

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 281 Property Taxation

SPONSOR(S): Community & Military Affairs Subcommittee, Economic Affairs Committee, Community & Military Affairs Subcommittee, Logan

TIED BILLS: **IDEN./SIM. BILLS:** SB 880

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	12 Y, 0 N, As CS	Nelson	Hoagland
2) Economic Affairs Committee	11 Y, 0 N, As CS	Nelson	Tinker
3) Finance & Tax Committee	20 Y, 0 N, As CS	Aldridge	Langston

SUMMARY ANALYSIS

The bill provides that a petitioner before a value adjustment board (VAB) challenging an assessment of property for property tax purposes must make a partial payment of at least 75 percent of ad valorem taxes before those taxes become delinquent, less any applicable discount. A petitioner before a VAB challenging the denial of a classification or an exemption must make a payment of the amount of tax which the taxpayer admits in good faith to be owing before such taxes become delinquent, less any applicable discount. If the good faith payment made is grossly disproportionate to the amount found to be due by the VAB, a 10% per year penalty applies.

The bill provides that if the VAB determines that the petitioner owes ad valorem taxes in excess of the amounts paid, the unpaid amount accrues interest at the rate of 12 percent per year from April 1. If the VAB determines that the petitioner is owed a refund, the amount paid in excess of the amount due accrues interest at the rate of 12 percent per year from April 1.

The bill also eliminates current language which provides for a four percent discount that applies for 30 days after the mailing of a tax notice resulting from the action of a value adjustment board when the tax notice is issued after the taxes become delinquent.

If the payments required under the bill are not made, the VAB must deny the petition in writing by April 20.

The bill does not apply to a petitioner challenging a tax deferral denial.

This bill has an effective date of July 1, 2011, and is effective for VAB petitions filed on or after July 1, 2011.

The bill is expected to have a positive fiscal impact on local governments and school boards.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Ad Valorem Taxation/Value Adjustment Boards

The Florida Constitution reserves ad valorem taxation to local governments. While Florida's property tax system is established by state law, it is implemented at the local level.

County property appraisers establish a property's just value as of January 1 of each year, and apply any valid exemptions, classifications or assessment limitations to determine a parcel's taxable value. Local taxing authorities, with the exception of district school boards,¹ set a millage rate that is levied on a property's taxable value. Each August, county property appraisers send property owners a Notice of Proposed Property Taxes, which identifies the just, assessed and taxable value of a parcel and the tax that will be due based on the millage rates proposed by local governments. Property taxes are due November 1 or as soon thereafter as the certified tax roll is received by the tax collector. Pending any appeals, unpaid taxes are delinquent after March 31 of the following year.

Property owners who object to the assessment placed on their property may request an informal conference with the county property appraiser,² file a petition with the value adjustment board (VAB) in the county where the property is located,³ or file an action in circuit court to contest the assessment.⁴ Property owners can pay property taxes in advance of the VAB hearing or may wait until the hearing process is complete.⁵ Before an action to contest a tax assessment may be brought in circuit court, the taxpayer must pay the tax collector not less than the amount of tax which the taxpayer admits in good faith to owe.⁶ If the court finds that the amount of tax owed by the taxpayer is greater than the amount the taxpayer has in good faith admitted and paid, it enters a judgment against the taxpayer for the deficiency and for interest on the deficiency at the rate of 12 percent per year from the date the tax became delinquent.⁷ Participation in an informal conference is not a prerequisite to any administrative or judicial review available to the taxpayer.

Filing deadlines for petitions to the VAB vary depending on the subject of the petition. If the petition deals with a valuation issue, it must be filed on or before the 25th day following the mailing of the Notice of Proposed Property Taxes. If the petition deals with the denial of an exemption or a classification, it must be filed on or before the 30th day following the mailing of the notice denying the application for exemption or classification.⁸ Current law is silent regarding late-filed petitions.

The VAB may require a petition filing fee of up to \$15 for each separate parcel of property. However, a condominium association, a cooperative association, a homeowners' association, and the owner of contiguous undeveloped parcels may file a single petition covering multiple parcels, if certain conditions

¹ For district school boards, the Legislature establishes, via the General Appropriations Act and implementing legislation, the amount of revenue that must be raised for property taxes in order for school districts to receive state funds through the Florida Education Finance Program (FEFP) funding formula. No later than July 19 of each year, the Commissioner of Education certifies each district's required local effort millage rate after the Department of Revenue certifies the property tax valuations of each district. Millage rates are also adjusted because required local effort may not exceed 90 percent of a district's total FEFP entitlement.

² Section 194.011(2), F.S.

³ Section 194.011(3), F.S.

⁴ Section 194.171, F.S.

⁵ Section 197.323(2), F.S., specifies that a tax certificate cannot be issued with respect to delinquent taxes on property for the current year if a petition filed with the value adjustment board has not received final action.

⁶ Section 194.171(3), F.S.

⁷ Section 194.192(2), F.S.

⁸ Section 194.011(3), F.S.

are met.⁹ The filing fee for these joint petitions is calculated as the cost of the special magistrate for the time involved in hearing the joint petition, not to exceed \$5 per parcel.

