

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

FINANCE AND TAX
Senator Hukill, Chair
Senator Abruzzo, Vice Chair

MEETING DATE: Monday, January 25, 2016
TIME: 1:00—3:30 p.m.
PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Hukill, Chair; Senator Abruzzo, Vice Chair; Senators Altman, Diaz de la Portilla, Flores, Margolis, Simpson, and Soto

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 98 Hukill (Identical H 115)	Exemption from the Sales and Use Tax for Certain Machinery and Equipment; Providing that the exemption for certain mixer drums and the parts and labor required to affix such mixer drums to mixer trucks is repealed on a specified date; deleting the expiration date for the exemption for certain industrial machinery and equipment, etc. CM 01/11/2016 Favorable FT 01/25/2016 Fav/CS AP	Fav/CS Yeas 6 Nays 0
2	SB 346 Altman (Similar H 995)	Local Government Infrastructure Surtax; Authorizing the governing authority of a county to levy a discretionary sales surtax to fund capital restoration of natural water bodies for public use; limiting expenditures of the proceeds and interest from the surtax or specified bonds that pledge the surtax to dredging operations related to ecologically beneficial muck removal, etc. CA 12/01/2015 Favorable FT 01/25/2016 Fav/CS AP	Fav/CS Yeas 6 Nays 0
3	CS/SB 488 Community Affairs / Flores (Compare CS/HJR 275, CS/H 277, Linked SJR 492)	County and Municipality Homestead Tax Exemption; Revising the homestead tax exemption that may be adopted by a county or municipality by ordinance for the assessed value of property with a just value less than \$250,000 which is owned by persons age 65 or older who meet certain residence and income requirements; specifying that just value shall be determined at the time of the owner's initial application for the exemption, etc. CA 11/17/2015 Fav/CS FT 01/25/2016 Fav/CS AP	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Finance and Tax

Monday, January 25, 2016, 1:00—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SJR 492 Flores (Compare CS/HJR 275, CS/H 277, Linked CS/S 488)	Homestead Tax Exemption; Proposing an amendment to the State Constitution to revise the homestead tax exemption that may be granted by counties or municipalities, if authorized by general law, for the assessed value of property with a just value less than \$250,000 and owned by persons age 65 or older who meet certain residence and income requirements to specify that just value shall be determined at the time of the owner's initial application for the exemption, etc. CA 11/17/2015 Favorable FT 01/25/2016 Fav/CS AP	Fav/CS Yeas 7 Nays 0
5	CS/SB 828 Banking and Insurance / Bean (Identical CS/CS/H 467)	Insurance Guaranty Association Assessments; Requiring the Office of Insurance Regulation to levy assessments for certain purposes; revising and providing requirements for the levy of assessments; requiring insurers and self-insurance funds to report certain premiums; requiring insurers to collect policy surcharges and pay assessments to the association; revising requirements for reporting premium for assessment calculations; revising and providing requirements and limitations for remittance of assessments to the association, etc. BI 01/11/2016 Fav/CS FT 01/25/2016 Fav/CS FP	Fav/CS Yeas 6 Nays 0
6	SB 842 Hays (Similar H 301)	Property Prepared for a Tax-exempt Use; Consolidating and revising provisions relating to obtaining an ad valorem exemption for property owned by an exempt organization, including the requirement that the owner of an exempt organization take affirmative steps to demonstrate an exempt use; deleting provisions relating to the exemption as it applies to public worship and affordable housing and provisions incorporated into s. 196.1955, F.S., etc. CA 01/11/2016 Favorable FT 01/25/2016 Fav/CS AP	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Finance and Tax

Monday, January 25, 2016, 1:00—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SJR 1074 Gaetz (Identical HJR 7015)	Property Tax Assessments; Proposing amendments to the State Constitution to allow the Legislature to limit growth in the assessed value of homestead and specified nonhomestead property to the growth rate in just value, to prohibit increases in the assessed value of homestead and specified nonhomestead property if the just value of the property decreases, and to provide an effective date, etc. FT 01/25/2016 Favorable AP RC	Favorable Yeas 7 Nays 0

Other Related Meeting Documents

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: CS/SB 98

INTRODUCER: Finance and Tax Committee; and Senator Hukill and others

SUBJECT: Exemption from the Sales and Use Tax for Certain Machinery and Equipment

DATE: January 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Askey</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 98 removes the April 30, 2017, repeal date for the sales and use tax exemption for industrial machinery and equipment used in manufacturing.

In addition, the bill retains the repeal date of April 30, 2017, for the sales and use tax exemption for a mixer drum affixed to a mixer truck and the parts and labor required to affix the drum to the truck.

The Revenue Estimating Conference has determined that the bill will reduce General Revenue receipts by \$62.8 million in Fiscal Year 2017-2018, with a \$62.8 million recurring impact. The bill will reduce local government revenue by \$14.1 million in Fiscal Year 2017-2018, with a \$14.1 million recurring impact.¹

The bill takes effect July 1, 2016.

This bill may contain a mandate requiring a two-thirds vote of the membership of the House and the Senate. See section IV. A. of this analysis.

¹ Florida Revenue Estimating Conference, *HB 115/SB 98, 64-72*, (Oct. 9, 2015) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/pdf/page64-72.pdf> (last visited Jan. 19, 2016).

II. Present Situation:

Florida Sales and Use Tax

Florida levies a six percent state sales and use tax which applies to the sale or rental of most tangible personal property, admissions,² transient rentals,³ commercial real estate rentals,⁴ and a limited number of services. Chapter 212, F.S., contains statutory provisions that authorize the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 200 different exemptions, exclusions, deductions, and credits from sales and use tax.⁵ Sales tax is added to the price of taxable goods or services and the tax is collected from the purchaser at the time of sale.

In addition to the state sales and use tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes.⁶ A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by [chapter 212, F.S.], and on communications services as defined in ch. 202."⁷

Industrial Manufacturing and Equipment Sales Tax Exemption

Since April 30, 2014, the state has provided a sales and use tax exemption for industrial machinery and equipment that is purchased by an eligible manufacturing business.⁸ The machinery or equipment must be used at a fixed location in this state.

Eligible businesses are those classified in the North American Industry Classification System (NAICS) under codes 31, 32, or 33. Manufacturing establishments classified under these codes include food, apparel, wood, paper, printing, chemical, pharmaceutical, plastic, rubber, metal, transportation, and furniture manufacturing.⁹ For the purposes of the exemption, "industrial machinery and equipment" means tangible personal property that has a depreciable life of three or more years and is used in the manufacturing, processing, compounding, or production of tangible personal property for sale.

The term "industrial machinery and equipment" also includes parts and accessories that are purchased prior to the industrial machinery and equipment being placed in service.¹⁰

² Section 212.04, F.S.

³ Section 212.03, F.S.

⁴ Florida Department of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at http://dor.myflorida.com/dor/taxes/sales_tax.html (last visited Jan. 19, 2015).

⁵ Florida Revenue Estimating Conference, *Florida Tax Handbook*, (2015), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/index.cfm> (last visited Jan. 19, 2016).

⁶ The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S.

⁷ Section 212.054, F.S.

⁸ Section 212.08(7)(kkk), F.S.

⁹ The Manufacturers Association of Florida has provided a complete list of the manufacturing sectors that are classified under the relevant NAICS codes, available at https://c.ymcdn.com/sites/maf.site-ym.com/resource/resmgr/Docs/NAICS_Codes.pdf (last visited Jan. 19, 2016).

¹⁰ Section 212.08(7)(kkk)2.c., F.S.

The state also provides a sales and use tax exemption for a mixer drum affixed to a mixer truck used at locations in this state to mix, agitate, and transport freshly mixed concrete in a plastic state, for the manufacturing, processing, compounding, or production of tangible personal property for sale. Parts and labor required to affix a mixer drum to a mixer truck are also exempt.¹¹

These exemptions are repealed April 30, 2017.

Manufacturing Industry in Florida

According to Enterprise Florida, Inc., (EFI) there are more than 18,600 manufacturing companies and more than 321,000 manufacturing employees in Florida. These companies produce a variety of manufactured goods including aerospace products, batteries, food and beverages, communications equipment, pharmaceuticals, semiconductors, and boats.¹²

III. Effect of Proposed Changes:

The bill removes the repeal date for the sales and use tax exemption for industrial machinery and equipment used in manufacturing.

The bill retains the repeal date of April 30, 2017, for the sales and use tax exemption for a mixer drum affixed to a mixer truck and the parts and labor required to affix the drum to the truck.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of section 18, Art VII 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 requirements do not apply to laws having an insignificant impact, which for Fiscal Year 2016-2017, is \$2 million or less.^{13,14,15} The Revenue Estimating Conference estimates that this bill reduces the authority that counties have to raise revenue by \$6.0 million in Fiscal Year 2017-18.¹⁶

¹¹ Section 212.08(7)(kkk)1., F.S.

¹² Enterprise Florida, Inc., *Florida The Perfect Climate for Business: Manufacturing*, (Revised Sep. 2015) available at <http://www.enterpriseflorida.com/wp-content/uploads/brief-manufacturing-florida.pdf> (last visited Jan. 19, 2016).

¹³ FLA. CONST. art. VII, s. 18(d).

¹⁴ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 19, 2015).

¹⁵ Based on the Demographic Estimating Conference's population adopted on December 1, 2015. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 19, 2015).

¹⁶ Florida Revenue Estimating Conference, *HB 115/SB 98*, 64-72, (Oct. 9, 2015) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/pdf/page64-72.pdf> (last visited Jan. 19, 2016).

Therefore, this bill may be a mandate requiring a two-thirds vote of the membership of the House and the Senate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The current exemption for industrial machinery and equipment continues through April 2017, thus CS/SB 98 does not have a cash impact in Fiscal Year 2016-2017. The Revenue Estimating Conference has determined that SB 98 will reduce General Revenue receipts by \$62.8 million in Fiscal Year 2017-2018, with a \$62.8 million recurring impact. SB 98 will reduce local government revenue by \$14.1 million in Fiscal Year 2017-2018, with a \$14.1 million recurring impact.¹⁷

B. Private Sector Impact:

Indeterminate, but positive. Eligible manufacturing companies will see a reduction in the cost of purchasing certain machinery and equipment.

C. Government Sector Impact:

The Department of Revenue reported that CS/SB 98 will have an insignificant expenditure impact on the department.¹⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.08 of the Florida Statutes.

¹⁷ *Id.*

¹⁸ Florida Department of Revenue, *Senate Bill 98 Fiscal Analysis* (Sep. 24, 2015) available at <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=7237> (last visited Jan. 19, 2016).

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Finance and Tax on January 25, 2016:

The CS makes sure that the definitions in s. 212.08(7)(kkk)2., F.S., are considered when determining whether the exemption applies.

- B. **Amendments:**

None.



411574

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/25/2016	.	
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	.	
	.	

The Committee on Finance and Tax (Hukill) recommended the following:

Senate Amendment

Delete line 51
and insert:
entitlement to exemption pursuant to this subparagraph and
subparagraph 2.

By Senator Hukill

8-00055-16

201698__

A bill to be entitled

An act relating to the exemption from the sales and use tax for certain machinery and equipment; amending s. 212.08, F.S.; providing that the exemption for certain mixer drums and the parts and labor required to affix such mixer drums to mixer trucks is repealed on a specified date; deleting the expiration date for the exemption for certain industrial machinery and equipment; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (kkk) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has

Page 1 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-00055-16

201698__

obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(kkk) *Certain machinery and equipment.*—

1. Industrial machinery and equipment purchased by eligible manufacturing businesses which is used at a fixed location in within this state, ~~or a mixer drum affixed to a mixer truck which is used at any location within this state to mix, agitate, and transport freshly mixed concrete in a plastic state, for the manufacture, processing, compounding, or production of items of tangible personal property for sale~~ shall be exempt from the tax imposed by this chapter. ~~Parts and labor required to affix a mixer drum exempt under this paragraph to a mixer truck are also exempt.~~ If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph ~~paragraph~~, the seller is relieved of the responsibility for collecting the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

2. For purposes of this paragraph, the term:

a. "Eligible manufacturing business" means any business whose primary business activity at the location where the

Page 2 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-00055-16

201698__

59 industrial machinery and equipment is located is within the
60 industries classified under NAICS codes 31, 32, and 33. As used
61 in this subparagraph, "NAICS" means those classifications
62 contained in the North American Industry Classification System,
63 as published in 2007 by the Office of Management and Budget,
64 Executive Office of the President.

65 b. "Primary business activity" means an activity
66 representing more than 50 percent of the activities conducted at
67 the location where the industrial machinery and equipment is
68 located.

69 c. "Industrial machinery and equipment" means tangible
70 personal property or other property that has a depreciable life
71 of 3 years or more and that is used as an integral part in the
72 manufacturing, processing, compounding, or production of
73 tangible personal property for sale. A building and its
74 structural components are not industrial machinery and equipment
75 unless the building or structural component is so closely
76 related to the industrial machinery and equipment that it houses
77 or supports that the building or structural component can be
78 expected to be replaced when the machinery and equipment are
79 replaced. Heating and air conditioning systems are not
80 industrial machinery and equipment unless the sole justification
81 for their installation is to meet the requirements of the
82 production process, even though the system may provide
83 incidental comfort to employees or serve, to an insubstantial
84 degree, nonproduction activities. The term includes parts and
85 accessories for industrial machinery and equipment only to the
86 extent that the parts and accessories are purchased prior to the
87 date the machinery and equipment are placed in service.

Page 3 of 4

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8-00055-16

201698__

88 3. A mixer drum affixed to a mixer truck which is used at
89 any location in this state to mix, agitate, and transport
90 freshly mixed concrete in a plastic state for the manufacture,
91 processing, compounding, or production of items of tangible
92 personal property for sale shall be exempt from the tax imposed
93 by this chapter. Parts and labor required to affix a mixer drum
94 exempt under this subparagraph to a mixer truck are also exempt.
95 If, at the time of purchase, the purchaser furnishes the seller
96 with a signed certificate certifying the purchaser's entitlement
97 to exemption pursuant to this subparagraph, the seller is
98 relieved of the responsibility for collecting the tax on the
99 sale of such items, and the department shall look solely to the
100 purchaser for recovery of the tax if it determines that the
101 purchaser was not entitled to the exemption. This subparagraph
102 paragraph is repealed April 30, 2017.

103 Section 2. This act shall take effect July 1, 2016.

Page 4 of 4

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/25/16

Meeting Date

SB 98

Bill Number (if applicable)

Topic Manufacturing Sub-Tax Exemptions

Amendment Barcode (if applicable)

Name NANCY STEPHENS

Job Title EXECUTIVE DIRECTOR

Address 1625 Summit Lake Dr

Phone 850 445 1607

Street

Tallahassee

FL

32309

City

State

Zip

Email nancy@aststephens.com

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Manufacturers Association of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

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01/25/2016

Meeting Date

SB 98

Bill Number (if applicable)

Topic MF, M & E Tax Exemption

Amendment Barcode (if applicable)

Name GEARY A HAURAN

Job Title President

Address 11001 Roosevelt Blvd N. STE 800

Phone 727-570-2293

Street

ST. PETERSBURG FL 33716

Email ghauran@ndhmedical.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing NDH Medical, Inc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

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11/25/16
Meeting Date

598
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Michael Rubin

Job Title VP Govt Affairs

Address 500 E Jefferson

Phone 350-002-8008

Street idk

City FL State FL Zip 30303

Email mike.dubno@pharos.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA Ports Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE

APPEARANCE RECORD

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1/25

Meeting Date

SB 98

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Rick KENDUST

Job Title STATE & local Manager

Address 2000 W NASA BLVD

Phone 321-474-9913

Street Melbourne FL 32903

Email Rick.KENDUST@NGC.COM

City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing NORTHROP GRUMMAN

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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APPEARANCE RECORD

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1-25-16

Meeting Date

98

Bill Number (if applicable)

Topic Sales & Use Tax

Amendment Barcode (if applicable)

Name Natalie King

Job Title VP

Address 235 W Brandon Blvd 640

Phone 813 924 8218

Street
Brandon FL 33511
City State Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Tampa Bay Partnership

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/25/16

Meeting Date

98

Bill Number (if applicable)

Topic MM's E Sales Tax

Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Sr. Legislative Advocate

Address PO Box 1757

Phone 850-701-3621

Street

Tall FL 32301

Email ahughes@flcities.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/25/16

Meeting Date

98

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVIN SOWB

Job Title TIGHT BUDGET DIRECTOR

Address _____

Phone _____

Street

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL Association of Counties

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

29 Jan 2016

Meeting Date

SB 98

Bill Number (if applicable)

Topic Manufacturing Equip. Sales Tax Exempt

Amendment Barcode (if applicable)

Name Stan Ferron

Job Title Govt Relations Coordinator

Address 2001 Old St. Augustine Rd D705

Phone (352) 312-5311

Street Tallahassee FL 32301

Email sferron@spaceflorida.gov

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Space Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-24-16

78

Meeting Date

Bill Number (if applicable)

Topic Machinery Sales Tax

Amendment Barcode (if applicable)

Name Brie Horvath

Job Title Ex. Director

Address 1402 T-tt

Phone 651 0416

Street

Email brie.horvath@ntb.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing National Federation of Independent Business

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE

APPEARANCE RECORD

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1-25-16

Meeting Date

98

Bill Number (if applicable)

Topic SB 98 Manufacturing Sales Tax

Amendment Barcode (if applicable)

Name Jon Castello

Job Title Lobbyist

Address 119 S. Monroe

Phone 681-6788

Street

Tallahassee FL 32301

Email jon@rentledge-econ.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing Associated Industries of FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/25/16

Meeting Date

98

Bill Number (if applicable)

Topic Sales tax Exemption on Manufacturing MCE

Amendment Barcode (if applicable)

Name FRENCH BROWN

Job Title Lobbyist

Address 119 S. MARLBOROUGH ST Suite 300

Phone 425-2227

Street

TALLAHASSEE FL 32301

Email frenchb@hgsllaw.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA CHAMBER

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/25/16

Meeting Date

SB 98

Bill Number (if applicable)

Topic Tax cuts

Amendment Barcode (if applicable)

Name Rick Templin

Job Title

Address 135 S. Monroe

Phone 50-224-0926

Street

Tallahassee

FL

32301

City

State

Zip

Email

Speaking: For [] Against [X] Information []

Waive Speaking: In Support [] Against [] (The Chair will read this information into the record.)

Representing Florida AFL-CIO

Appearing at request of Chair: Yes [] No [X]

Lobbyist registered with Legislature: Yes [X] No []

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-25-16

98

Meeting Date

Bill Number (if applicable)

Topic Manufacturing Machinery & Equipment Sales Tax Exemption

Amendment Barcode (if applicable)

Name Kurt Wenner

Job Title Vice President

Address 106 N. Bronough St

Phone 222-5052

Street

Tallahassee

FL

32301

Email kwenner@mindspring.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FloridaTaxWatch

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

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: CS/SB 346

INTRODUCER: Finance and Tax Committee and Senator Altman

SUBJECT: Local Government Infrastructure Surtax

DATE: January 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Favorable
2.	Gross	Diez-Arguelles	FT	Fav/CS
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 346 provides that a county may levy the Local Government Infrastructure Surtax for the purpose of funding capital projects to restore natural water bodies for public use, including tributaries, canals, stormwater conveyance systems, and channels connected to natural water bodies. The proceeds and interest from the surtax, or from the bonds pledging the surtax, may be used only for dredging operations related to ecologically beneficial muck removal.

