This bill codifies many recommendations made in Auditor General Report 2006-007 concerning value adjustment boards (boards). The bill:

- Requires the Department of Revenue to develop a uniform policies and procedures manual for use by boards, special magistrates, and taxpayers in board proceedings, and to make the manual available on the department's website and existing websites of the clerks of circuit courts;
- Provides for 2 citizen members of the board;
- Removes statutory authority for the county attorney to be counsel to the board;
- Provides conditions for private counsel appointed by the board;
- Requires members of the board or the board's private counsel in small counties to attend training provided by the Department of Revenue, and provides that tuitions fees will be waived for them;
- Requires that the recommendations of special magistrates include proposed findings of fact, conclusions of law, and reasons for upholding or overturning the determination of the property appraiser and requires testimony taken by the special magistrate to be preserved;
- Requires the Department of Revenue to provide training for special magistrates with an emphasis on DOR's standard measures of value, including the assessment of tangible personal property. The training must be offered at least once a year in at least five locations throughout the state, and the department may charge tuition to cover the cost of providing training; and
- Amends requirements for public notice of board impacts by adding a column concerning the petitions withdrawn or settled prior to the board's consideration.

The bill addresses other property tax issues. It:

- Clarifies that in determining the highest and best use of a property (one of the eight factors considered in determining the assessed valuation), the property appraiser must take into account the legally permissible use of the property, as well as any zoning changes, concurrency requirements, or permits which would be necessary before the property could actually be used for that highest and best use;
- Provides that there cannot be a minimum acreage requirement for an agricultural assessment;
- Provides that it is the express intent of the Legislature that taxpayers never have the burden of proving that the property appraiser's assessment is not supported by any reasonable hypothesis of a legal assessment; and
- Requires the Department of Revenue to post information on its website about current and previous millage rates levied by each city and county. This information must also be on the property appraisers' websites.

If approved by the Governor, these provisions take effect September 1, 2008

Vote: Senate 39-0; House 116-0

HB 5065 — Corporate Income Tax/2008 IRS Code

by Government Efficiency and Accountability Council and Rep. Grant (CS/SB 1586 by Finance and Tax Committee and Senator Haridopolos)

The bill updates references in ch. 220, F.S. (the Florida Income Tax Code), to reflect revisions to the U.S. Internal Revenue Code that are in effect on January 1, 2008. The bill provides exceptions to the adoption of the federal code's temporary increase for expensing depreciable assets and the temporary bonus depreciation deduction. The bill also makes the delinquent date for remitting each quarterly estimated tax payment one day earlier.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 118-1