The VAB is required to render a written decision in each case, except when a petition is withdrawn by the petitioner or is acknowledged as correct by the property appraiser.¹⁰

Problems with the Value Adjustment Board Process

A December 2010 study by the Florida Legislature's Office of Program Policy Analysis & Government Accountability found that the time value adjustment boards take to complete the process has increased in recent years due to factors such as a growing number of petitions, changes in state law and administrative rules, and the involvement of property tax representatives, individuals who typically work on a contingency basis and may actively solicit appeals. Some property owners may use the process in order to realize a financial benefit by not paying taxes until after a board has completed its hearing.

The value adjustment board process typically takes a few months to complete, but can take as long as one to two years in larger counties.¹¹ Recently, more counties have been unable to certify their tax rolls by April 1, when property taxes are due. Delays in the value adjustment board process and subsequent delays in the certification of tax rolls can cause problems for local governments that cannot finalize revenues, and create cash flow issues for school districts, which establish their annual budgets based on anticipated revenues. A lengthy hearing process also can create problems for taxpayers who are anticipating tax refunds.¹²

Effect of Proposed Changes

The bill provides that a petitioner before a value adjustment board (VAB) challenging an assessment of property must make a partial payment of at least 75 percent of ad valorem taxes before those taxes become delinquent, less any applicable discount. A petitioner before a VAB challenging the denial of a classification or an exemption must make a payment of the amount of tax which the taxpayer admits in good faith to be owing before such taxes become delinquent, less any applicable discount. If the good faith payment made is grossly disproportionate to the amount found to be due by the VAB, a 10% per year penalty applies.

The bill provides that if the VAB determines that the petitioner owes ad valorem taxes in excess of the amounts paid, the unpaid amount accrues interest at the rate of 12 percent per year from April 1. If the VAB determines that the petitioner is owed a refund, the amount paid in excess of the amount due accrues interest at the rate of 12 percent per year from April 1.

The bill also eliminates current language which provides for a four percent discount that applies for 30 days after the mailing of a tax notice resulting from the action of a value adjustment board when the tax notice is issued after the taxes become delinquent.

If the payments required under the bill are not made, the VAB must deny the petition in writing by April 20.

The bill does not apply to a petitioner challenging a tax deferral denial.

This bill has an effective date of July 1, 2011 and is effective for VAB petitions filed on or after July 1, 2011.

⁹ Section 194.013, F.S.

¹⁰ Section 194.034, F.S.

¹¹ As of May 2010, value adjustment boards in Broward, Duval, and Miami-Dade counties were at least one year behind in completing their hearings.

¹² Office of Program Policy Analysis & Government Accountability, Report No. 10-64, December 2010.

B. SECTION DIRECTORY:

Section 1: Creates s. 194.014, F.S., providing for partial payment of taxes for certain proceedings before a VAB.

Section 2: Amends s. 194.034(2), F.S., relating to VAB hearing procedures.

Section 2: Amends s. 197.162, F.S., relating to ad valorem tax discounts.

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not yet estimated the revenue impacts of this bill. However, the bill could improve a local government's cash flow by requiring collection of a portion of taxes owed by property owners pursuing a VAB appeal before April 1.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill will require those challenging an assessment of property before a value adjustment board to pay at least 75 percent of the taxes and those challenging the denial of an exemption or classification to make a good faith payment of tax before those taxes become delinquent. Petitioners who do not prevail before the board are additionally charged 12 percent interest on any unpaid amounts from April 1, while those that do prevail receive 12 percent interest on any amounts of tax paid in excess of amounts ultimately found owing.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

At its meeting on March 23, 2011, the Community & Military Affairs Subcommittee considered, and reported favorably, a Proposed Committee Substitute for HB 281. This analysis is drafted to the Committee Substitute.

At its meeting on April 7, 2011, the Economic Affairs Committee adopted an amendment that lowers the partial payment a petitioner before a value adjustment board must pay from 75 percent to 50 percent of ad valorem taxes. This analysis is drafted to the CS/CS for HB 281.

On April 20, 2011, the Finance and Tax Committee adopted a strike-all amendment that:

- The amendment provides that a petitioner challenging an assessment of property must make a partial payment of at least 75 percent of ad valorem taxes before April 1, less any applicable discount.
- A petitioner challenging the denial of a classification or an exemption must make a payment of the amount of tax which the taxpayer admits in good faith to be owing by April 1, less any applicable discount.
- If the good faith payment made is grossly disproportionate to the amount found to be due by the VAB, a 10% per year penalty applies.
- If the VAB determines that the petitioner owes ad valorem taxes in excess of the amounts paid, the unpaid amount accrues interest at the rate of 12 percent per year from April 1.
- If the VAB determines that the petitioner is owed a refund, the amount paid in excess of the amount due accrues interest at the rate of 12 percent per year from April 1.
- The amendment removes that 4% discount for taxes are paid within 30 days of the mailing of the corrected tax if the corrected tax notice is issued on April 1 or later.
- If the payments required under the bill are not made by April 1, the VAB must deny the petition in writing by April 20.
- The amendment does not apply to a petitioner challenging a tax deferral denial.
- The amendment clarifies that the bill is effective for VAB petitions filed on or after July 1, 2012.

The analysis has been updated to reflect the amendment.