The surtax must be enacted by ordinance and approved by a referendum.

The bill also reenacts specific sections of current law to incorporate the amendments by this act.

The bill does not increase or decrease state government revenues.

The bill takes effect July 1, 2016.

II. Present Situation:

Local Discretionary Sales Surtaxes

Sections 212.054 and 212.055, F.S., authorize counties to impose eight local discretionary sales surtaxes, including the Local Government Infrastructure Surtax. The surtax and the state's sales

and use tax are added to the price of taxable goods or services and the taxes are collected from the purchases at the time of sale.

A discretionary sales surtax applies to a transaction when:¹

- The selling dealer delivers taxable goods or taxable services in or into a county with a surtax.
- The event for which an admission is charged is located in a county with a surtax.
- The consumer of electric power is located in a county with a surtax.
- The sale of prepaid calling arrangements occurs in a county with a surtax.
- The location or delivery of tangible personal property covered by a service warranty is within a county with a surtax. The person receiving consideration for the issuance of a service warranty from the agreement holder must collect the surtax at the rate imposed by that county.
- The commercial real property that is leased or rented, or upon which a license for use is granted, is in a county with a surtax.
- The rental of living or sleeping accommodations (transient rentals) occurs in a county with a surtax.
- A registered dealer owing use tax on purchases or leases is located in a county with a surtax.

Local Government Infrastructure Surtax

The governing authority in each county may levy the Local Government Infrastructure Surtax, authorized in s. 212.055(2), F.S., after a majority vote of the electorate through a local referendum.² The surtax may be levied at 0.5 percent or 1.0 percent.³ Surtax proceeds are distributed to the county and the municipalities within the county according to an interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population. If there is no interlocal agreement, the proceeds are distributed according to the formula in s. 218.62, F.S.⁴

The proceeds of the surtax and any accrued interest must be expended only to:

- Finance, plan, and construct infrastructure.
- Acquire land for public recreation, conservation, or protection of natural resources.
- Provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing the use is approved by referendum.
- Finance the closure of county-owned or municipally-owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection.⁵

¹ Florida Department of Revenue, *Florida's Discretionary Sales Surtax, 2*, available at http://dor.myflorida.com/Forms_library/current/gt800019.pdf (last visited Jan. 19, 2015).

² Section 212.055(2)(a)1., F.S.

³ However, the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are limited to a maximum combined rate of 1 percent. Section 212.055(2)(h), F.S.

⁴ Section 212.055(2)(c)1., F.S. The agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities.

⁵ Section 212.055(2)(d), F.S.

Some counties are authorized to use surtax proceeds for other purposes under certain circumstances.⁶

While all counties are authorized to levy the surtax, only 18 counties currently do so. Two counties levy the surtax at the rate of 0.5 percent: Duval and Hillsborough. Sixteen counties levy the surtax at the rate of one percent: Charlotte, Clay, Escambia, Glades, Highlands, Indian River, Lake, Leon, Monroe, Osceola, Pasco, Pinellas, Putnam, Sarasota, Seminole, and Wakulla.⁷ During the 2015-2016 fiscal year, these counties are estimated to receive combined revenues of \$691,831,985.⁸

Combined Tax Rate Caps for Discretionary Sales Surtaxes

Florida law creates maximum “cap” amounts of discretionary surtax that may be levied in combination with one another.

A county may not levy the Local Government Infrastructure Surtax, the Small County Surtax, the Indigent Care and Trauma Center Surtax, and the County Public Hospital Surtax, in excess of a combined rate of one percent.⁹

A county may not levy the Local Government Infrastructure Surtax, the Small County Surtax, and the Indigent Care and Trauma Center Surtax in excess of a combined rate of one percent.¹⁰

A county cannot levy the Local Government Infrastructure Surtax, the Small County Surtax, and the County Public Hospital Surtax in excess of a combined rate of one percent.¹¹

A county cannot levy the Local Government Infrastructure Surtax, the Small County Surtax, and the Voter-approved Indigent Care Surtax in excess of a combined rate of one percent. Except, this cap may rise to 1.5 percent if a publicly supported medical school is located in the county or the county has a population of fewer than 50,000 residents.¹²

III. Effect of Proposed Changes:

The bill amends s. 212.055, F.S., to provide that a county may levy the Local Government Infrastructure Surtax for the purpose of funding capital projects to restore natural water bodies for public use. Proceeds and interest from the surtax, or from the bonds pledging the surtax for such use, may be spent only for dredging operations related to ecologically beneficial muck removal. The surtax must be enacted by ordinance and approved by a referendum.

⁶ See s. 212.055(2)(f) and (g), F.S. The criteria for using the proceeds for alternative uses is met by counties whose population was below 50,000 prior to April 1, 1992, counties of critical state concern that imposed the surtax prior to July 1, 1992, or counties whose population is greater than 75,000 in which the taxable value of real property is less than 60 percent of the just value of real property.

⁷ Office of Economic and Demographic Research, Florida Legislature, *Local Government Financial Information Handbook*, (Dec. 2014), available at <http://edr.state.fl.us/Content/local-government/reports/lghih14.pdf> (last visited Jan. 19, 2016).

⁸ Florida Revenue Estimating Conference, *Florida Tax Handbook*, pg. 226 (2015).

⁹ Section 212.055(2)(h), F.S.

¹⁰ Section 212.055(4)(b)5., F.S.

¹¹ Section 212.055(5)(f), F.S.

¹² Section 212.055(7)(f), F.S.

The bill also reenacts specific subsections of Florida Statutes to incorporate the changes made to s. 212.055(2), F.S. See section VIII, below.

The bill provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds, reduce the authority that counties or municipalities have to raise revenues in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

CS/SB 346 does not increase or decrease state government revenue.

B. Private Sector Impact:

CS/SB 346 does not directly impact the private sector, but if a county approves the surtax by referendum, it will increase the tax rate on transactions in the county.

C. Government Sector Impact:

CS/SB 346 does not provide additional taxing authority, but allows counties to use surtax proceeds for an additional purpose.

The Department of Revenue determined there would be no impact on the department.¹³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹³ Florida Department of Revenue, *Senate Bill 346 Fiscal Analysis* (Oct. 19, 2015) (on file with the Senate Committee on Finance and Tax).

VIII. Statutes Affected:

This bill substantially amends section 212.055 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 202.19, 202.20, 212.054, 212.0597, 212.20, and 1013.736.

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

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

CS by Finance and Tax on January 25, 2016:

The CS removes reference to s. 212.055(2)(c), F.S., relating to the distribution of funds among local governments. The bill as filed would allow the county to retain all the surtax proceeds. The amendment maintains the current distribution procedures for surtax proceeds to be shared with municipalities.

The CS also removes the language that authorizes a county to levy a discretionary sales surtax. The authorization is provided in s. 212.055(2)(a)1., F.S., under current law.

B. Amendments:

None.



252756

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/25/2016	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Altman) recommended the following:

Senate Amendment (with title amendment)

Delete lines 26 - 52

and insert:

Section 1. Paragraph (h) of subsection (2) of section 212.055, Florida Statutes, is redesignated as paragraph (i), and a new paragraph (h) is added to that subsection to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales



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11 surtax shall be published in the Florida Statutes as a
12 subsection of this section, irrespective of the duration of the
13 levy. Each enactment shall specify the types of counties
14 authorized to levy; the rate or rates which may be imposed; the
15 maximum length of time the surtax may be imposed, if any; the
16 procedure which must be followed to secure voter approval, if
17 required; the purpose for which the proceeds may be expended;
18 and such other requirements as the Legislature may provide.
19 Taxable transactions and administrative procedures shall be as
20 provided in s. 212.054.

21 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

22 (h) Notwithstanding paragraph (d), if approved by a
23 majority of the electors of the county voting in a referendum,
24 the proceeds of the surtax authorized by this subsection, and
25 any accrued interest, may be used for the purpose of funding
26 capital projects to restore natural water bodies for public use,
27 including tributaries, canals, stormwater conveyance systems,
28 and channels that are directly connected to such natural water
29 bodies. Such use is limited to dredging operations related to
30 ecologically beneficial muck

31
32 ===== T I T L E A M E N D M E N T =====

33 And the title is amended as follows:

34 Delete lines 2 - 8

35 and insert:

36 An act relating to local government infrastructure
37 surtax; amending s. 212.055, F.S.; authorizing
38 proceeds from a discretionary sales surtax to fund
39 capital restoration of natural water bodies for public



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40

use under certain circumstances; limiting uses to

By Senator Altman

16-00082-16

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1 A bill to be entitled
 2 An act relating to the local government infrastructure
 3 surtax; amending s. 212.055, F.S.; authorizing the
 4 governing authority of a county to levy a
 5 discretionary sales surtax to fund capital restoration
 6 of natural water bodies for public use; limiting
 7 expenditures of the proceeds and interest from the
 8 surtax or specified bonds that pledge the surtax to
 9 dredging operations related to ecologically beneficial
 10 muck removal; reenacting s. 202.19(5) and (8), F.S.,
 11 relating to the local communications services tax, s.
 12 202.20(3), F.S., relating to local communications
 13 services tax conversion rates, s. 212.054(1), (2) (a),
 14 and (4) (a) and (b), F.S., relating to discretionary
 15 sales surtaxes, s. 212.0597, F.S., relating to the
 16 maximum tax on fractional aircraft ownership
 17 interests, s. 212.20(6) (b), F.S., relating to the
 18 proceeds of discretionary sales surtaxes, and s.
 19 1013.736(2) (b), F.S., relating to eligibility for the
 20 District Effort Recognition Program, to incorporate
 21 the amendment made to s. 212.055(2), F.S., in
 22 references thereto; providing an effective date.
 23
 24 Be It Enacted by the Legislature of the State of Florida:
 25
 26 Section 1. Present paragraph (h) of subsection (2) of
 27 section 212.055, Florida Statutes, is redesignated as paragraph
 28 (i), and a new paragraph (h) is added to that subsection, to
 29 read:

Page 1 of 13

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00082-16

2016346__

30 212.055 Discretionary sales surtaxes; legislative intent;
 31 authorization and use of proceeds.—It is the legislative intent
 32 that any authorization for imposition of a discretionary sales
 33 surtax shall be published in the Florida Statutes as a
 34 subsection of this section, irrespective of the duration of the
 35 levy. Each enactment shall specify the types of counties
 36 authorized to levy; the rate or rates which may be imposed; the
 37 maximum length of time the surtax may be imposed, if any; the
 38 procedure which must be followed to secure voter approval, if
 39 required; the purpose for which the proceeds may be expended;
 40 and such other requirements as the Legislature may provide.
 41 Taxable transactions and administrative procedures shall be as
 42 provided in s. 212.054.
 43 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—
 44 (h) Notwithstanding paragraphs (c) and (d), the governing
 45 authority in each county may levy a discretionary sales surtax
 46 of 0.5 percent or 1 percent pursuant to paragraphs (a) and (b)
 47 for the purpose of funding capital restoration of natural water
 48 bodies for public use, including tributaries, canals, stormwater
 49 conveyance systems, and channels connected to such natural water
 50 bodies. The proceeds and interest from the surtax, or from the
 51 bonds pledging the surtax for such use, may be expended only for
 52 dredging operations related to ecologically beneficial muck
 53 removal.
 54 Section 2. For the purpose of incorporating the amendment
 55 made by this act to section 212.055(2), Florida Statutes, in
 56 references thereto, subsections (5) and (8) of section 202.19,
 57 Florida Statutes, are reenacted to read:
 58 202.19 Authorization to impose local communications

Page 2 of 13

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00082-16 2016346__

59 services tax.-
 60 (5) In addition to the communications services taxes
 61 authorized by subsection (1), a discretionary sales surtax that
 62 a county or school board has levied under s. 212.055 is imposed
 63 as a local communications services tax under this section, and
 64 the rate shall be determined in accordance with s. 202.20(3).
 65 (a) Except as otherwise provided in this subsection, each
 66 such tax rate shall be applied, in addition to the other tax
 67 rates applied under this chapter, to communications services
 68 subject to tax under s. 202.12 which:
 69 1. Originate or terminate in this state; and
 70 2. Are charged to a service address in the county.
 71 (b) With respect to private communications services, the
 72 tax shall be on the sales price of such services provided within
 73 the county, which shall be determined in accordance with the
 74 following provisions:
 75 1. Any charge with respect to a channel termination point
 76 located within such county;
 77 2. Any charge for the use of a channel between two channel
 78 termination points located in such county; and
 79 3. Where channel termination points are located both within
 80 and outside of such county:
 81 a. If any segment between two such channel termination
 82 points is separately billed, 50 percent of such charge; and
 83 b. If any segment of the circuit is not separately billed,
 84 an amount equal to the total charge for such circuit multiplied
 85 by a fraction, the numerator of which is the number of channel
 86 termination points within such county and the denominator of
 87 which is the total number of channel termination points of the

16-00082-16 2016346__

88 circuit.
 89 (8) The revenues raised by any tax imposed under subsection
 90 (1) or s. 202.20(1), or distributed to a local government
 91 pursuant to s. 202.18, may be used by a municipality or county
 92 for any public purpose, including, but not limited to, pledging
 93 such revenues for the repayment of current or future bonded
 94 indebtedness. Revenues raised by a tax imposed under subsection
 95 (5) shall be used for the same purposes as the underlying
 96 discretionary sales surtax imposed by the county or school board
 97 under s. 212.055.
 98 Section 3. For the purpose of incorporating the amendment
 99 made by this act to section 212.055(2), Florida Statutes, in a
 100 reference thereto, subsection (3) of section 202.20, Florida
 101 Statutes, is reenacted to read:
 102 202.20 Local communications services tax conversion rates.-
 103 (3) For any county or school board that levies a
 104 discretionary surtax under s. 212.055, the rate of such tax on
 105 communications services as authorized by s. 202.19(5) shall be
 106 as follows:
 107

County	.5%	1%	1.5%
	Discretionary	Discretionary	Discretionary
	surtax	surtax	surtax
	conversion	conversion	conversion
	rates	rates	rates
Alachua	0.3%	0.6%	0.8%

16-00082-16

2016346__

110	Baker	0.3%	0.5%	0.8%
111	Bay	0.3%	0.5%	0.8%
112	Bradford	0.3%	0.6%	0.8%
113	Brevard	0.3%	0.6%	0.9%
114	Broward	0.3%	0.5%	0.8%
115	Calhoun	0.3%	0.5%	0.8%
116	Charlotte	0.3%	0.6%	0.9%
117	Citrus	0.3%	0.6%	0.9%
118	Clay	0.3%	0.6%	0.8%
119	Collier	0.4%	0.7%	1.0%
120	Columbia	0.3%	0.6%	0.9%
121	Desoto	0.3%	0.6%	0.8%
122	Dixie	0.3%	0.5%	0.8%
123	Duval	0.3%	0.6%	0.8%
124				

16-00082-16

2016346__

125	Escambia	0.3%	0.6%	0.9%
126	Flagler	0.4%	0.7%	1.0%
127	Franklin	0.3%	0.6%	0.9%
128	Gadsden	0.3%	0.5%	0.8%
129	Gilchrist	0.3%	0.5%	0.7%
130	Glades	0.3%	0.6%	0.8%
131	Gulf	0.3%	0.5%	0.8%
132	Hamilton	0.3%	0.6%	0.8%
133	Hardee	0.3%	0.5%	0.8%
134	Hendry	0.3%	0.6%	0.9%
135	Hernando	0.3%	0.6%	0.9%
136	Highlands	0.3%	0.6%	0.9%
137	Hillsborough	0.3%	0.6%	0.8%
138	Holmes	0.3%	0.6%	0.8%
	Indian River	0.3%	0.6%	0.9%

	16-00082-16			2016346__
139				
140	Jackson	0.3%	0.5%	0.7%
141	Jefferson	0.3%	0.5%	0.8%
142	Lafayette	0.3%	0.5%	0.7%
143	Lake	0.3%	0.6%	0.9%
144	Lee	0.3%	0.6%	0.9%
145	Leon	0.3%	0.6%	0.8%
146	Levy	0.3%	0.5%	0.8%
147	Liberty	0.3%	0.6%	0.8%
148	Madison	0.3%	0.5%	0.8%
149	Manatee	0.3%	0.6%	0.8%
150	Marion	0.3%	0.5%	0.8%
151	Martin	0.3%	0.6%	0.8%
152	Miami-Dade	0.3%	0.5%	0.8%
153	Monroe	0.3%	0.6%	0.9%

	16-00082-16			2016346__
154	Nassau	0.3%	0.6%	0.8%
155	Okaloosa	0.3%	0.6%	0.8%
156	Okeechobee	0.3%	0.6%	0.9%
157	Orange	0.3%	0.5%	0.8%
158	Osceola	0.3%	0.5%	0.8%
159	Palm Beach	0.3%	0.6%	0.8%
160	Pasco	0.3%	0.6%	0.9%
161	Pinellas	0.3%	0.6%	0.9%
162	Polk	0.3%	0.6%	0.8%
163	Putnam	0.3%	0.6%	0.8%
164	St. Johns	0.3%	0.6%	0.8%
165	St. Lucie	0.3%	0.6%	0.8%
166	Santa Rosa	0.3%	0.6%	0.9%
167	Sarasota	0.3%	0.6%	0.9%
	Seminole	0.3%	0.6%	0.8%

	16-00082-16		2016346	
168	Sumter	0.3%	0.5%	0.8%
169	Suwannee	0.3%	0.6%	0.8%
170	Taylor	0.3%	0.6%	0.9%
171	Union	0.3%	0.5%	0.8%
172	Volusia	0.3%	0.6%	0.8%
173	Wakulla	0.3%	0.6%	0.9%
174	Walton	0.3%	0.6%	0.9%
175	Washington	0.3%	0.5%	0.8%

177 The discretionary surtax conversion rate with respect to
 178 communications services reflected on bills dated on or after
 179 October 1, 2001, shall take effect without any further action by
 180 a county or school board that has levied a surtax on or before
 181 October 1, 2001. For a county or school board that levies a
 182 surtax subsequent to October 1, 2001, the discretionary surtax
 183 conversion rate with respect to communications services shall
 184 take effect upon the effective date of the surtax as provided in
 185 s. 212.054. The discretionary sales surtax rate on
 186 communications services for a county or school board levying a
 187 combined rate which is not listed in the table provided by this
 188 subsection shall be calculated by averaging or adding the

16-00082-16 2016346
 189 appropriate rates from the table and rounding up to the nearest
 190 tenth of a percent.

191 Section 4. For the purpose of incorporating the amendment
 192 made by this act to section 212.055(2), Florida Statutes, in
 193 references thereto, subsection (1), paragraph (a) of subsection
 194 (2), and paragraphs (a) and (b) of subsection (4) of section
 195 212.054, Florida Statutes, are reenacted to read:

196 212.054 Discretionary sales surtax; limitations,
 197 administration, and collection.—

198 (1) No general excise tax on sales shall be levied by the
 199 governing body of any county unless specifically authorized in
 200 s. 212.055. Any general excise tax on sales authorized pursuant
 201 to said section shall be administered and collected exclusively
 202 as provided in this section.

203 (2) (a) The tax imposed by the governing body of any county
 204 authorized to so levy pursuant to s. 212.055 shall be a
 205 discretionary surtax on all transactions occurring in the county
 206 which transactions are subject to the state tax imposed on
 207 sales, use, services, rentals, admissions, and other
 208 transactions by this chapter and communications services as
 209 defined for purposes of chapter 202. The surtax, if levied,
 210 shall be computed as the applicable rate or rates authorized
 211 pursuant to s. 212.055 times the amount of taxable sales and
 212 taxable purchases representing such transactions. If the surtax
 213 is levied on the sale of an item of tangible personal property
 214 or on the sale of a service, the surtax shall be computed by
 215 multiplying the rate imposed by the county within which the sale
 216 occurs by the amount of the taxable sale. The sale of an item of
 217 tangible personal property or the sale of a service is not

16-00082-16

2016346__

218 subject to the surtax if the property, the service, or the
219 tangible personal property representing the service is delivered
220 within a county that does not impose a discretionary sales
221 surtax.

222 (4) (a) The department shall administer, collect, and
223 enforce the tax authorized under s. 212.055 pursuant to the same
224 procedures used in the administration, collection, and
225 enforcement of the general state sales tax imposed under the
226 provisions of this chapter, except as provided in this section.
227 The provisions of this chapter regarding interest and penalties
228 on delinquent taxes shall apply to the surtax. Discretionary
229 sales surtaxes shall not be included in the computation of
230 estimated taxes pursuant to s. 212.11. Notwithstanding any other
231 provision of law, a dealer need not separately state the amount
232 of the surtax on the charge ticket, sales slip, invoice, or
233 other tangible evidence of sale. For the purposes of this
234 section and s. 212.055, the "proceeds" of any surtax means all
235 funds collected and received by the department pursuant to a
236 specific authorization and levy under s. 212.055, including any
237 interest and penalties on delinquent surtaxes.

238 (b) The proceeds of a discretionary sales surtax collected
239 by the selling dealer located in a county imposing the surtax
240 shall be returned, less the cost of administration, to the
241 county where the selling dealer is located. The proceeds shall
242 be transferred to the Discretionary Sales Surtax Clearing Trust
243 Fund. A separate account shall be established in the trust fund
244 for each county imposing a discretionary surtax. The amount
245 deducted for the costs of administration may not exceed 3
246 percent of the total revenue generated for all counties levying

16-00082-16

2016346__

247 a surtax authorized in s. 212.055. The amount deducted for the
248 costs of administration may be used only for costs that are
249 solely and directly attributable to the surtax. The total cost
250 of administration shall be prorated among those counties levying
251 the surtax on the basis of the amount collected for a particular
252 county to the total amount collected for all counties. The
253 department shall distribute the moneys in the trust fund to the
254 appropriate counties each month, unless otherwise provided in s.
255 212.055.

256 Section 5. For the purpose of incorporating the amendment
257 made by this act to section 212.055(2), Florida Statutes, in a
258 reference thereto, section 212.0597, Florida Statutes, is
259 reenacted to read:

260 212.0597 Maximum tax on fractional aircraft ownership
261 interests.—The maximum tax imposed under this chapter, including
262 any discretionary sales surtax under s. 212.055, is limited to
263 \$300 on the sale or use in this state of a fractional ownership
264 interest in aircraft pursuant to a fractional aircraft ownership
265 program. The tax applies to the total consideration paid for the
266 fractional ownership interest, including any amounts paid by the
267 fractional owner as monthly management or maintenance fees. The
268 tax applies only if the fractional ownership interest is sold by
269 or to the program manager of the fractional aircraft ownership
270 program, or if the fractional ownership interest is transferred
271 upon the approval of the program manager of the fractional
272 aircraft ownership program.

273 Section 6. For the purpose of incorporating the amendment
274 made by this act to section 212.055(2), Florida Statutes, in a
275 reference thereto, paragraph (b) of subsection (6) of section

16-00082-16

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276 212.20, Florida Statutes, is reenacted to read:

277 212.20 Funds collected, disposition; additional powers of
278 department; operational expense; refund of taxes adjudicated
279 unconstitutionally collected.-

280 (6) Distribution of all proceeds under this chapter and ss.
281 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

282 (b) Proceeds from discretionary sales surtaxes imposed
283 pursuant to ss. 212.054 and 212.055 shall be reallocated to the
284 Discretionary Sales Surtax Clearing Trust Fund.

285 Section 7. For the purpose of incorporating the amendment
286 made by this act to section 212.055(2), Florida Statutes, in a
287 reference thereto, paragraph (b) of subsection (2) of section
288 1013.736, Florida Statutes, is reenacted to read:

289 1013.736 District Effort Recognition Program.-

290 (2) ELIGIBILITY.-Annually, the Department of Education
291 shall determine each district's compliance with the provisions
292 of s. 1003.03 and determine the district's eligibility to
293 receive a district effort recognition grant for local school
294 facilities projects pursuant to this section. Districts shall be
295 eligible for a district effort recognition grant based upon
296 participation in any of the following:

297 (b) The district participates in the levy of the local
298 government infrastructure sales surtax authorized in s.
299 212.055(2).

300 Section 8. This act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR THAD ALTMAN
16th District

COMMITTEES:

Military Affairs, Space, and Domestic Security, *Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Finance and Tax
Children, Families, and Elder Affairs
Criminal Justice
Environmental Preservation and Conservation

SELECT COMMITTEE

Indian River Lagoon and Lake Okeechobee

JOINT COMMITTEE:

Joint Administrative Procedures Committee

December 2, 2015

The Honorable Dorothy Hukill
Senate Committee on Finance & Tax, Chair
207 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Madame Chair Hukill:

I respectfully request that SB 346, related to *Local Government Infrastructure Surtax*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Thad Altman".

Thad Altman

CC: Jose Diez-Arguelles, Staff Director, Suite 207, The Capitol
Lynn Wells, Committee Administrative Assistant

TA/dw

REPLY TO:

- 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/25/16

Meeting Date

346

Bill Number (if applicable)

Topic SALES TAX

Amendment Barcode (if applicable)

Name KURT SPITZER

Job Title EXEC. DIRECTOR

Address 719 E PARK AVE

Phone 561-0904

Street

City

T

State

32301

Zip

Email

Speaking: [X] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing FL. STORMWATER ASSOCIATION

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

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: CS/CS/SB 488

INTRODUCER: Finance and Tax Committee; Community Affairs Committee; and Senator Flores

SUBJECT: County and Municipality Homestead Tax Exemption

DATE: January 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Fav/CS
2.	Babin	Diez-Arguelles	FT	Fav/CS
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 488 provides that for purposes of the property tax exemption for long-term, low-income seniors who have a homestead with a just value less than \$250,000, the \$250,000 limitation is measured at the time the owner first applies and is eligible for the exemption.

The bill is effective on the same date CS/SJR 492 or a similar joint resolution takes effect. If CS/SJR 492 is approved by voters at the November 2016 general election, CS/CS/SB 488 will become effective on January 1, 2017, and will apply retroactively to the 2013 property tax roll for any person who received the exemption before the effective date of the bill.

The Revenue Estimating Conference (REC) has analyzed similar legislation (HB 277 (2016)), which did not include the retroactive provisions of CS/CS/SB 488. The REC determined that it has an indeterminate impact because it is contingent on a joint resolution (HJR 275 (2016)), which requires voter approval. If the joint resolution is approved by the voters and the bill is fully implemented only within the jurisdictions that currently provide the exemption, the bill will reduce local property taxes by \$500,000 in Fiscal Year 2017-2018, with a recurring impact of \$1.2 million.

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 authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and 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 result 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

Property Tax Exemptions for Homesteads

Statewide Homestead Exemption

Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹¹ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. This exemption does not apply to ad valorem taxes levied by school districts.

Additional Homestead Exemptions for Qualified Senior Citizens

The Florida Constitution also authorizes the Legislature to allow counties and municipalities to grant additional homestead property tax exemptions for persons aged 65 years or over whose

¹ Both real property and tangible personal property can be 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.

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 FLA. CONST. art VII, s. 6(a) and s. 196.031, F.S.

household income does not exceed \$20,000 (low-income seniors).¹² The income limitation is adjusted each year according to changes in the consumer price index; the 2015 household income threshold for these exemptions is \$28,448.¹³ The exemptions require the owner to hold legal or equitable title to the real estate and maintain thereon their permanent residence.

\$50,000 Additional Exemption. Since 1999, counties and municipalities have been authorized to grant an additional homestead exemption not exceeding \$50,000 for low-income seniors.¹⁴

Long-term, Low-Income Seniors with Homesteads under \$250,000. Since 2013, counties and municipalities have been authorized to also exempt the entire assessed value of a low-income senior's homestead with a just value less than \$250,000 if the low-income senior has maintained that homestead for not less than 25 years.¹⁵ Taxpayers who initially receive the exemption are denied the exemption in a later year if the just value of their homestead exceeds \$250,000.

A county or municipality may grant either or both of the additional exemptions and must do so by ordinance pursuant to the procedures prescribed in chapter 125 or 166, F.S.¹⁶ The ordinance must specify that the exemption applies only to taxes levied by the unit of government granting the exemption.¹⁷

For purposes of the exemption, "household income" means "the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household."¹⁸ The term "household" means "a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling."¹⁹

III. Effect of Proposed Changes:

Section 1 amends s. 196.075(2)(b), F.S., to provide that for purposes of the long-term, low-income senior exemption for homesteads with a just value under \$250,000, the \$250,000 limitation is measured at the time the property owner first applies and is eligible for the exemption.

Section 2 provides that the just value of property that received the exemption prior to the effective date of the bill, is the just value as determined in the first year that the owner applied and was eligible for the exemption, and the person may reapply for the exemption in subsequent years, regardless of the current just value of the property.

¹² Fla. Const. Art. VII, s. 6(d)(1) and (2).

¹³ Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, available at <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited Jan. 20, 2016).

¹⁴ FLA. CONST. art. VII, s. 6(d)(1) and s. 196.075(2)(a), F.S.

¹⁵ Fla. Const. art. VII, s. 6(d)(2) and s. 196.075(2)(b), F.S.

¹⁶ Section 196.075(4)(a), F.S.

¹⁷ Because the exemption applies only to taxes levied by the county or municipality that enacts the exemption, it does not apply to taxes levied by school districts or other taxing authorities. *See* s. 196.075, F.S.

¹⁸ Section 196.075(1)(b), F.S.

¹⁹ Section 196.075(1)(a), F.S.

Section 3 provides that persons who received the exemption prior to the effective date of the bill, but were denied the exemption in a later year solely because the just value of the property exceeded \$250,000, may apply to the tax collector for a refund. The refund is equal to the difference between the previous tax liability for the year or years without the exemption and the tax liability with the exemption.

Section 4 of the bill provides that the bill becomes effective on the same date that CS/SJR 492 or a similar joint resolution becomes effective. If CS/SJR 492 or a similar joint resolution is approved at the November 2016 general election, the bill will become effective on January 1, 2017, and will apply retroactively to the 2013 tax roll, for any person who received the exemption prior to January 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

CS/CS/SB 488 does not require counties or municipalities to spend funds or take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenues in the aggregate, or reduce the percentage of state tax shared with counties or municipalities. As such, it does not fall within the mandate provisions of Article VII, section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) has analyzed similar legislation (HB 277 (2016)), which did not include the retroactive provisions of CS/CS/SB 488. The REC determined that it has an indeterminate impact because it is contingent on a joint resolution (HJR 275 (2016)), which requires voter approval. If the joint resolution is approved by the voters and the bill is fully implemented only within the jurisdictions that currently provide the exemption, the bill will reduce local property taxes by \$500,000 in Fiscal Year 2017-2018, with a recurring impact of \$1.2 million. If all counties and municipalities choose to grant the exemption, the legislation will reduce local property taxes by \$1.6 million in Fiscal Year 2017-2018, with a recurring impact of \$4.2 million.

B. Private Sector Impact:

None.

C. **Government Sector Impact:**

None.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 196.075 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.)

CS/CS by Finance and Tax on January 25, 2016:

The CS/CS:

- Clarifies that the \$250,000 limitation is measured at the time that a person applies and qualifies for the exemption.
- Changes the effective date from January 3, 2017, to January 1, 2017, and applies the provisions of the bill retroactively to the 2013 property tax roll for any person who received the exemption prior to January 1, 2017.
- Provides refunds for any person who received the exemption prior to the effective date of the bill, but was later denied the exemption solely because the just value of his or her property exceeded \$250,000.

CS by Community Affairs on November 17, 2015:

Inserts the linked bill, SJR 492, into the effective date of the bill.

B. **Amendments:**

None.



562194

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/25/2016	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Flores) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (2) of section 196.075, Florida
Statutes, is amended to read:

196.075 Additional homestead exemption for persons 65 and
older.—

(2) In accordance with s. 6(d), Art. VII of the State
Constitution, the board of county commissioners of any county or



562194

11 the governing authority of any municipality may adopt an
12 ordinance to allow either or both of the following additional
13 homestead exemptions:

14 (a) Up to \$50,000 for a ~~any~~ person who has the legal or
15 equitable title to real estate and maintains thereon the
16 permanent residence of the owner, who has attained age 65, and
17 whose household income does not exceed \$20,000. ~~or~~

18 (b) The amount of the assessed value of the property for a
19 ~~any~~ person who has the legal or equitable title to real estate
20 with a just value less than \$250,000, as determined in the first
21 tax year that the owner applies and is eligible for the
22 exemption, and who has maintained thereon the permanent
23 residence of the owner for at least 25 years, who has attained
24 age 65, and whose household income does not exceed the income
25 limitation prescribed in paragraph (a), as calculated in
26 subsection (3).

27 Section 2. For purposes of s. 196.075(2)(b), Florida
28 Statutes, as amended by this act, the just value determination
29 for a person who received the exemption under s. 196.075(2)(b),
30 Florida Statutes, before the effective date of this act shall be
31 the just value as determined in the first tax year that the
32 owner applied and was eligible for the exemption before the
33 effective date of this act. Such person may reapply for the
34 exemption in subsequent years, regardless of the current just
35 value of his or her homestead property.

36 Section 3. For purposes of s. 196.075(2)(b), Florida
37 Statutes, as amended by this act, a person who received the
38 exemption under s. 196.075(2)(b), Florida Statutes, before the
39 effective date of this act may apply to the tax collector for a



562194

40 refund, pursuant to s. 197.182, Florida Statutes, for any prior
41 year in which the exemption was denied solely because the just
42 value of the homestead property was greater than \$250,000. The
43 refund for any year shall be equal to the difference between the
44 previous tax liability for that year without the exemption and
45 the tax liability with the exemption.

46 Section 4. This act shall take effect on the same date that
47 CS/SJR 492 or a similar joint resolution having substantially
48 the same specific intent and purpose takes effect, if such joint
49 resolution is approved by the electors at the general election
50 to be held in November 2016, and shall apply retroactively to
51 the 2013 tax roll for any person who received the exemption
52 under s. 196.075(2) (b) before the effective date of this act.

53
54 ===== T I T L E A M E N D M E N T =====

55 And the title is amended as follows:

56 Delete everything before the enacting clause
57 and insert:

58 A bill to be entitled
59 An act relating to a county and municipality homestead
60 tax exemption; amending s. 196.075, F.S.; revising the
61 homestead tax exemption that may be adopted by a
62 county or municipality by ordinance for the assessed
63 value of property with a just value less than \$250,000
64 which is owned by persons age 65 or older who meet
65 certain residence and income requirements; specifying
66 that just value shall be determined in the first tax
67 year that the owner applies and is eligible for the
68 exemption; providing for a refund of overpaid taxes in



562194

69
70

prior years; providing retroactive applicability;
providing a contingent effective date.

By the Committee on Community Affairs; and Senator Flores

578-01295-16

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1 A bill to be entitled
 2 An act relating to a county and municipality homestead
 3 tax exemption; amending s. 196.075, F.S.; revising the
 4 homestead tax exemption that may be adopted by a
 5 county or municipality by ordinance for the assessed
 6 value of property with a just value less than \$250,000
 7 which is owned by persons age 65 or older who meet
 8 certain residence and income requirements; specifying
 9 that just value shall be determined at the time of the
 10 owner's initial application for the exemption;
 11 providing a contingent effective date.

13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Subsection (2) of section 196.075, Florida
 16 Statutes, is amended to read:

17 196.075 Additional homestead exemption for persons 65 and
 18 older.—

19 (2) In accordance with s. 6(d), Art. VII of the State
 20 Constitution, the board of county commissioners of any county or
 21 the governing authority of any municipality may adopt an
 22 ordinance to allow either or both of the following additional
 23 homestead exemptions:

24 (a) Up to \$50,000 for a ~~any~~ person who has the legal or
 25 equitable title to real estate and maintains thereon the
 26 permanent residence of the owner, who has attained age 65, and
 27 whose household income does not exceed \$20,000. ~~—or~~

28 (b) The amount of the assessed value of the property for a
 29 ~~any~~ person who has the legal or equitable title to real estate

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

578-01295-16

2016488c1

30 with a just value less than \$250,000, as determined at the time
 31 of the owner's initial application for the exemption, and who
 32 has maintained thereon the permanent residence of the owner for
 33 at least 25 years, who has attained age 65, and whose household
 34 income does not exceed the income limitation prescribed in
 35 paragraph (a), as calculated in subsection (3).

36 Section 2. This act shall take effect on the same date that
 37 SJR 492 or a similar joint resolution having substantially the
 38 same specific intent and purpose takes effect, if such joint
 39 resolution is approved by the electors at the general election
 40 to be held in November 2016 or at an earlier special election
 41 specifically authorized by law for that purpose.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



The Florida Senate

Committee Agenda Request

To: Senator Dorothy L. Hukill, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: November 17, 2015

I respectfully request that **Senate Bill #488**, relating to County and Municipality Homestead Tax Exemption, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

THE FLORIDA SENATE

APPEARANCE RECORD

1/25/16

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

CS/SB 488

Meeting Date

Bill Number (if applicable)

Topic County and Municipality Homestead Exemption Amendment Barcode (if applicable)

Name Martha W. Cleaver

Job Title Governmental Consultant

Address P.O. Box 11275

Phone 850/491-1945

Street Tallahassee Fl 32302

Email marthacleaver@fapa.net

City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Association of Property Appraisers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

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: CS/SJR 492

INTRODUCER: Finance and Tax Committee and Senator Flores

SUBJECT: Homestead Tax Exemption

DATE: January 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SJR 492 proposes an amendment to the Florida Constitution to provide that for purposes of the property tax exemption for long-term, low-income seniors who have a homestead with a just value less than \$250,000, the \$250,000 limitation is measured at the time the owner first applies and is eligible for the exemption.

CS/SJR 492 will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

If approved by the voters in the general election held November 2016, CS/SJR 492 will become effective on January 1, 2017, and will operate retroactively to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

The Revenue Estimating Conference (REC) has analyzed similar legislation (HJR 275 (2016)), which did not include the retroactive provisions of CS/SJR 492. The REC determined that it has an indeterminate impact because it requires voter approval. If approved by the voters and fully implemented only within the jurisdictions that currently provide the exemption, the legislation would reduce local property taxes by \$500,000 in Fiscal Year 2017-2018, with a recurring impact of \$1.2 million.

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 authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and 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 result 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

Property Tax Exemptions for Homesteads

Statewide Homestead Exemption

Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹¹ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. This exemption does not apply to ad valorem taxes levied by school districts.

¹ Both real property and tangible personal property can be 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.

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 FLA. CONST. art VII, s. 6(a).

Additional Homestead Exemptions for Qualified Senior Citizens

The Florida Constitution also authorizes the Legislature to allow counties and municipalities to grant additional homestead property tax exemptions for persons aged 65 years or over whose household income does not exceed \$20,000 (low-income seniors).¹² The income limitation is adjusted each year according to changes in the consumer price index; the 2015 household income threshold for these exemptions is \$28,448.¹³ The exemptions require the owner to hold legal or equitable title to the real estate and maintain thereon their permanent residence.

\$50,000 Additional Exemption. Since 1999, counties and municipalities have been authorized to grant an additional homestead exemption not exceeding \$50,000 for low-income seniors.¹⁴

Long-term, Low-Income Seniors with Homesteads under \$250,000. Since 2013, counties and municipalities have been authorized to also exempt the entire assessed value of a low-income senior's homestead with a just value less than \$250,000 if the low-income senior has maintained that homestead for not less than 25 years.¹⁵ Taxpayers who initially receive the exemption are denied the exemption in a later year if the just value of their homestead exceeds \$250,000.

A county or municipality may grant either or both of the additional exemptions and must do so by ordinance pursuant to the procedures prescribed in chapter 125 or 166, F.S.¹⁶ The ordinance must specify that the exemption applies only to taxes levied by the unit of government granting the exemption.¹⁷

For purposes of the exemption, "household income" means "the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household."¹⁸ The term "household" means "a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling."¹⁹

III. Effect of Proposed Changes:

CS/SJR 492 amends Article VII, section 6 of the Florida Constitution to provide that for purposes of the long-term, low-income senior exemption for homesteads with a just value under \$250,000, the \$250,000 limitation is measured at the time the property owner first applies and is eligible for the exemption.

¹² Fla. Const. Art. VII, s. 6(d)(1) and (2).

¹³ Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, available at <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited Jan. 20, 2016).

¹⁴ FLA. CONST. art. VII, s. 6(d)(1) and s. 196.075(2), F.S.

¹⁵ Fla. Const. art. VII, s. 6(d)(2).

¹⁶ Section 196.075(4)(a), F.S.

¹⁷ Because the exemption applies only to taxes levied by the county or municipality that enacts the exemption, it does not apply to taxes levied by school districts or other taxing authorities. *See* s. 196.075, F.S.

¹⁸ Section 196.075(1)(b), F.S.

¹⁹ Section 196.075(1)(a), F.S.

If approved by 60 percent of voters at the November 2016 general election, the proposed constitutional amendment will be effective on January 1, 2017, and is retroactive to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in Article VII, section 18 of the Florida Constitution do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article XI, section 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose. Article XI, section 5(a) of the Florida Constitution and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”²⁰

Article XI, section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held. The Department of State estimated that the costs for advertising the proposed constitutional amendment will be approximately \$136 per word with a minimum total publishing cost of \$132,570.²¹

Article XI, section 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved,

²⁰ *Roberts v. Doyle*, 43 So. 3d 654, 659 (Fla. 2010), citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

²¹ The Department of State made this determination based on the cost to advertise a constitutional amendment during the 2014 general election. E-mail from Christie Burrus, Director of Legislative Affairs, Florida Department of State (Oct. 29, 2015).

becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) has analyzed similar legislation (HJR 275 (2016)), which did not include the retroactive provisions of CS/SJR 492. The REC determined that it has an indeterminate impact because it requires voter approval. If approved by the voters and fully implemented only within the jurisdictions that currently provide the exemption, the legislation would reduce local property taxes by \$500,000 in Fiscal Year 2017-2018, with a recurring impact of \$1.2 million. If all counties and municipalities choose to grant the exemption, the legislation will reduce local property taxes by \$1.6 million in Fiscal Year 2017-2018, with a recurring impact of \$4.2 million.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Article XI, section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held. The Department of State estimated that the costs for advertising the proposed constitutional amendment will be approximately \$136 per word with a minimum total publishing cost of \$132,570.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

CS/SJR 492 substantially amends the following articles of the Florida Constitution: Article VII, section 6; Article XII.

²² *Id.*

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 Finance and Tax on January 25, 2016:

The CS:

- Clarifies that the \$250,000 limitation is measured at the time that a person applies and is eligible for the exemption.
- Changes the effective date from January 3, 2017, to January 1, 2017, and makes the amendment retroactive to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

- B. **Amendments:**

None.

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



915198

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/25/2016	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Flores) recommended the following:

Senate Amendment (with ballot and title amendments)

Delete everything after the resolving clause
and insert:

That the following amendment to Section 6 of Article VII
and the creation of a new section in Article XII of the State
Constitution are agreed to and shall be submitted to the
electors of this state for approval or rejection at the next
general election or at an earlier special election specifically
authorized by law for that purpose:



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ARTICLE VII
FINANCE AND TAXATION

SECTION 6. Homestead exemptions.—

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district levies, on the assessed valuation greater than fifty thousand dollars and up to seventy-five thousand dollars, upon establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the entirety, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years. The exemption shall not apply with respect to any assessment roll until such roll is first determined to be in compliance with the provisions of section 4 by a state agency designated by general law. This exemption is repealed on the effective date of any amendment to this Article which provides for the assessment of homestead property at less than just value.

(b) Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit. No exemption shall exceed the value of the real estate assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which the interest in the corporation bears to the assessed



915198

40 value of the property.

41 (c) By general law and subject to conditions specified
42 therein, the Legislature may provide to renters, who are
43 permanent residents, ad valorem tax relief on all ad valorem tax
44 levies. Such ad valorem tax relief shall be in the form and
45 amount established by general law.

46 (d) The legislature may, by general law, allow counties or
47 municipalities, for the purpose of their respective tax levies
48 and subject to the provisions of general law, to grant either or
49 both of the following additional homestead tax exemptions:

50 (1) An exemption not exceeding fifty thousand dollars to a
51 ~~any~~ person who has the legal or equitable title to real estate
52 and maintains thereon the permanent residence of the owner, and
53 who has attained age sixty-five, and whose household income, as
54 defined by general law, does not exceed twenty thousand dollars;
55 or

56 (2) An exemption equal to the assessed value of the
57 property to a ~~any~~ person who has the legal or equitable title to
58 real estate with a just value less than two hundred and fifty
59 thousand dollars, as determined in the first tax year that the
60 owner applies and is eligible for the exemption, and who has
61 maintained thereon the permanent residence of the owner for not
62 less than twenty-five years, and who has attained age sixty-
63 five, and whose household income does not exceed the income
64 limitation prescribed in paragraph (1).

65
66 The general law must allow counties and municipalities to grant
67 these additional exemptions, within the limits prescribed in
68 this subsection, by ordinance adopted in the manner prescribed



915198

69 by general law, and must provide for the periodic adjustment of
70 the income limitation prescribed in this subsection for changes
71 in the cost of living.

72 (e) Each veteran who is age 65 or older who is partially or
73 totally permanently disabled shall receive a discount from the
74 amount of the ad valorem tax otherwise owed on homestead
75 property the veteran owns and resides in if the disability was
76 combat related and the veteran was honorably discharged upon
77 separation from military service. The discount shall be in a
78 percentage equal to the percentage of the veteran's permanent,
79 service-connected disability as determined by the United States
80 Department of Veterans Affairs. To qualify for the discount
81 granted by this subsection, an applicant must submit to the
82 county property appraiser, by March 1, an official letter from
83 the United States Department of Veterans Affairs stating the
84 percentage of the veteran's service-connected disability and
85 such evidence that reasonably identifies the disability as
86 combat related and a copy of the veteran's honorable discharge.
87 If the property appraiser denies the request for a discount, the
88 appraiser must notify the applicant in writing of the reasons
89 for the denial, and the veteran may reapply. The Legislature
90 may, by general law, waive the annual application requirement in
91 subsequent years. This subsection is self-executing and does not
92 require implementing legislation.

93 (f) By general law and subject to conditions and
94 limitations specified therein, the Legislature may provide ad
95 valorem tax relief equal to the total amount or a portion of the
96 ad valorem tax otherwise owed on homestead property to the:

97 (1) Surviving spouse of a veteran who died from service-



915198

98 connected causes while on active duty as a member of the United
99 States Armed Forces.

100 (2) Surviving spouse of a first responder who died in the
101 line of duty.

102 (3) As used in this subsection and as further defined by
103 general law, the term:

104 a. "First responder" means a law enforcement officer, a
105 correctional officer, a firefighter, an emergency medical
106 technician, or a paramedic.

107 b. "In the line of duty" means arising out of and in the
108 actual performance of duty required by employment as a first
109 responder.

110 ARTICLE XII

111 SCHEDULE

112 Additional ad valorem exemption for persons age sixty-five
113 or older.—This section and the amendment to Section 6 of Article
114 VII revising the just value determination for the additional ad
115 valorem tax exemption for persons age sixty-five or older shall
116 take effect January 1, 2017, following approval by the electors,
117 and shall operate retroactively to January 1, 2013, for any
118 person who received the exemption under paragraph (2) of Section
119 6(d) of Article VII before January 1, 2017.

120
121 ===== B A L L O T S T A T E M E N T A M E N D M E N T =====

122 And the ballot statement is amended as follows:

123 Delete everything after the resolving clause
124 and insert:

125 CONSTITUTIONAL AMENDMENT

126 ARTICLE VII, SECTION 6



915198

ARTICLE XII

HOMESTEAD TAX EXEMPTION FOR CERTAIN SENIOR, LOW-INCOME,
LONG-TERM RESIDENTS; DETERMINATION OF JUST VALUE.—Proposing an
amendment to the State Constitution to revise the homestead tax
exemption that may be granted by counties or municipalities for
property with just value less than \$250,000 owned by certain
senior, low-income, long-term residents to specify that just
value is determined in the first tax year the owner applies and
is eligible for the exemption. The amendment takes effect
January 1, 2017, and applies retroactively to exemptions granted
before January 1, 2017.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the resolving clause
and insert:

Senate Joint Resolution

A joint resolution proposing an amendment to Section 6
of Article VII and the creation of a new section in
Article XII of the State Constitution to revise the
homestead tax exemption that may be granted by
counties or municipalities, if authorized by general
law, for the assessed value of property with a just
value less than \$250,000 and owned by persons age 65
or older who meet certain residence and income
requirements to specify that just value shall be
determined in the first tax year that the owner
applies and is eligible for the exemption and to
provide retroactive applicability and an effective



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156

date.

By Senator Flores

37-00700-16

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Senate Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII of the State Constitution to revise the homestead tax exemption that may be granted by counties or municipalities, if authorized by general law, for the assessed value of property with a just value less than \$250,000 and owned by persons age 65 or older who meet certain residence and income requirements to specify that just value shall be determined at the time of the owner's initial application for the exemption.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 6 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.—

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district levies, on the assessed valuation greater than fifty thousand

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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dollars and up to seventy-five thousand dollars, upon establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years. The exemption shall not apply with respect to any assessment roll until such roll is first determined to be in compliance with the provisions of section 4 by a state agency designated by general law. This exemption is repealed on the effective date of any amendment to this Article which provides for the assessment of homestead property at less than just value.

(b) Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit. No exemption shall exceed the value of the real estate assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which the interest in the corporation bears to the assessed value of the property.

(c) By general law and subject to conditions specified therein, the Legislature may provide to renters, who are permanent residents, ad valorem tax relief on all ad valorem tax levies. Such ad valorem tax relief shall be in the form and amount established by general law.

(d) The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant either or both of the following additional homestead tax exemptions:

Page 2 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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59 (1) An exemption not exceeding fifty thousand dollars to a
 60 ~~any~~ person who has the legal or equitable title to real estate
 61 and maintains thereon the permanent residence of the owner, ~~and~~
 62 who has attained age sixty-five, and whose household income, as
 63 defined by general law, does not exceed twenty thousand dollars;
 64 or

65 (2) An exemption equal to the assessed value of the
 66 property to a ~~any~~ person who has the legal or equitable title to
 67 real estate with a just value less than two hundred and fifty
 68 thousand dollars, as determined at the time of the owner's
 69 initial application for the exemption, and who has maintained
 70 thereon the permanent residence of the owner for not less than
 71 twenty-five years, ~~and~~ who has attained age sixty-five, and
 72 whose household income does not exceed the income limitation
 73 prescribed in paragraph (1).

74
 75 The general law must allow counties and municipalities to grant
 76 these additional exemptions, within the limits prescribed in
 77 this subsection, by ordinance adopted in the manner prescribed
 78 by general law, and must provide for the periodic adjustment of
 79 the income limitation prescribed in this subsection for changes
 80 in the cost of living.

81 (e) Each veteran who is age 65 or older who is partially or
 82 totally permanently disabled shall receive a discount from the
 83 amount of the ad valorem tax otherwise owed on homestead
 84 property the veteran owns and resides in if the disability was
 85 combat related and the veteran was honorably discharged upon
 86 separation from military service. The discount shall be in a
 87 percentage equal to the percentage of the veteran's permanent,

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88 service-connected disability as determined by the United States
 89 Department of Veterans Affairs. To qualify for the discount
 90 granted by this subsection, an applicant must submit to the
 91 county property appraiser, by March 1, an official letter from
 92 the United States Department of Veterans Affairs stating the
 93 percentage of the veteran's service-connected disability and
 94 such evidence that reasonably identifies the disability as
 95 combat related and a copy of the veteran's honorable discharge.
 96 If the property appraiser denies the request for a discount, the
 97 appraiser must notify the applicant in writing of the reasons
 98 for the denial, and the veteran may reapply. The Legislature
 99 may, by general law, waive the annual application requirement in
 100 subsequent years. This subsection is self-executing and does not
 101 require implementing legislation.

102 (f) By general law and subject to conditions and
 103 limitations specified therein, the Legislature may provide ad
 104 valorem tax relief equal to the total amount or a portion of the
 105 ad valorem tax otherwise owed on homestead property to the:

106 (1) Surviving spouse of a veteran who died from service-
 107 connected causes while on active duty as a member of the United
 108 States Armed Forces.

109 (2) Surviving spouse of a first responder who died in the
 110 line of duty.

111 (3) As used in this subsection and as further defined by
 112 general law, the term:

113 a. "First responder" means a law enforcement officer, a
 114 correctional officer, a firefighter, an emergency medical
 115 technician, or a paramedic.

116 b. "In the line of duty" means arising out of and in the

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117 actual performance of duty required by employment as a first
118 responder.

119 BE IT FURTHER RESOLVED that the following statement be
120 placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 6

123 HOMESTEAD TAX EXEMPTION FOR CERTAIN SENIOR, LOW-INCOME,
124 LONG-TERM RESIDENTS; DETERMINATION OF JUST VALUE.—Proposing an
125 amendment to the State Constitution to revise the homestead tax
126 exemption that may be granted by counties or municipalities, if
127 authorized by general law, for the assessed value of property
128 with a just value less than \$250,000 and owned by a person age
129 65 or older who meets certain residence and income requirements
130 to specify that just value shall be determined at the time of
131 the owner's initial application for the exemption.



The Florida Senate

Committee Agenda Request

To: Senator Dorothy L. Hukill, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: November 17, 2015

I respectfully request that **Senate Bill #492**, relating to Homestead Tax Exemption, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/25/16

Meeting Date

SJR 492

Bill Number (if applicable)

Topic Homestead Tax Exemption

Amendment Barcode (if applicable)

Name Martha W. Cleaver

Job Title Governmental Consultant

Address P.O. Box 11275

Phone 850 491-1945

Tallahassee, FL 32302

Email marthacleaver@foa.net

City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Association of Property Appraisers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

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: CS/CS/SB 828

INTRODUCER: Finance and Tax Committee; Banking and Insurance Committee; and Senator Bean

SUBJECT: Insurance Guaranty Association Assessments

DATE: January 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Fournier</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 828 substantially revises the assessment process of the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA). The FWCIGA provides payment of workers' compensation claims of insolvent insurers and group self-insurance funds to avoid excessive delay in payment and to avoid financial loss to claimants in the event of the insolvency of a member insurer.

The bill provides the following changes to the FWCIGA assessment process:

- Increases the assessment cap for self-insurance funds from 1.5 to 2 percent of net direct written premiums in Florida for workers' compensation insurance, which is consistent with the cap for insurers;
- Revises the assessment recoupment method from recouping the assessment as part of the premium in a rate filing to adding a policy surcharge that is collected by the insurer. The surcharge will not be subject to the insurance premium tax;
- Authorizes two assessment options for the FWCIGA, namely, an immediate single assessment payment by insurers with recoupment through policy surcharges; and an installment payment, which requires insurers to collect and remit policy surcharges quarterly to the FWCIGA;
- Revises the insurer's premium subject to an assessment from being based on the prior year's net direct written premium to the net direct written premium of the calendar year of the assessment; and

- Transfers order authority for assessments and other FWCIGA reporting related to insurer financial condition from the Department of Financial Services (DFS) to the Office of Insurance Regulation (OIR).

The Revenue Estimating Conference has determined that this bill has no impact on state or local revenues.

II. Present Situation:

Chapter 631, F.S., governs the rehabilitation and liquidation process for insurers in Florida. Federal law exempts insurance companies from federal bankruptcy jurisdiction. Insurers are instead subject to state laws regarding receivership.¹ Insurers are “rehabilitated” or “liquidated” by the state. In Florida, the Division of Rehabilitation and Liquidation in the Department of Financial Services (DFS) is responsible for rehabilitating or liquidating insurance companies.²

Florida Workers' Compensation Insurance Guaranty Association

As a condition of their authority to offer workers' compensation insurance coverage in Florida, all insurers and group self-insurance funds authorized under s. 624.4621, F.S., are required to be members of the Florida Workers' Compensation Insurance Guaranty Association, Inc. (FWCIGA).³ The FWCIGA is a not-for-profit corporation established pursuant to Part V of ch. 631, F.S., as a mechanism for the payment of workers' compensation covered claims and to assist in the detection and prevention of insurer insolvencies.⁴ The FWCIGA operates under the supervision and approval of a board of directors, which comprises eleven appointed members.⁵ The FWCIGA evaluates workers' compensation claims made by insureds against insolvent member companies or funds, and determines if such claims are covered claims subject to payment by FWCIGA.

The FWCIGA is funded by distributions from the estates of insolvent insurers, investment income, and assessments of member insurers. The FWCIGA determines whether an assessment against its members is necessary to pay covered claims of an insolvent insurer or to reimburse the FWCIGA for expenses associated with administering its statutory functions. The assessments are levied on each insurer in the proportion of the insurer's net direct written premium in Florida bears to the total of all such insurers writing workers' compensation coverages in Florida for the preceding calendar year. The maximum assessment rate is 2 percent and 1.5 percent for insurers and self-insurance funds, respectively. If these assessments are insufficient to satisfy claims and administration costs, an additional assessment of 1.5 percent can be levied.⁶ The most recent assessment was levied in 2005.⁷

¹ 11 U.S.C. s. 109(b)2.

² The goal of rehabilitation is to return the insurer to solvency. The goal of liquidation, however, is to liquidate the business of the insurer and use the proceeds to pay off the debts of a company and outstanding insurance claims.

³ Section 631.911, F.S.

⁴ Section 631.902, F.S.

⁵ Section 631.912, F.S.

⁶ Section 631.914(1)(c), F.S.

⁷ A 2 percent assessment and a 1 percent assessment were levied in 2004 against insurance companies and self-insurance funds, respectively, for inclusion in the 2005 premium rates, available at <http://fwciga.org/index.php?q=assessments> (last visited Jan. 3, 2016).

Assessments are included in the rate charged for coverage as part of the premium and are recouped through the rate filing process. Section 631.914(1)(b), F.S., provides that assessments “shall be included as an appropriate factor in the making of rates” that the OIR will take into consideration when ordering rates. Therefore, such assessment may be included in the rate filing of an insurer or a rating organization (the National Council on Compensation Insurance or NCCI) that files rates on behalf of all workers’ compensation insurers in the state. The recoupment of FWCIGA’s assessment by insurers generally begins in January each year when the NCCI rate filing becomes effective. However, the NCCI may make a filing at any time if insurers want to recoup the assessment when levied, rather than at the beginning of the calendar year.

According to the FWCIGA, the timing of the NCCI rate filing with the OIR requires the FWCIGA board to determine the need for an assessment in June of each year. However, insolvencies do not occur with any predictability and the board must estimate the future cash needs over the next 18 months if the assessment is to be recouped in the upcoming year’s rates.⁸

Since the assessment is included in the rate filing as part of the premium, the assessment is subject to the state’s insurance premium tax.⁹ Section 624.509, F.S., imposes a premium tax of 1.75 percent on property and casualty premiums (which includes workers’ compensation premiums¹⁰) received during the preceding calendar year. For group self-insurance funds, the tax is 1.6 percent of the gross amount of premium.^{11 12} Section 624.509, F.S., provide various tax credits and deductions that reduce the premium tax liability.

III. Effect of Proposed Changes:

The bill substantially revises the FWCIGA assessment process. The bill increases the assessment cap for self-insurance funds from 1.5 to 2 percent of net direct written premiums in Florida for workers’ compensation insurance, which is consistent with the assessment cap for insurers. The bill also revises the assessment base from the net direct written premiums for the previous year to the calendar year of assessment. The bill provides that FWCIGA assessments are not premium and are not subject to any premium tax, fees, or commissions.

The bill transfers the authority to order assessments from the DFS to the OIR. The bill provides that the failure of an insured to pay the surcharge or the recoupment of an assessment is considered as the nonpayment of premium, which could result in the cancellation of a policy. The bill provides that an insurer is not liable for any uncollectible assessments. The bill also provides that only insurers are subject to assessments by the FWCIGA and the provisions do not give a policyholder a cause of action regarding the FWCIGA assessments.

⁸ FWCIGA Proposed Change to the FWCIGA Assessment Summary (Aug. 28, 2015) (on file with the Senate Committee on Banking and Insurance).

⁹ Section 631.914(1)(b) and (c), F.S.

¹⁰ Section 624.605(1)(c), F.S.

¹¹ Section 624.475, F.S.

¹² For purposes of the FWCIGA assessments, under s. 631.904(6), F.S., a self-insurance fund means a group self-insurance fund authorized under 624.4621, F.S., a commercial self-insurance fund writing worker’ compensation insurance authorized under 624.462, F.S., or an assessable mutual insurer authorized under s. 628.6011, F.S.

Assessment Methods

The bill eliminates the recoupment of assessments through the rate filing process and institutes a recoupment through policy surcharges. The bill allows the FWCIGA to have the option of using an immediate single assessment method (advance payment) before the collection of the surcharge or an installment method, which allows the insurer to collect and remit assessments. Under both methods, the member insurers would collect surcharges at a uniform percentage rate for 12 months, as specified in the OIR order. The collection of such surcharges begins 90 days after the FWCIGA certifies the need for an assessment to the OIR.

Immediate Method. Under the immediate method, the FWCIGA certifies the need for an assessment, and the OIR orders the assessment on member insurers. The assessment is due and payable no earlier than 30 days following the written notice of the assessment order to the insurers. The certification and levy require insurers to collect a uniform percentage and a specific four-quarter assessment year for the recoupment of the assessment through policy surcharges.

For purposes of statutory accounting, the bill provides that billed policy surcharges are recognized as a receivable and an admissible asset under the National Association of Insurance Commissioners' Statement of Statutory Accounting Principles No. 4, to the extent the receivable is likely to be realized. However, if the insurer is unable to recoup the amount of the assessment, the amount recognized as an asset must be reduced to the amount reasonably expected to be recouped.

Installment Method. Like the immediate method, the FWCIGA board certifies the need for an assessment and the OIR issues an order levying the assessment on member companies. Insurers are required to collect surcharges at a uniform percentage rate for a specified four-quarter assessment year and remit the surcharges to the FWCIGA quarterly. The bill provides that the recognition of assets is based on actual premium written offset by the obligation to the FWCIGA.

Under both assessment methods, insurers are required to submit a reconciliation report to the FWCIGA within 120 days after the end of the 12-month assessment period. If the insurer's reconciled assessment obligation was more than the amount paid to the FWCIGA, the insurer is required to pay the difference to the FWCIGA. If the insurer's reconciled assessment obligation was less than the amount paid to the FWCIGA, the overpayment is returned to the insurer.

The bill is effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that CS/HB 467 (House companion to CS/CS/SB 828) has no impact on state or local revenues.

B. Private Sector Impact:

CS/CS/SB 828 provides the FWCIGA the discretion to use the immediate single payment method or an installment method, which does not require insurers to advance funds to the FWCIGA.

For purposes of the immediate assessment method, the clarification of the statutory accounting treatment of a “receivable for policy surcharges to be billed” as an admissible asset should mitigate the impact of such assessments on an insurer’s financial statements.

According to the OIR, workers’ compensation insurers would be required to file new forms with the OIR to incorporate the changes in the assessment process. For example, the forms would need to disclose the surcharge as a separate line item on the declaration page of the policy, and include a provision that coverage is subject to cancellation if the insured fails to pay the policy surcharge. Finally, if the assessment becomes a surcharge, the OIR will require the filing and review of all large deductible programs.¹³

C. Government Sector Impact:

Indeterminate. As noted above, the OIR indicates that insurers will be required to file forms and large deductible plans with the OIR. However, the OIR has not provided an estimate of the fiscal impact of these requirements.

VI. Technical Deficiencies:

CS/CS/SB 828 does not include the FWCIGA assessments pursuant to s. 631.914, F.S., in the definition of an admissible asset in s. 625.012, F.S., – Assets defined. According to the OIR, by not including the assessments under s. 631.914, F.S., as an admissible asset under s. 625.012, F.S., it is not consistent with s. 625.012(15) (a) and (b), F.S., that allow for the assessments levied pursuant to s. 631.57(3)(a) and (e), F.S., for the Florida Insurance Guaranty Association.¹⁴

VII. Related Issues:

None.

¹³ Office of Insurance Regulation, *Senate Bill 828 Fiscal Analysis* (Nov. 17, 2015) (on file with the Senate Committee on Banking and Insurance).

¹⁴ *Id.*

VIII. Statutes Affected:

This bill substantially amends section 631.914 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Finance and Tax on January 25, 2016:

The CS/CS provides that if an insurer's reconciled assessment is less than the amount paid to FWCIGA, the association must return the overpayment to the insurer.

CS by Banking and Insurance on January 11, 2016:

The CS provides technical, clarifying amendments relating to the assessment process.

- B. **Amendments:**

None.



812608

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/25/2016	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Altman) recommended the following:

Senate Amendment

Delete lines 135 - 136
and insert:
association shall return the overpayment to the insurer.

By the Committee on Banking and Insurance; and Senator Bean

597-02019-16

2016828c1

1 A bill to be entitled
 2 An act relating to insurance guaranty association
 3 assessments; amending s. 631.914, F.S.; requiring the
 4 Office of Insurance Regulation to levy assessments for
 5 certain purposes; revising and providing requirements
 6 for the levy of assessments; requiring insurers and
 7 self-insurance funds to report certain premiums;
 8 requiring insurers to collect policy surcharges and
 9 pay assessments to the association; revising
 10 requirements for reporting premium for assessment
 11 calculations; revising and providing requirements and
 12 limitations for remittance of assessments to the
 13 association; providing an effective date.

14 Be It Enacted by the Legislature of the State of Florida:

15 Section 1. Section 631.914, Florida Statutes, is amended to
 16 read:

17 631.914 Assessments.—

18 (1) (a) To the extent necessary to secure the funds for the
 19 payment of covered claims, and also to pay the reasonable costs
 20 to administer the same, the Office of Insurance Regulation
 21 ~~department~~, upon certification by the board, shall levy
 22 assessments on each insurer initially estimated in the
 23 proportion that the insurer's net direct written premiums in
 24 this state bears to the total of said net direct written
 25 premiums received in this state by all such workers'
 26 compensation insurers for the preceding calendar year.
 27 Assessments levied against insurers and self-insurance funds
 28 pursuant to this paragraph must be computed and levied on the
 29 basis of the full policy premium value on the net direct written
 30 premium amount as set forth in the state for workers'
 31
 32

Page 1 of 7

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

597-02019-16

2016828c1

33 compensation insurance without consideration of any applicable
 34 discount or credit for deductibles. Insurers and self-insurance
 35 funds must report premiums in compliance with this paragraph.
 36 Assessments shall be remitted to and administered by the board
 37 of directors in the manner specified by the approved plan of
 38 operation and paragraph (d). ~~The board shall give each insurer~~
 39 ~~so assessed at least 30 days' written notice of the date the~~
 40 ~~assessment is due and payable.~~ Each assessment shall be a
 41 uniform percentage applicable to the net direct written premiums
 42 of each insurer writing workers' compensation insurance.

43 ~~1. Beginning July 1, 1997, Assessments levied against~~
 44 ~~insurers and, other than self-insurance funds, shall not exceed~~
 45 ~~in any calendar year more than 2 percent of that insurer's net~~
 46 ~~direct written premiums in this state for workers' compensation~~
 47 ~~insurance during the calendar year next preceding the date of~~
 48 ~~such assessments.~~

49 (b) Member insurers shall collect surcharges at a uniform
 50 percentage rate on new and renewal policies issued and effective
 51 during the period of 12 months beginning on January 1, April 1,
 52 July 1, or October 1, whichever is the first day of the
 53 following calendar quarter as specified in an order issued by
 54 the office directing insurers to pay an assessment to the
 55 association. The surcharge may not begin until 90 days after the
 56 board of directors certifies the assessment.

57 ~~2. Beginning July 1, 1997, assessments levied against self-~~
 58 ~~insurance funds shall not exceed in any calendar year more than~~
 59 ~~1.50 percent of that self-insurance fund's net direct written~~
 60 ~~premiums in this state for workers' compensation insurance~~
 61 ~~during the calendar year next preceding the date of such~~

Page 2 of 7

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597-02019-16

2016828c1

62 ~~assessments.~~

63 ~~3. Beginning July 1, 2003, assessments levied against~~
 64 ~~insurers and self-insurance funds pursuant to this paragraph are~~
 65 ~~computed and levied on the basis of the full policy premium~~
 66 ~~value on the net direct premiums written in the state for~~
 67 ~~workers' compensation insurance during the calendar year next~~
 68 ~~preceding the date of the assessment without taking into account~~
 69 ~~any applicable discount or credit for deductibles. Insurers and~~
 70 ~~self-insurance funds must report premiums in compliance with~~
 71 ~~this subparagraph.~~

72 ~~(b) Assessments shall be included as an appropriate factor~~
 73 ~~in the making of rates.~~

74 ~~(c)1. Effective July 1, 1999, If assessments otherwise~~
 75 ~~authorized in paragraph (a) are insufficient to make all~~
 76 ~~payments on reimbursements then owing to claimants in a calendar~~
 77 ~~year, then upon certification by the board, the office~~
 78 ~~department shall levy additional assessments of up to 1.5~~
 79 ~~percent of the insurer's net direct written premiums in this~~
 80 ~~state during the calendar year next preceding the date of such~~
 81 ~~assessments against insurers to secure the necessary funds.~~

82 (d) The association may use an installment method to
 83 require the insurer to remit the assessment as premium is
 84 written or may require the insurer to remit the assessment to
 85 the association before collecting the policyholder surcharge. If
 86 the assessment is remitted before the surcharge is collected,
 87 the assessment remitted must be based on an estimate of the
 88 assessment due based on the proportion of each insurer's net
 89 direct written premium in this state for the preceding calendar
 90 year as described in paragraph (a) and adjusted following the

Page 3 of 7

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597-02019-16

2016828c1

91 end of the 12-month period during which the assessment is
 92 levied.

93 1. If the association elects to use the installment method,
 94 the office may, in the order levying the assessment on insurers,
 95 specify that the assessment is due and payable quarterly as
 96 premium is written throughout the assessment year. Insurers
 97 shall collect surcharges at a uniform percentage rate specified
 98 by order as described in paragraph (b). Insurers are not
 99 required to advance funds if the association and the office
 100 elect to use the installment option. Assessments levied under
 101 this subparagraph are paid after policy surcharges are
 102 collected, and the recognition of assets is based on actual
 103 premium written offset by the obligation to the association.

104 2. If the association elects to require insurers to remit
 105 the assessment before surcharging the policyholder, the
 106 following shall apply:

107 a. The levy order shall provide each insurer so assessed at
 108 least 30 days written notice of the date the initial assessment
 109 payment is due and payable by the insurer.

110 b. Insurers shall collect surcharges at a uniform
 111 percentage rate specified by the order, as described in
 112 paragraph (b).

113 c. Assessments levied under this subparagraph are paid
 114 before policy surcharges are billed and result in a receivable
 115 for policy surcharges to be billed in the future. The amount of
 116 billed surcharges, to the extent it is likely that it will be
 117 realized, meets the definition of an admissible asset as
 118 specified in the National Association of Insurance
 119 Commissioners' Statement of Statutory Accounting Principles No.

Page 4 of 7

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597-02019-16

2016828c1

120 4. The asset shall be established and recorded separately from
 121 the liability. If an insurer is unable to fully recoup the
 122 amount of the assessment, the amount recorded as an asset shall
 123 be reduced to the amount reasonably expected to be recouped.

124 3. Insurers must submit a reconciliation report to the
 125 association within 120 days after the end of the 12-month
 126 assessment period and annually thereafter for a period of three
 127 years. The report must indicate the amount of the initial
 128 payment or installment payments made to the association and the
 129 amount of written premium pursuant to paragraph (a) for the
 130 assessment year. If the insurer's reconciled assessment
 131 obligation is more than the amount paid to the association, the
 132 insurer shall pay the excess surcharges collected to the
 133 association. If the insurer's reconciled assessment obligation
 134 is less than the initial amount paid to the association, the
 135 association shall credit the insurer that amount against future
 136 assessments.

137 (2) Assessments levied under this section are not premium
 138 and are not subject to any premium tax, fees, or commissions.
 139 Insurers shall treat the failure of an insured to pay
 140 assessment-related surcharges as a failure to pay premium. An
 141 insurer is not liable for any uncollectible assessment-related
 142 surcharges.

143 (3) Assessments levied under this section may be levied
 144 only upon insurers. This section does not create a cause of
 145 action by a policyholder with respect to the levying of an
 146 assessment or a policyholder's duty to pay assessment-related
 147 surcharges.

148 ~~2. To assure that insurers paying assessments levied under~~

Page 5 of 7

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597-02019-16

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149 ~~this paragraph continue to charge rates that are neither~~
 150 ~~inadequate nor excessive, each insurer that is to be assessed~~
 151 ~~pursuant to this paragraph, or a licensed rating organization to~~
 152 ~~which the insurer subscribes, may make, within 90 days after~~
 153 ~~being notified of such assessments, a rate filing for workers'~~
 154 ~~compensation coverage pursuant to ss. 627.072 and 627.091. If~~
 155 ~~the filing reflects a percentage rate change equal to the~~
 156 ~~difference between the rate of such assessment and the rate of~~
 157 ~~the previous year's assessment under this paragraph, the filing~~
 158 ~~shall consist of a certification so stating and shall be deemed~~
 159 ~~approved when made. Any rate change of a different percentage~~
 160 ~~shall be subject to the standards and procedures of ss. 627.072~~
 161 ~~and 627.091.~~

162 (4)(2)(a) The board may exempt any insurer from an
 163 assessment if, in the opinion of the office department, an
 164 assessment would result in such insurer's financial statement
 165 reflecting an amount of capital or surplus less than the minimum
 166 amount required by any jurisdiction in which the insurer is
 167 authorized to transact insurance.

168 (b) The board may temporarily defer, in whole or in part,
 169 assessments against an insurer if, in the opinion of the office
 170 department, payment of the assessment would endanger the ability
 171 of the insurer to fulfill its contractual obligations. In the
 172 case of a self-insurance fund, the trustees of the fund
 173 determined to be endangered must immediately levy an assessment
 174 upon the members of that self-insurance fund in an amount
 175 sufficient to pay the assessments to the corporation.

176 (c) The board may allow an insurer to pay an assessment on
 177 a quarterly basis.

Page 6 of 7

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597-02019-16

2016828c1

178

Section 2. This act shall take effect July 1, 2016.



The Florida Senate

Committee Agenda Request

To: Senator Dorothy L. Hukill, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: January 11, 2016

I respectfully request that **Senate Bill #828**, relating to Insurance Guaranty Association Assessments, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

828
Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Robert Reyes

Job Title

Address 325 W College Ave

Phone 954 539 1502

Street

TALL FL 32301

Email rreyes@capitol.fl.gov

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL Workers Compensation Insurance Guaranty Fund

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

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: CS/SB 842
INTRODUCER: Finance and Tax Committee and Senator Hays
SUBJECT: Property Prepared for a Tax-exempt Use
DATE: January 26, 2016 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Favorable
2.	Babin	Diez-Arguelles	FT	Fav/CS
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 842 expands the ad valorem tax exemption for an exempt organization that is taking “affirmative steps” to prepare property to be used for an exempt purpose. Current law grants this treatment to educational institutions, religious organizations, and 501(c)(3) organizations that provide affordable housing. The bill expands the exemption to include all property being prepared for educational, literary, scientific, religious, or charitable purposes.

The Revenue Estimating Conference has determined that the bill reduces local government revenues by \$1 million in Fiscal Year 2017-2018, with a recurring negative impact of \$1 million.

The bill is effective July 1, 2016.

II. Present Situation:

Property Tax Assessments

All property must be assessed at just value for ad valorem tax purposes.¹ Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm’s length transaction.²

¹ FLA. CONST. art. VII, s. 4.

² 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).

The Florida Constitution authorizes the Legislature to provide an exemption for property predominantly used for educational, literary, scientific, religious or charitable purposes by general law.³

Property Entitled to Educational, Literary, Scientific, Religious, or Charitable Exemptions

Property used predominantly for educational, literary, scientific, religious, or charitable purposes is exempt.⁴ In determining whether the property is predominantly used for an exempt purpose, the property appraiser must consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by charitable or other qualifying entities.⁵ Only the portions of the property used predominantly for an exempt purpose may be exempt from ad valorem taxation.

Affirmative Steps

Property is also exempt when the owner has taken affirmative steps to prepare the property for exempt use. This treatment is authorized for property owned by an educational institution that is being prepared for educational use,⁶ property owned by an exempt organization that is being prepared as a house of public worship,⁷ and property owned by a 501(c)(3) organization that is being prepared to provide affordable housing to extremely-low, very-low, low, and moderate income persons or families.⁸ These properties are exempt from tax while they are being prepared for exempt use if the owner has taken “affirmative steps” to prepare the property for exempt use. As such, this treatment is commonly referred to as “affirmative steps” treatment.

The term "affirmative steps" is defined to mean:

- Environmental or land use permitting activities,
- Creation of architectural or schematic drawings,
- Land clearing or site preparation,
- Construction or renovation activities, or
- Other similar activities that demonstrate a commitment to an exempt use.⁹

The affirmative steps treatment for affordable housing requires that the property appraiser serve the property owner with a notice of intent to record a tax lien against any property owned in the county by the property owner if the property is transferred for a purpose other than affordable housing or is not in actual use to provide affordable housing within five years after first being granted affirmative steps treatment.¹⁰ Furthermore, the organization owning such property is required to pay the unpaid taxes, an additional 15 percent interest per annum, and a penalty equal to 50 percent of the taxes owed. The property owner has 30 days to pay the taxes, penalties, and

³ FLA. CONST. art. VII, s. 3(a).

⁴ Sections 196.196(2) and 196.198, F.S. *See also* s. 196.1978, F.S. (providing that certain property used to provide affordable housing is property used for a charitable purpose).

⁵ Section 196.196(1)(a)-(b), F.S.

⁶ Section 196.198, F.S.

⁷ Section 196.196(3), F.S. “Public worship” is defined to mean religious worship services and incidental activities such as educational activities, parking, recreation, partaking of meals, and fellowship.

⁸ Section 196.196(5)(a), F.S.

⁹ Sections 196.196(3),(5)(a), and 196.198, F.S.

¹⁰ Section 196.196(5)(b), F.S.

interest, after which the property appraiser may file a lien against any property owned by the organization.¹¹ However, the property appraiser may grant an extension if the property owner can demonstrate that the owner is still taking affirmative steps.¹² If an exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the organization improperly receiving the exemption may not be assessed a penalty or interest.¹³

III. Effect of Proposed Changes:

Section 1 creates s. 196.1955, F.S., to consolidate the current affirmative steps provisions into a single statute and authorize their use by all exempt organizations. The bill provides that property owned by an exempt organization is considered to be used for an exempt purpose if the owner has taken affirmative steps to prepare the property for an exempt educational, literary, scientific, religious, or charitable use and no part of the property is being used for a nonexempt purpose. The bill amends the current definition of “affirmative steps” to include any activity that demonstrates a commitment to prepare the property for an exempt use. All organizations that qualify for affirmative steps treatment under current law (educational institutions, religious organizations, and 501(c)(3) organizations that provide affordable housing) continue to qualify for such treatment under the bill.

The bill provides that if property granted affirmative steps treatment is sold, transferred, or used for a nonexempt purpose or is not in actual use for an exempt purpose within five years, the property appraiser shall serve a notice of intent to record a tax lien in the public records of the county against any property in the county which is owned by the organization. Furthermore, the organization owning such property is required to pay the unpaid taxes and an additional 15 percent interest per annum.¹⁴ The property owner has 30 days to pay the taxes and interest. The property owner may not be assessed interest if the exemption was improperly granted due to an error or omission by the property appraiser, and the property appraiser must grant an extension of the five-year limitation, on an annual basis, if the property owner continues to take affirmative steps to prepare the property for exempt purposes.

Property that an exempt organization is preparing for use as a house of public worship is excluded from the lien provisions.¹⁵

Sections 2 and 3 remove the current affirmative steps provisions in ss. 196.196 and 196.198, F.S.

Section 4 provides an effective date of July 1, 2016.

¹¹ Section 196.196(5)(b), F.S.

¹² Section 196.196(5)(b)4., F.S.

¹³ Section 196.196(5)(b)3., F.S.

¹⁴ The bill does not include the assessment of penalties, which is provided for in certain circumstances under current law. *See* s. 196.196(5)(b)1., F.S.

¹⁵ The definition of “house of public worship” is the same as in s. 196.196(3), F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Article VII, section 18(b) of the Florida Constitution states that “[e]xcept upon approval of each house of the legislature by two-thirds 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 the municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989.”

Article VII, section 18(d) of the Florida Constitution provides an exemption from the mandates provision for laws having an insignificant fiscal impact. Therefore, the bill may be exempt.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

The Revenue Estimating Conference has determined that CS/SB 842 will reduce local property taxes by \$1 million annually, beginning in Fiscal Year 2017-2018.¹⁶

B. Private Sector Impact:

Exempt organizations that own real property and take affirmative steps to prepare that property for an exempt purpose will receive an exemption from ad valorem taxation.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁶ Revenue Estimating Conference, *Charitable Exemptions, HB 301/SB 842, 157*, (Nov. 20, 2015) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/pdf/Impact155-159.pdf> (last visited Jan. 19, 2016).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 196.196 and 196.198.

This bill creates section 196.1955 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.)

CS by Finance and Tax on January 25, 2016:

The CS:

- Amends the definition of “affirmative steps” to include any activity that demonstrates a commitment to prepare the property for an exempt purpose.
- Provides that a taxpayer no longer qualifies for exemption when the property is sold or used for a nonexempt purpose and the taxpayer must pay back the avoided taxes plus 15 percent interest.
- Requires property appraisers to grant extensions of affirmative steps treatment on an annual basis after five years, in lieu filing a lien, but only if affirmative steps are still being taken.
- Makes technical changes.

B. Amendments:

None.



356214

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/25/2016	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Simpson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 196.1955, Florida Statutes, is created
to read:

196.1955 Preparing property for educational, literary,
scientific, religious, or charitable use.—

(1) Property owned by an exempt organization is used for an
exempt purpose if the owner has taken affirmative steps to



356214

11 prepare the property for an exempt educational, literary,
12 scientific, religious, or charitable use and no portion of the
13 property is being used for a nonexempt purpose. The term
14 "affirmative steps" means environmental or land use permitting
15 activities, creation of architectural plans or schematic
16 drawings, land clearing or site preparation, construction or
17 renovation activities, or other activities that demonstrate a
18 commitment to prepare the property for an exempt use.

19 (2) (a) If property owned by an organization that has been
20 granted an exemption under this section is sold, transferred, or
21 used for a purpose other than an exempt use or is not in actual
22 exempt use within 5 years after the date the organization is
23 granted an exemption, the property appraiser making such
24 determination shall serve upon the organization that received
25 the exemption a notice of intent to record in the public records
26 of the county a notice of tax lien against any property owned by
27 that organization in that county, and such property must be
28 identified in the notice of tax lien. The organization owning
29 such property is subject to the taxes otherwise due as a result
30 of the failure to use the property in an exempt manner, plus 15
31 percent interest per annum.

32 1. The lien, when filed, attaches to any property
33 identified in the notice of tax lien which is owned by the
34 organization that received the exemption. If the organization no
35 longer owns property in the county but owns property in another
36 county in the state, the property appraiser shall record in each
37 such county a notice of tax lien identifying the property owned
38 by the organization in each respective county, which shall
39 become a lien against the identified property.



356214

40 2. Before a lien may be filed, the organization must be
41 given 30 days to pay the taxes and interest.

42 3. If an exemption is improperly granted as a result of a
43 clerical mistake or an omission by the property appraiser, the
44 organization improperly receiving the exemption may not be
45 assessed interest.

46 4. The 5-year limitation specified in this subsection shall
47 be extended by the property appraiser on an annual basis if the
48 organization continues to take affirmative steps to prepare the
49 property for the purposes specified in this section.

50 (b) This subsection does not apply to property being
51 prepared for use as a house of public worship. The term "public
52 worship" means religious worship services and those activities
53 that are incidental to religious worship services, such as
54 educational activities, parking, recreation, partaking of meals,
55 and fellowship.

56 Section 2. Subsections (3), (4), and (5) of section
57 196.196, Florida Statutes, are amended to read:

58 196.196 Determining whether property is entitled to
59 charitable, religious, scientific, or literary exemption.—

60 ~~(3) Property owned by an exempt organization is used for a~~
61 ~~religious purpose if the institution has taken affirmative steps~~
62 ~~to prepare the property for use as a house of public worship.~~
63 ~~The term "affirmative steps" means environmental or land use~~
64 ~~permitting activities, creation of architectural plans or~~
65 ~~schematic drawings, land clearing or site preparation,~~
66 ~~construction or renovation activities, or other similar~~
67 ~~activities that demonstrate a commitment of the property to a~~
68 ~~religious use as a house of public worship. For purposes of this~~



356214

69 ~~subsection, the term "public worship" means religious worship~~
70 ~~services and those other activities that are incidental to~~
71 ~~religious worship services, such as educational activities,~~
72 ~~parking, recreation, partaking of meals, and fellowship.~~

73 ~~(3)(4) Except as otherwise provided in this section herein,~~
74 ~~property claimed as exempt for literary, scientific, religious,~~
75 ~~or charitable purposes which is used for profitmaking purposes~~
76 ~~is shall be~~ subject to ad valorem taxation. Use of property for
77 functions not requiring a business or occupational license
78 conducted by the organization at its primary residence, the
79 revenue of which is used wholly for exempt purposes, ~~is shall~~
80 ~~not be~~ considered profitmaking ~~profit-making~~. In this connection
81 the playing of bingo on such property ~~is shall~~ not be considered
82 a use of as using such property that in such a manner as would
83 impair its exempt status.

84 ~~(5)(a) Property owned by an exempt organization qualified~~
85 ~~as charitable under s. 501(c)(3) of the Internal Revenue Code is~~
86 ~~used for a charitable purpose if the organization has taken~~
87 ~~affirmative steps to prepare the property to provide affordable~~
88 ~~housing to persons or families that meet the extremely-low-~~
89 ~~income, very-low-income, low-income, or moderate-income limits,~~
90 ~~as specified in s. 420.0004. The term "affirmative steps" means~~
91 ~~environmental or land use permitting activities, creation of~~
92 ~~architectural plans or schematic drawings, land clearing or site~~
93 ~~preparation, construction or renovation activities, or other~~
94 ~~similar activities that demonstrate a commitment of the property~~
95 ~~to providing affordable housing.~~

96 ~~(b)1. If property owned by an organization granted an~~
97 ~~exemption under this subsection is transferred for a purpose~~



356214

98 ~~other than directly providing affordable homeownership or rental~~
99 ~~housing to persons or families who meet the extremely-low-~~
100 ~~income, very-low income, low income, or moderate income limits,~~
101 ~~as specified in s. 420.0004, or is not in actual use to provide~~
102 ~~such affordable housing within 5 years after the date the~~
103 ~~organization is granted the exemption, the property appraiser~~
104 ~~making such determination shall serve upon the organization that~~
105 ~~illegally or improperly received the exemption a notice of~~
106 ~~intent to record in the public records of the county a notice of~~
107 ~~tax lien against any property owned by that organization in the~~
108 ~~county, and such property shall be identified in the notice of~~
109 ~~tax lien. The organization owning such property is subject to~~
110 ~~the taxes otherwise due and owing as a result of the failure to~~
111 ~~use the property to provide affordable housing plus 15 percent~~
112 ~~interest per annum and a penalty of 50 percent of the taxes~~
113 ~~owed.~~

114 ~~2. Such lien, when filed, attaches to any property~~
115 ~~identified in the notice of tax lien owned by the organization~~
116 ~~that illegally or improperly received the exemption. If such~~
117 ~~organization no longer owns property in the county but owns~~
118 ~~property in any other county in the state, the property~~
119 ~~appraiser shall record in each such other county a notice of tax~~
120 ~~lien identifying the property owned by such organization in such~~
121 ~~county which shall become a lien against the identified~~
122 ~~property. Before any such lien may be filed, the organization so~~
123 ~~notified must be given 30 days to pay the taxes, penalties, and~~
124 ~~interest.~~

125 ~~3. If an exemption is improperly granted as a result of a~~
126 ~~clerical mistake or an omission by the property appraiser, the~~



356214

127 ~~organization improperly receiving the exemption shall not be~~
128 ~~assessed a penalty or interest.~~

129 ~~4. The 5-year limitation specified in this subsection may~~
130 ~~be extended if the holder of the exemption continues to take~~
131 ~~affirmative steps to develop the property for the purposes~~
132 ~~specified in this subsection.~~

133 Section 3. Section 196.198, Florida Statutes, is amended to
134 read:

135 196.198 Educational property exemption.—

136 (1) Educational institutions within this state and their
137 property used by them or by any other exempt entity or
138 educational institution exclusively for educational purposes are
139 exempt from taxation.

140 (a) Sheltered workshops providing rehabilitation and
141 retraining of individuals who have disabilities and exempted by
142 a certificate under s. (d) of the federal Fair Labor Standards
143 Act of 1938, as amended, are declared wholly educational in
144 purpose and are exempt from certification, accreditation, and
145 membership requirements set forth in s. 196.012.

146 (b) Those portions of property of college fraternities and
147 sororities certified by the president of the college or
148 university to the appropriate property appraiser as being
149 essential to the educational process are exempt from ad valorem
150 taxation.

151 (c) The use of property by public fairs and expositions
152 chartered by chapter 616 is presumed to be an educational use of
153 such property and is exempt from ad valorem taxation to the
154 extent of such use.

155 (2) Property used exclusively for educational purposes



356214

156 shall be deemed owned by an educational institution if the
157 entity owning 100 percent of the educational institution is
158 owned by the identical persons who own the property, or if the
159 entity owning 100 percent of the educational institution and the
160 entity owning the property are owned by the identical natural
161 persons.

162 (a) Land, buildings, and other improvements to real
163 property used exclusively for educational purposes shall be
164 deemed owned by an educational institution if the entity owning
165 100 percent of the land is a nonprofit entity and the land is
166 used, under a ground lease or other contractual arrangement, by
167 an educational institution that owns the buildings and other
168 improvements to the real property, is a nonprofit entity under
169 s. 501(c) (3) of the Internal Revenue Code, and provides
170 education limited to students in prekindergarten through grade
171 8.

172 (b) If legal title to property is held by a governmental
173 agency that leases the property to a lessee, the property shall
174 be deemed to be owned by the governmental agency and used
175 exclusively for educational purposes if the governmental agency
176 continues to use such property exclusively for educational
177 purposes pursuant to a sublease or other contractual agreement
178 with that lessee.

179 (c) If the title to land is held by the trustee of an
180 irrevocable inter vivos trust and if the trust grantor owns 100
181 percent of the entity that owns an educational institution that
182 is using the land exclusively for educational purposes, the land
183 is deemed to be property owned by the educational institution
184 for purposes of this exemption. ~~Property owned by an educational~~



356214

185 ~~institution shall be deemed to be used for an educational~~
186 ~~purpose if the institution has taken affirmative steps to~~
187 ~~prepare the property for educational use. The term "affirmative~~
188 ~~steps" means environmental or land use permitting activities,~~
189 ~~creation of architectural plans or schematic drawings, land~~
190 ~~clearing or site preparation, construction or renovation~~
191 ~~activities, or other similar activities that demonstrate~~
192 ~~commitment of the property to an educational use.~~

193 Section 4. This act shall take effect July 1, 2016.

194
195 ===== T I T L E A M E N D M E N T =====

196 And the title is amended as follows:

197 Delete everything before the enacting clause
198 and insert:

199 A bill to be entitled
200 An act relating to property prepared for a tax-exempt
201 use; creating s. 196.1955, F.S.; consolidating and
202 revising provisions relating to obtaining an ad
203 valorem exemption for property owned by an exempt
204 organization, including the requirement that the owner
205 of an exempt organization take affirmative steps to
206 demonstrate an exempt use; requiring the property
207 appraiser to serve a notice of tax lien on exempt
208 property that is not in exempt use after a certain
209 time; providing that the lien attaches to any property
210 owned by the organization identified in the notice of
211 lien; providing that the provisions authorizing the
212 tax lien do not apply to a house of public worship;
213 defining the term "public worship"; amending s.



356214

214 196.196, F.S.; deleting provisions relating to the
215 exemption as it applies to public worship and
216 affordable housing and provisions incorporated into s.
217 196.1955, F.S.; amending s. 196.198, F.S.; deleting
218 provisions relating to property owned by an
219 educational institution and used for an educational
220 purpose which are incorporated in s. 196.1955, F.S.;
221 providing an effective date.

By Senator Hays

11-00236-16

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A bill to be entitled

An act relating to property prepared for a tax-exempt use; creating s. 196.1955, F.S.; consolidating and revising provisions relating to obtaining an ad valorem exemption for property owned by an exempt organization, including the requirement that the owner of an exempt organization take affirmative steps to demonstrate an exempt use; authorizing the property appraiser to serve a notice of tax lien on exempt property that is not in exempt use after a certain time; providing that the lien attaches to any property owned by the organization identified in the notice of lien; providing that the provisions authorizing the tax lien do not apply to a house of public worship; defining the term "public worship"; amending s. 196.196, F.S.; deleting provisions relating to the exemption as it applies to public worship and affordable housing and provisions incorporated into s. 196.1955, F.S.; amending s. 196.198, F.S.; deleting provisions relating to property owned by an educational institution and used for an educational purpose which are incorporated in s. 196.1955, F.S.; amending ss. 196.197, 196.1978, 202.125, and 402.26, F.S.; conforming cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 196.1955, Florida Statutes, is created

Page 1 of 11

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11-00236-16

2016842__

to read:

196.1955 Property prepared for educational, literary, scientific, religious, or charitable use.—

(1) Property owned by an exempt organization is considered to be used for an exempt purpose if the owner has taken affirmative steps to prepare the property for an exempt educational, literary, scientific, religious, or charitable use and no part of the property is being used for a nonexempt purpose. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment to prepare the property for an exempt use.

(2) (a) If property owned by an organization granted an exemption under this section is transferred for a purpose other than an exempt use or is not in actual exempt use within 5 years after the date the organization is granted an exemption, the property appraiser making such determination shall serve upon such organization a notice of intent to record a tax lien in the public records of the county against any property in the county which is owned by the organization. The organization is subject to the taxes otherwise due and owing as a result of the failure to use the property in an exempt manner, plus 15 percent interest per annum.

1. The notice of tax lien must identify all property in the county owned by the organization and, when the lien is filed, it attaches to that property. If the organization no longer owns property in the county but owns property in another county in

Page 2 of 11

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11-00236-16

2016842__

59 the state, the property appraiser shall record in each such
 60 county a notice of tax lien identifying the property owned by
 61 the organization in each respective county, which attaches to
 62 the identified property.

63 2. Before a lien may be filed, the organization must be
 64 given 30 days to pay the taxes and interest owed.

65 3. If an exemption is improperly granted as a result of a
 66 clerical mistake or an omission by the property appraiser, the
 67 organization improperly receiving the exemption may not be
 68 assessed interest.

69 4. The 5-year limitation specified in this subsection may
 70 be extended by the property appraiser if the holder of the
 71 exemption continues to take affirmative steps to prepare the
 72 property for the purposes specified in this section.

73 (b) This subsection does not apply to property being
 74 prepared for use as a house of public worship. The term "public
 75 worship" means religious worship services and those activities
 76 that are incidental to religious worship services, such as
 77 educational activities, parking, recreation, partaking of meals,
 78 and fellowship.

79 Section 2. Subsections (3), (4), and (5) of section
 80 196.196, Florida Statutes, are amended to read:

81 196.196 Determining whether property is entitled to
 82 charitable, religious, scientific, or literary exemption.—

83 ~~(3) Property owned by an exempt organization is used for a~~
 84 ~~religious purpose if the institution has taken affirmative steps~~
 85 ~~to prepare the property for use as a house of public worship.~~
 86 ~~The term "affirmative steps" means environmental or land use~~
 87 ~~permitting activities, creation of architectural plans or~~

Page 3 of 11

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11-00236-16

2016842__

88 ~~schematic drawings, land clearing or site preparation,~~
 89 ~~construction or renovation activities, or other similar~~
 90 ~~activities that demonstrate a commitment of the property to a~~
 91 ~~religious use as a house of public worship. For purposes of this~~
 92 ~~subsection, the term "public worship" means religious worship~~
 93 ~~services and those other activities that are incidental to~~
 94 ~~religious worship services, such as educational activities,~~
 95 ~~parking, recreation, partaking of meals, and fellowship.~~

96 (3)(4) Except as otherwise provided in this section herein,
 97 property claimed as exempt for literary, scientific, religious,
 98 or charitable purposes which is used for profitmaking purposes
 99 is shall be subject to ad valorem taxation. Use of property for
 100 functions not requiring a business or occupational license
 101 conducted by the organization at its primary residence, the
 102 revenue of which is used wholly for exempt purposes, is shall
 103 not be considered profitmaking profit making. In this connection
 104 the playing of bingo on such property is shall not be considered
 105 a use of as using such property that in such a manner as would
 106 impair its exempt status.

107 ~~(5)(a) Property owned by an exempt organization qualified~~
 108 ~~as charitable under s. 501(c)(3) of the Internal Revenue Code is~~
 109 ~~used for a charitable purpose if the organization has taken~~
 110 ~~affirmative steps to prepare the property to provide affordable~~
 111 ~~housing to persons or families that meet the extremely-low-~~
 112 ~~income, very-low-income, low-income, or moderate-income limits,~~
 113 ~~as specified in s. 420.0004. The term "affirmative steps" means~~
 114 ~~environmental or land use permitting activities, creation of~~
 115 ~~architectural plans or schematic drawings, land clearing or site~~
 116 ~~preparation, construction or renovation activities, or other~~

Page 4 of 11

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11-00236-16

2016842__

117 similar activities that demonstrate a commitment of the property
118 to providing affordable housing.

119 ~~(b)1. If property owned by an organization granted an
120 exemption under this subsection is transferred for a purpose
121 other than directly providing affordable homeownership or rental
122 housing to persons or families who meet the extremely low-
123 income, very low income, low income, or moderate income limits,
124 as specified in s. 420.0004, or is not in actual use to provide
125 such affordable housing within 5 years after the date the
126 organization is granted the exemption, the property appraiser
127 making such determination shall serve upon the organization that
128 illegally or improperly received the exemption a notice of
129 intent to record in the public records of the county a notice of
130 tax lien against any property owned by that organization in the
131 county, and such property shall be identified in the notice of
132 tax lien. The organization owning such property is subject to
133 the taxes otherwise due and owing as a result of the failure to
134 use the property to provide affordable housing plus 15 percent
135 interest per annum and a penalty of 50 percent of the taxes
136 owed.~~

137 ~~2. Such lien, when filed, attaches to any property
138 identified in the notice of tax lien owned by the organization
139 that illegally or improperly received the exemption. If such
140 organization no longer owns property in the county but owns
141 property in any other county in the state, the property
142 appraiser shall record in each such other county a notice of tax
143 lien identifying the property owned by such organization in such
144 county which shall become a lien against the identified
145 property. Before any such lien may be filed, the organization se~~

Page 5 of 11

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11-00236-16

2016842__

146 notified must be given 30 days to pay the taxes, penalties, and
147 interest.

148 ~~3. If an exemption is improperly granted as a result of a
149 clerical mistake or an omission by the property appraiser, the
150 organization improperly receiving the exemption shall not be
151 assessed a penalty or interest.~~

152 ~~4. The 5-year limitation specified in this subsection may
153 be extended if the holder of the exemption continues to take
154 affirmative steps to develop the property for the purposes
155 specified in this subsection.~~

156 Section 3. Section 196.198, Florida Statutes, is amended to
157 read:

158 196.198 Educational property exemption.—

159 (1) Educational institutions within this state and their
160 property used by them or by any other exempt entity or
161 educational institution exclusively for educational purposes are
162 exempt from taxation.

163 (a) Sheltered workshops providing rehabilitation and
164 retraining of individuals who have disabilities and exempted by
165 a certificate under s. (d) of the federal Fair Labor Standards
166 Act of 1938, as amended, are declared wholly educational in
167 purpose and are exempt from certification, accreditation, and
168 membership requirements set forth in s. 196.012.

169 (b) Those portions of property of college fraternities and
170 sororities certified by the president of the college or
171 university to the appropriate property appraiser as being
172 essential to the educational process are exempt from ad valorem
173 taxation.

174 (c) The use of property by public fairs and expositions

Page 6 of 11

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11-00236-16

2016842__

175 chartered by chapter 616 is presumed to be an educational use of
 176 such property and is exempt from ad valorem taxation to the
 177 extent of such use.

178 (2) Property used exclusively for educational purposes
 179 shall be deemed owned by an educational institution if the
 180 entity owning 100 percent of the educational institution is
 181 owned by the identical persons who own the property, or if the
 182 entity owning 100 percent of the educational institution and the
 183 entity owning the property are owned by the identical natural
 184 persons.

185 (a) Land, buildings, and other improvements to real
 186 property used exclusively for educational purposes shall be
 187 deemed owned by an educational institution if the entity owning
 188 100 percent of the land is a nonprofit entity and the land is
 189 used, under a ground lease or other contractual arrangement, by
 190 an educational institution that owns the buildings and other
 191 improvements to the real property, is a nonprofit entity under
 192 s. 501(c) (3) of the Internal Revenue Code, and provides
 193 education limited to students in prekindergarten through grade
 194 8.

195 (b) If legal title to property is held by a governmental
 196 agency that leases the property to a lessee, the property shall
 197 be deemed to be owned by the governmental agency and used
 198 exclusively for educational purposes if the governmental agency
 199 continues to use such property exclusively for educational
 200 purposes pursuant to a sublease or other contractual agreement
 201 with that lessee.

202 (c) If the title to land is held by the trustee of an
 203 irrevocable inter vivos trust and if the trust grantor owns 100

Page 7 of 11

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11-00236-16

2016842__

204 percent of the entity that owns an educational institution that
 205 is using the land exclusively for educational purposes, the land
 206 is deemed to be property owned by the educational institution
 207 for purposes of this exemption. ~~Property owned by an educational~~
 208 ~~institution shall be deemed to be used for an educational~~
 209 ~~purpose if the institution has taken affirmative steps to~~
 210 ~~prepare the property for educational use. The term "affirmative~~
 211 ~~steps" means environmental or land use permitting activities,~~
 212 ~~creation of architectural plans or schematic drawings, land~~
 213 ~~clearing or site preparation, construction or renovation~~
 214 ~~activities, or other similar activities that demonstrate~~
 215 ~~commitment of the property to an educational use.~~

216 Section 4. Subsection (2) of section 196.197, Florida
 217 Statutes, is amended to read:

218 196.197 Additional provisions for exempting property used
 219 by hospitals, nursing homes, and homes for special services.—In
 220 addition to criteria for granting exemptions for charitable use
 221 of property set forth in other sections of this chapter,
 222 hospitals, nursing homes, and homes for special services shall
 223 be exempt to the extent that they meet the following criteria:

224 (2) In determining the extent of exemption to be granted to
 225 institutions licensed as hospitals, nursing homes, and homes for
 226 special services, portions of the property leased as parking
 227 lots or garages operated by private enterprise shall not be
 228 deemed to be serving an exempt purpose and shall not be exempt
 229 from taxation. Property or facilities which are leased to a
 230 nonprofit corporation which provides direct medical services to
 231 patients in a nonprofit or public hospital and qualifies under
 232 ss. 196.1955 and s. 196.196 of this chapter are excluded and

Page 8 of 11

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11-00236-16

2016842__

233 shall be exempt from taxation.

234 Section 5. Section 196.1978, Florida Statutes, is amended
235 to read:

236 196.1978 Affordable housing property exemption.—Property
237 used to provide affordable housing to eligible persons as
238 defined by s. 159.603 and natural persons or families meeting
239 the extremely-low-income, very-low-income, low-income, or
240 moderate-income limits specified in s. 420.0004, which is owned
241 entirely by a nonprofit entity that is a corporation not for
242 profit, qualified as charitable under s. 501(c)(3) of the
243 Internal Revenue Code and in compliance with Rev. Proc. 96-32,
244 1996-1 C.B. 717, is considered property owned by an exempt
245 entity and used for a charitable purpose, and those portions of
246 the affordable housing property that provide housing to natural
247 persons or families classified as extremely low income, very low
248 income, low income, or moderate income under s. 420.0004 are
249 exempt from ad valorem taxation to the extent authorized under
250 ss. 196.1955 and ~~s.~~ 196.196. All property identified in this
251 section must comply with the criteria provided under s. 196.195
252 for determining exempt status and applied by property appraisers
253 on an annual basis. The Legislature intends that any property
254 owned by a limited liability company which is disregarded as an
255 entity for federal income tax purposes pursuant to Treasury
256 Regulation 301.7701-3(b)(1)(ii) be treated as owned by its sole
257 member.

258 Section 6. Paragraph (c) of subsection (4) of section
259 202.125, Florida Statutes, is amended to read:

260 202.125 Sales of communications services; specified
261 exemptions.—

Page 9 of 11

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11-00236-16

2016842__

262 (4) The sale of communications services to a home for the
263 aged, religious institution or educational institution that is
264 exempt from federal income tax under s. 501(c)(3) of the
265 Internal Revenue Code, or by a religious institution that is
266 exempt from federal income tax under s. 501(c)(3) of the
267 Internal Revenue Code having an established physical place for
268 worship at which nonprofit religious services and activities are
269 regularly conducted and carried on, is exempt from the taxes
270 imposed or administered pursuant to ss. 202.12 and 202.19. As
271 used in this subsection, the term:

272 (c) "Home for the aged" includes any nonprofit corporation:

273 1. In which at least 75 percent of the occupants are 62
274 years of age or older or totally and permanently disabled; which
275 qualifies for an ad valorem property tax exemption under ss.
276 196.1955 and ~~s.~~ 196.196 ~~or~~ s. 196.197 or s. 196.1975; and
277 which is exempt from the sales tax imposed under chapter 212.

278 2. Licensed as a nursing home under chapter 400 or an
279 assisted living facility under chapter 429 and which is exempt
280 from the sales tax imposed under chapter 212.

281 Section 7. Subsection (6) of section 402.26, Florida
282 Statutes, is amended to read:

283 402.26 Child care; legislative intent.—

284 (6) It is the intent of the Legislature that a child care
285 facility licensed pursuant to s. 402.305 or a child care
286 facility exempt from licensing pursuant to s. 402.316, that
287 achieves Gold Seal Quality status pursuant to s. 402.281, be
288 considered an educational institution for the purpose of
289 qualifying for exemption from ad valorem tax pursuant to ss.
290 196.1955 and ~~s.~~ 196.198.

Page 10 of 11

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11-00236-16

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291
292

Section 8. This act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on General
Government, *Chair*
Governmental Oversight and Accountability,
Vice Chair
Appropriations
Environmental Preservation and Conservation
Ethics and Elections
Fiscal Policy

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining,
Alternating Chair

SENATOR ALAN HAYS

11th District

MEMORANDUM

To: Senator Dorothy L. Hukill, Chair
Finance and Tax Committee
CC: Jose Diez-Arguelles, Staff Director
Lynn Wells, Committee Administrative Assistant

From: Senator D. Alan Hays

Subject: Request to agenda SB 842 Property Prepared for a Tax-exempt Use

Date: January 12, 2016

I respectfully request that you agenda the above referenced bill at your earliest convenience. If you have any questions regarding this legislation, I welcome the opportunity to meet with you one-on-one to discuss it in further detail. Thank you so much for your consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "D. Alan Hays" with a stylized flourish at the end.

D. Alan Hays, DMD
State Senator, District 11

REPLY TO:

- 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011
- 1104 Main Street, The Villages, Florida 32159 (352) 360-6739 FAX: (352) 360-6748
- 685 West Montrose Street, Suite 210, Clermont, Florida 34711 (352) 241-9344 FAX: (888) 263-3677

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 842

Bill Number (if applicable)

Meeting Date

Topic Property Prepared for ^{Tax} Exempt use

Amendment Barcode (if applicable)

Name Martha W. Cleaver

Job Title Governmental Consultant

Address P.O. Box 11275

Phone 850 491-1945

Street

Tallahassee FL 32302

Email marthacleaver@fapa.net

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing Florida Association of Property Appraisers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

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: SJR 1074

INTRODUCER: Senator Gaetz

SUBJECT: Property Tax Assessments

DATE: January 22, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Babin	Diez-Arguelles	FT	Favorable
2.			AP	
3.			RC	

I. Summary:

SJR 1074 proposes an amendment to the Florida Constitution to authorize the Legislature to:

- Prohibit increases in assessments of property subject to an assessment limitation when the just value of the property is less than its just value on the preceding January 1.
- Limit increases in assessments of property subject to an assessment limitation to the increase in the percent change in the property's just value.

SJR 1074 will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

If approved by the voters in the general election held November 2016, SJR 1074 will become effective on January 1, 2017.

The Revenue Estimating Conference has analyzed similar legislation (HB 7015 (2016)) and determined that it has no fiscal impact because it must be approved by the voters and it will not become effective until the Legislature implements the joint resolution by general law. If approved by the voters and fully implemented by the Legislature, it would reduce local property taxes in Fiscal Year 2017-2018 by \$152.3 million, with a recurring impact of \$162.2 million. In Fiscal Year 2018-2019, it would reduce local property taxes by \$292.1 million, with a recurring impact of \$162.2 million.

II. Present Situation:

General Overview of Property Taxation in Florida

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 authority and then applies applicable exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and 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 result 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

Property Assessment Limitations

In 1992, Florida voters adopted the “Save Our Homes” amendment to the Florida Constitution, which limits annual increases in the assessed value of homestead property to the lesser of three percent or the percent change in the Consumer Price Index (CPI).^{11, 12} The increase in the CPI has often caused the Save Our Homes assessment limitation to be less than 3.0 percent. For example, the increase in the CPI for 2013, 2014 and 2015, was 1.7 percent, 1.5 percent, and 0.8 percent, respectively.¹³

¹ Both real property and tangible personal property can be 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 an exemption. 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 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 FLA. CONST. art. VII, s. 4(d). The specific CPI used is the CPI for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

¹² The Save Our Homes assessment limitation was implemented in 1994, and first applied to January 1, 1995 assessments. Chapter 94-353, s. 62, Laws of Fla. (creating s. 193.155, F.S., effective June 3, 1994).

¹³ The Department of Revenue maintains a list of historical Save Our Homes limitation percentages, *available at* <http://dor.myflorida.com/dor/property/resources/limitations.html>.

In 2008, the Florida Constitution was amended to allow a homestead owner to transfer the accrued “Save Our Homes” benefit to a new homestead, up to \$500,000.¹⁴

Also in 2008, the Florida Constitution was amended to limit the annual increase in the assessed value of nonhomestead residential real property and nonresidential real property to 10 percent.¹⁵

The Recapture Rule¹⁶

In implementing the Save Our Homes assessment limitation, the Department of Revenue (DOR) promulgated an administrative rule that requires the property appraiser to increase a property’s assessed value in any year that the prior year’s assessed value was less than the current year’s just value.^{17, 18} This requirement applies even if the just value of the property has decreased from the prior year. Therefore, homestead owners may see an increase in the assessed value of their homestead in years when the market value of their property decreases.¹⁹ This situation is known as recapture and can occur when the market value of property decreases, remains the same, or even increases, but at a rate that is less than the assessment limitation percentage increase.

On March 17, 1995, William Markham, the Broward County Property Appraiser, challenged the validity of the DOR’s rule, arguing that the rule was “an invalid exercise of delegated legislative authority and [] arbitrary and capricious.”²⁰ Markham also claimed that the rule was at variance with the constitution – specifically that it conflicted with the “intent” of the ballot initiative and that a third limitation relating to market value or movement²¹ should be incorporated into the language of the rule. The Division of Administrative Hearings upheld the validity of the DOR’s rule, determining that the language of the rule complied with the constitutional language. In response to the petitioner’s assertion of a third limitation on market movement, the hearing officer concluded that the rule was not constitutionally infirm since there was no mention of “market movement” or “market value” in the ballot summary of the amendment nor did the petitioner present any evidence of legislative history concerning the third limitation.²²

III. Effect of Proposed Changes:

SJR 1074 proposes an amendment to the Florida Constitution to authorize the Legislature to:

¹⁴ FLA. CONST. art. VII, s. 4(d)(8). The \$500,000 limit is reduced in certain circumstances.

¹⁵ FLA. CONST. art. VII, s. 4(d)(8).

¹⁶ Rule 12D-8.0062, F.A.C.

¹⁷ Rule 12D-8.0062(5), F.A.C.

¹⁸ While s. 193.155, F.S., did not provide specific rulemaking authority, the Department of Revenue adopted Rule 12D-9.0062, F.A.C., pursuant to its general rulemaking authority under s. 195.027, F.S. Section 195.027, F.S., provides that the Department of Revenue shall prescribe reasonable rules and regulations for the assessing and collecting of taxes, and that the Legislature intends that the department shall formulate such rules and regulations that property will be assessed, taxes will be collected, and that the administration will be uniform, just and otherwise in compliance with the requirements of general law and the constitution.

¹⁹ *Markham v. Dep’t of Revenue*, Case No. 95-1339RP (Fla. DOAH 1995) (stating that “subsection (5) requires an increase to the prior year’s assessed value in a year where the CPI is greater than zero”).

²⁰ *Id.*

²¹ *Id.* at ¶ 21 (stating that “[t]his limitation, grounded on “market movement,” would mean that in a year in which market value did not increase, the assessed value of a homestead property would not increase”).

²² *Id.* at ¶ 22.

- Prohibit increases in property assessments of property subject to an assessment limitation when the just value of the property is less than its just value on the preceding January 1.
- Limit increases in property assessments of property subject to an assessment limitation to the increase in the percent change in the property's just value.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provision in Article VII, section 18 of the Florida Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article XI, section 1 of the Florida Constitution, authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

Article XI, section 5(a) of the Florida Constitution, and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”²³

Article XI, section 5(e) of the Florida Constitution, requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on January 1, 2017.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has analyzed similar legislation (HB 7015 (2016)) and determined that it has no fiscal impact because it must be approved by the voters and

²³ *Roberts v. Doyle*, 43 So. 3d 654, 659 (Fla. 2010), citing *Florida Dep't of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

it will not become effective until the Legislature implements the joint resolution by general law. If approved by the voters and fully implemented by the Legislature, the joint resolution would reduce local property taxes in Fiscal Year 2017-2018 by \$152.3 million, with a recurring impact of \$162.2 million. In Fiscal Year 2018-2019, it would reduce local property taxes by \$292.1 million, with a recurring impact of \$162.2 million.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Article XI, section 5(d) of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimates the full publication costs for advertising the proposed amendment to be approximately \$135.97 per word, for a total publishing cost of \$265,413.44.²⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This joint resolution substantially amends the following articles of the Florida Constitution: Article VII, section 4; Article XII.

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.

²⁴ Florida Department of State Legislative Bill Analysis of SJR 1074 (2016), Dec. 21, 2015.

By Senator Gaetz

1-01600-16

20161074__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article VII and the creation of a new section in Article XII of the State Constitution to allow the Legislature to limit growth in the assessed value of homestead and specified nonhomestead property to the growth rate in just value, to prohibit increases in the assessed value of homestead and specified nonhomestead property if the just value of the property decreases, and to provide an effective date.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 4 of Article VII and the creation of a new section in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 4. Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) As provided by general law and subject to conditions, limitations, and reasonable definitions specified therein, land used for conservation purposes shall be classified by general law and assessed solely on the basis of character or use.

Page 1 of 10

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1-01600-16

20161074__

(c) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(d) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lowest ~~lower~~ of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

c. The percent change in the homestead property's just value, if the change is greater than or equal to zero and the legislature so provides by general law.

(2) The legislature may provide by general law that an assessment does not increase if the just value of the homestead property is less than its just value on the preceding January 1.

~~(3)-(2)~~ No assessment shall exceed just value.

~~(4)-(3)~~ After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year, unless the provisions of paragraph ~~(9)~~ (9) apply. Thereafter, the homestead shall be

Page 2 of 10

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1-01600-16

20161074__

62 assessed as provided in this subsection.

63 (5)~~(4)~~ New homestead property shall be assessed at just
64 value as of January 1st of the year following the establishment
65 of the homestead, unless the provisions of paragraph (9) ~~(8)~~
66 apply. That assessment shall only change as provided in this
67 subsection.

68 (6)~~(5)~~ Changes, additions, reductions, or improvements to
69 homestead property shall be assessed as provided for by general
70 law; provided, however, after the adjustment for any change,
71 addition, reduction, or improvement, the property shall be
72 assessed as provided in this subsection.

73 (7)~~(6)~~ In the event of a termination of homestead status,
74 the property shall be assessed as provided by general law.

75 (8)~~(7)~~ The provisions of this amendment are severable. If
76 any of the provisions of this amendment shall be held
77 unconstitutional by any court of competent jurisdiction, the
78 decision of such court shall not affect or impair any remaining
79 provisions of this amendment.

80 (9)~~(8)~~a. A person who establishes a new homestead as of
81 January 1, 2009, or January 1 of any subsequent year and who has
82 received a homestead exemption pursuant to Section 6 of this
83 Article as of January 1 of either of the two years immediately
84 preceding the establishment of the new homestead is entitled to
85 have the new homestead assessed at less than just value. If this
86 revision is approved in January of 2008, a person who
87 establishes a new homestead as of January 1, 2008, is entitled
88 to have the new homestead assessed at less than just value only
89 if that person received a homestead exemption on January 1,
90 2007. The assessed value of the newly established homestead

Page 3 of 10

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1-01600-16

20161074__

91 shall be determined as follows:

92 1. If the just value of the new homestead is greater than
93 or equal to the just value of the prior homestead as of January
94 1 of the year in which the prior homestead was abandoned, the
95 assessed value of the new homestead shall be the just value of
96 the new homestead minus an amount equal to the lesser of
97 \$500,000 or the difference between the just value and the
98 assessed value of the prior homestead as of January 1 of the
99 year in which the prior homestead was abandoned. Thereafter, the
100 homestead shall be assessed as provided in this subsection.

101 2. If the just value of the new homestead is less than the
102 just value of the prior homestead as of January 1 of the year in
103 which the prior homestead was abandoned, the assessed value of
104 the new homestead shall be equal to the just value of the new
105 homestead divided by the just value of the prior homestead and
106 multiplied by the assessed value of the prior homestead.
107 However, if the difference between the just value of the new
108 homestead and the assessed value of the new homestead calculated
109 pursuant to this sub-subparagraph is greater than \$500,000, the
110 assessed value of the new homestead shall be increased so that
111 the difference between the just value and the assessed value
112 equals \$500,000. Thereafter, the homestead shall be assessed as
113 provided in this subsection.

114 b. By general law and subject to conditions specified
115 therein, the legislature shall provide for application of this
116 paragraph to property owned by more than one person.

117 (e) The legislature may, by general law, for assessment
118 purposes and subject to the provisions of this subsection, allow
119 counties and municipalities to authorize by ordinance that

Page 4 of 10

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1-01600-16 20161074__

120 historic property may be assessed solely on the basis of
 121 character or use. Such character or use assessment shall apply
 122 only to the jurisdiction adopting the ordinance. The
 123 requirements for eligible properties must be specified by
 124 general law.

125 (f) A county may, in the manner prescribed by general law,
 126 provide for a reduction in the assessed value of homestead
 127 property to the extent of any increase in the assessed value of
 128 that property which results from the construction or
 129 reconstruction of the property for the purpose of providing
 130 living quarters for one or more natural or adoptive grandparents
 131 or parents of the owner of the property or of the owner's spouse
 132 if at least one of the grandparents or parents for whom the
 133 living quarters are provided is 62 years of age or older. Such a
 134 reduction may not exceed the lesser of the following:

135 (1) The increase in assessed value resulting from
 136 construction or reconstruction of the property.

137 (2) Twenty percent of the total assessed value of the
 138 property as improved.

139 (g) For all levies other than school district levies,
 140 assessments of residential real property, as defined by general
 141 law, which contains nine units or fewer and which is not subject
 142 to the assessment limitations set forth in subsections (a)
 143 through (d) shall change only as provided in this subsection.

144 (1) Assessments subject to this subsection shall be changed
 145 annually on the date of assessment provided by law,~~r~~ but those
 146 changes in assessments shall not exceed the lower of the
 147 following:

148 a. Ten percent (10%) of the assessment for the prior year.

1-01600-16 20161074__

149 b. The percent change in the property's just value, if the
 150 change is greater than or equal to zero and the legislature so
 151 provides by general law.

152 (2) The legislature may provide by general law that an
 153 assessment does not increase if the just value of the property
 154 is less than its just value on the preceding date of assessment
 155 provided by law.

156 ~~(3)(2)~~ No assessment shall exceed just value.

157 ~~(4)(3)~~ After a change of ownership or control, as defined
 158 by general law, including any change of ownership of a legal
 159 entity that owns the property, such property shall be assessed
 160 at just value as of the next assessment date. Thereafter, such
 161 property shall be assessed as provided in this subsection.

162 ~~(5)(4)~~ Changes, additions, reductions, or improvements to
 163 such property shall be assessed as provided for by general law;
 164 however, after the adjustment for any change, addition,
 165 reduction, or improvement, the property shall be assessed as
 166 provided in this subsection.

167 (h) For all levies other than school district levies,
 168 assessments of real property that is not subject to the
 169 assessment limitations set forth in subsections (a) through (d)
 170 and (g) shall change only as provided in this subsection.

171 (1) Assessments subject to this subsection shall be changed
 172 annually on the date of assessment provided by law,~~r~~ but those
 173 changes in assessments shall not exceed the lower of the
 174 following:

175 a. Ten percent (10%) of the assessment for the prior year.

176 b. The percent change in the property's just value, if the
 177 change is greater than or equal to zero and the legislature so

1-01600-16 20161074__

178 provides by general law.

179 (2) The legislature may provide by general law that an
 180 assessment does not increase if the just value of the property
 181 is less than its just value on the preceding date of assessment
 182 provided by law.

183 ~~(3)(2)~~ No assessment shall exceed just value.

184 ~~(4)(3)~~ The legislature must provide that such property
 185 shall be assessed at just value as of the next assessment date
 186 after a qualifying improvement, as defined by general law, is
 187 made to such property. Thereafter, such property shall be
 188 assessed as provided in this subsection.

189 ~~(5)(4)~~ The legislature may provide that such property shall
 190 be assessed at just value as of the next assessment date after a
 191 change of ownership or control, as defined by general law,
 192 including any change of ownership of the legal entity that owns
 193 the property. Thereafter, such property shall be assessed as
 194 provided in this subsection.

195 ~~(6)(5)~~ Changes, additions, reductions, or improvements to
 196 such property shall be assessed as provided for by general law.~~r~~
 197 However, after the adjustment for any change, addition,
 198 reduction, or improvement, the property shall be assessed as
 199 provided in this subsection.

200 (i) The legislature, by general law and subject to
 201 conditions specified therein, may prohibit the consideration of
 202 the following in the determination of the assessed value of real
 203 property used for residential purposes:

204 (1) Any change or improvement made for the purpose of
 205 improving the property's resistance to wind damage.

206 (2) The installation of a renewable energy source device.

1-01600-16 20161074__

207 (j) (1) The assessment of the following working waterfront
 208 properties shall be based upon the current use of the property:

209 a. Land used predominantly for commercial fishing purposes.

210 b. Land that is accessible to the public and used for
 211 vessel launches into waters that are navigable.

212 c. Marinas and drystackes that are open to the public.

213 d. Water-dependent marine manufacturing facilities,
 214 commercial fishing facilities, and marine vessel construction
 215 and repair facilities and their support activities.

216 (2) The assessment benefit provided by this subsection is
 217 subject to conditions and limitations and reasonable definitions
 218 as specified by the legislature by general law.

ARTICLE XII

SCHEDULE

221 Property tax assessments.—This section and the amendment to
 222 Section 4 of Article VII addressing the limitation on the growth
 223 of assessed value for homestead and specified nonhomestead
 224 property, and homestead and specified nonhomestead property
 225 having a declining just value, shall take effect January 1,
 226 2017.

227 BE IT FURTHER RESOLVED that the following statement be
 228 placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 4

ARTICLE XII

232 PROPERTY TAX ASSESSMENTS; GROWTH RATE LIMITATIONS;
 233 DECLINING PROPERTY VALUE.—Proposing an amendment to the State
 234 Constitution to authorize the Legislature to limit growth in the
 235 assessed value of homestead and specified nonhomestead property

1-01600-16 20161074__
 236 to reflect the growth rate in the just value of the property,
 237 and to authorize the Legislature to prohibit homestead and
 238 specified nonhomestead property assessment increases if the
 239 property's just value is less than just value from the prior
 240 year. If approved by voters, the amendment takes effect January
 241 1, 2017.

242 BE IT FURTHER RESOLVED that the following statement be
 243 placed on the ballot if a court declares the preceding statement
 244 defective and the decision of the court is not reversed:

245 CONSTITUTIONAL AMENDMENT

246 ARTICLE VII, SECTION 4

247 ARTICLE XII

248 PROPERTY TAX ASSESSMENTS; GROWTH RATE LIMITATIONS;
 249 DECLINING PROPERTY VALUE.—Proposing an amendment to the State
 250 Constitution:

251 (1) The State Constitution limits growth in the assessed
 252 value of homestead property to the lesser of 3 percent or the
 253 inflation rate. In certain circumstances, this could lead to the
 254 assessed value of homestead property growing at a faster rate
 255 than just value. Therefore, the amendment allows the Legislature
 256 to add an additional limit to the rate of growth for assessed
 257 value of homestead property. The growth rate would be limited to
 258 3 percent, the inflation rate, or the percent change in the
 259 homestead property's just value, whichever is least. If approved
 260 by voters, the amendment takes effect January 1, 2017.

261 (2) The State Constitution limits growth in the assessed
 262 value of nonhomestead property to 10 percent of the prior year
 263 assessment. In certain circumstances, this could lead to the
 264 assessed value of the property growing at a faster rate than

1-01600-16 20161074__
 265 just value. Therefore, the amendment allows the Legislature to
 266 add an additional limit to the rate of growth for assessed value
 267 of specified nonhomestead property. The growth rate would be
 268 limited to the lesser of 10 percent of the prior year assessment
 269 or the percent change in the specified nonhomestead property's
 270 just value. If approved by voters, the amendment takes effect
 271 January 1, 2017.

272 (3) In certain circumstances, the State Constitution
 273 requires the assessed value of homestead and specified
 274 nonhomestead property to increase when the just value of the
 275 property decreases. Therefore, the amendment allows the
 276 Legislature to provide that the assessment of homestead and
 277 specified nonhomestead property does not increase if the just
 278 value of the property is less than its just value on the
 279 preceding date of assessment. If approved by voters, the
 280 amendment takes effect January 1, 2017.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Education, *Chair*
Appropriations
Education Pre-K - 12
Ethics and Elections
Health Policy
Higher Education
Rules

SENATOR DON GAETZ
1st District

Committee Request

To: Senator Dorothy L. Hukill, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: January 11, 2016

I respectfully request that Senate Bill 1074, Property Tax Assessments, be placed on the agenda for the Finance and Tax Committee at your convenience. Thank you for your time and consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Don Gaetz", written in a cursive style.

Senator Don Gaetz

REPLY TO:

- 4300 Legendary Drive, Suite 230, Destin, FL 32541 (850) 897-5747 FAX: (888) 263-2259
- 420 Senate Office Building, 404 South Monroe Street, Tallahassee, FL 32399-1100 (850) 487-5001
- 5230 West U.S. Highway 98, Administration Building, 2nd Floor, Panama City, FL 32401 (850) 747-5856

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/25/10
Meeting Date

1074
Bill Number (if applicable)

Topic Recapture

Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Sr. Legislative Advocate

Address 70 Boy 1757

Phone 850 701-3621

Tallahassee FL 32301
City State Zip

Email ahughes@flcities.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Bill Number (if applicable)

1/25/16

STR 1074

Topic

Property Tax Assessments

Amendment Barcode (if applicable)

Name

Martha W. Cleaver

Job Title

Governmental Consultant

Address

P.O. Box 10275

Phone

850/491-1945

Street

Tallahassee FL 32302

Email

Martha.cleaver@fapa.net

City

State

Zip

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

Florida Association of Property Appraisers

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/25/16

Meeting Date

1074

Bill Number (if applicable)

Topic PROPERTY TAX ASSESSMENTS

Amendment Barcode (if applicable)

Name FRENCH BROWN

Job Title Lobbyist

Address 119 S. MONROE ST. Suite 300

Phone 850-425-2227

Street

TALLAHASSEE FL 32301

Email frenchb@byslaw.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA CHAMBER

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/25/16

Meeting Date

1074

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVID SUZUKI

Job Title Fiscal Policy Director

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

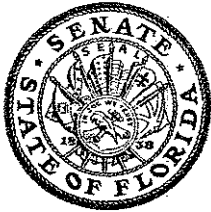
Representing FL Association of Counties

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Chair*
Communications, Energy, and Public Utilities,
Vice Chair
Appropriations
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Fiscal Policy

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL
8th District

January 25, 2016

The Honorable Joseph Abruzzo
Finance & Tax, Vice Chair
207 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Re: Request for Excusal from Committee Meeting

Dear Vice Chairman Abruzzo:

Please excuse me from the Finance & Tax Committee on January 25, 2016 as I am out due to illness.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Dorothy L. Hukill
State Senator, District 08

cc: Jose Diez-Arguelles, Staff Director of the Finance & Tax Committee
Lynn Wells, Administrative Assistant of the Finance & Tax Committee

REPLY TO:

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ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: SB 401

Case:

Type:

Caption: Senate Finance and Tax Committee Judge:

Started: 1/25/2016 1:10:39 PM

Ends: 1/25/2016 2:12:02 PM

Length: 01:01:24

1:10:40 PM Meeting called to order
1:10:42 PM Sen. Abruzzo (Chair)
1:10:59 PM Tab 7 - SJR 1074
1:11:05 PM Sen. Gaetz - introduces bill
1:12:32 PM Amber Hughes, Senior Legislative Advocate, Florida League of Cities
1:14:26 PM Sen. Altman
1:16:45 PM A. Hughes
1:17:42 PM Sen. Altman
1:17:59 PM A. Hughes
1:18:27 PM Sen. Altman
1:18:39 PM A. Hughes
1:19:08 PM Sen. Altman
1:19:27 PM Martha Cleaver, Governmental Consultant, Florida Association of Property Appraisers (waives in support)
1:19:37 PM French Brown, Lobbyist, Florida Chamber (waives in support)
1:19:47 PM Davin Suggs, Fiscal Policy Director, Florida Association of Counties
1:22:22 PM Sen. Altman
1:23:14 PM Sen. Abruzzo
1:24:00 PM Sen. Gaetz
1:25:36 PM Tab 6 - SB 842
1:25:37 PM Am. 356214
1:25:38 PM Sen. Hays - introduces bill
1:27:41 PM Sen. Abruzzo
1:27:48 PM Sen. Altman
1:28:32 PM SB 842 (cont.)
1:28:34 PM Martha Cleaver, Governmental Consultant, Florida Association of Property Appraisers (waives in support)
1:29:26 PM Tab 4 - SJR 492
1:29:28 PM Sen. Flores - introduces bill
1:30:33 PM Am. 915198
1:30:47 PM Sen. Flores
1:31:19 PM SJR 492 (cont.)
1:31:25 PM Martha Cleaver, Governmental Consultant, Florida Association of Property Appraisers (waives in support)
1:31:37 PM Sen. Flores
1:32:05 PM Tab 3 - SB 488
1:32:08 PM Sen. Flores
1:32:22 PM Am. 562194
1:32:27 PM SB 488 (cont.)
1:32:34 PM Martha Cleaver, Governmental Consultant, Florida Association of Property Appraiser (waives in support)
1:33:03 PM Tab 5 - SB 828
1:33:05 PM Sen. Bean - introduces bill
1:34:09 PM Am. 812608
1:34:17 PM Sen. Bean
1:34:34 PM SB 828 (cont.)
1:34:42 PM Robert Reyes, Florida Workers' Compensation Insurance Guaranty Fund (waives in support)
1:35:17 PM Sen. Bean
1:35:29 PM Tab 2 - SB 346
1:35:33 PM Sen. Altman - introduces bill
1:37:01 PM Am. 252756
1:37:05 PM Sen. Altman
1:37:41 PM Sen. Soto
1:37:49 PM Sen. Altman
1:38:14 PM SB 346 (cont.)
1:38:19 PM Sen. Altman

1:38:28 PM Kurt Spitzer, Executive Director, Florida Stormwater Association (waives in support)
1:39:00 PM Tab 1 - SB 98
1:39:16 PM Elizabeth Fetterhoff, Legislative Assistant, Sen. Hukill - introduces bill
1:40:55 PM Am. 411574
1:41:14 PM SB 98 (cont.)
1:41:26 PM Nancy Stephens, Executive Director, Manufacturers Association of Florida
1:43:27 PM Geary Havran, President, NDH Medical, Inc.
1:46:34 PM Michael Rubin, Vice President Govt. Affairs, Florida Ports Council (waives in support)
1:46:41 PM Rick Kendust, State and Local Manager, Northrop Grumman (waives in support)
1:46:46 PM Natalie King, Vice President, Tampa Bay Partnership (waives in support)
1:46:55 PM Amber Hughes, Senior Legislative Advocate, Florida League of Cities (waives in support)
1:46:58 PM Davin Suggs, Fiscal Policy Director, Florida Association of Counties (waives in support)
1:47:06 PM Stan Forron, Govt. Relations Coordinator, Space Florida (waives in support)
1:47:14 PM Bill Herrie, Executive Director, National Federation of Independent Business (waives in support)
1:47:26 PM Jon Costello, Lobbyist, Associated Industries of Florida (waives in support)
1:47:30 PM French Brown, Lobbyist, Florida Chamber (waives in support)
1:47:34 PM Rich Templin, Florida AFL-CIO
1:51:39 PM Sen. Soto
1:52:04 PM R. Templin
1:53:11 PM Sen. Soto
1:53:21 PM R. Templin
1:54:02 PM Sen. Soto
1:54:17 PM R. Templin
1:55:39 PM Sen. Soto
1:55:50 PM R. Templin
1:56:45 PM Sen. Abruzzo
1:57:08 PM R. Templin
1:58:19 PM Sen. Margolis
2:00:28 PM R. Templin
2:00:47 PM Sen. Margolis
2:00:49 PM R. Templin
2:01:13 PM Sen. Margolis
2:01:37 PM Sen. Abruzzo
2:02:06 PM Sen. Margolis
2:02:52 PM Sen. Altman
2:04:05 PM R. Templin
2:04:14 PM Sen. Altman
2:04:30 PM Kurt Wenner, Vice President, FloridaTaxWatch
2:05:11 PM Sen. Soto
2:06:16 PM Sen. Simpson
2:09:07 PM Sen. Abruzzo
2:10:32 PM E. Fetterhoff
2:11:27 PM Sen. Soto - motion to vote in the affirmative for SJR 1074
2:11:38 PM Sen. Simpson - motion to vote in the affirmative for SJR 1074
2:11:45 PM Meeting adjourned