The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

BUDGET SUBCOMMITTEE ON FINANCE AND TAX
Senator Bogdanoff, Chair
Senator Altman, Vice Chair

MEETING DATE: Thursday, October 20, 2011
TIME: 10:45 a.m.—12:45 p.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Bogdanoff, Chair; Senator Altman, Vice Chair; Senators Alexander, Gardiner, Margolis, Norman, and Sachs

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**Issue Brief 2012-204** (Review Capital Tax Investment Tax Credit) Presentation		
2	**Issue Brief 2012-207** (Property Tax Update) Presentation		
	Other related meeting documents		

The Florida Senate

Issue Brief 2012-204 *September 2011*

Budget Subcommittee on Finance and Tax

REVIEW OF THE CAPITAL INVESTMENT TAX CREDIT

Statement of the Issue

Florida created the Capital Investment Tax Credit in 1998 as a tool to encourage high-impact sector businesses to build or expand facilities within Florida. It provides a tax credit that qualifying businesses can use to reduce corporate income or insurance premium taxes.

The credit has been in place for 14 years, and substantial amounts of tax credits have been awarded. Although the full amount of potential tax credits has not been used, the accumulated amount of approved tax credits has been growing in recent years. This issue brief will detail the history, amendments, and use of the credit, including the amount of potential tax credits that could be used in future years.

Discussion

Creation of the Capital Investment Tax Credit

In 1998, the Legislature created the Capital Investment Tax Credit (CITC) [1] for high-impact sector businesses that locate within Florida. Qualifying businesses that make a significant capital investment in Florida by building or expanding physical facilities can reduce their tax liability for a significant period of time after beginning operations at the new or expanded facility by using the CITC.

The CITC has been amended several times since it was initially enacted. However, the basic framework of the CITC remains the same. The following information explains the portion of the CITC that was part of the initial legislation. Unless otherwise indicated, these requirements still exist.

As it was initially enacted, the CITC had the following requirements to qualify:

(1) The business had to be a high-impact sector business;
(2) The business had to build or expand a facility within Florida;
(3) The business had to incur construction or expansion costs of at least $25 million;[2] and
(4) The business had to create and maintain at least 100 new jobs within Florida.

A qualifying business would receive an annual corporate income tax credit for the 20-year period immediately following the date it commenced operations at the new or expanded facility.

High-Impact Sectors.[3] Every three years, Enterprise Florida, Inc. (Enterprise Florida) researches and recommends the business sectors that should be designated as high-impact.[4]

[1] Chapter 98-61, Laws of Florida; s. 220.191, Florida Statutes.
[2] In s. 220.191, Florida Statutes, these costs are referred to as "eligible capital costs" or "cumulative capital investment."
[3] By the time the CITC was developed, Florida already had a different incentive in place for high-impact sector businesses – a performance grant system. In creating the CITC, the high-impact sector requirements of that performance grant system were used. See s. 288.108, Florida Statutes.
[4] At the time when the CITC was created, there was not a set three-year schedule for reviewing high-impact designations. The three-year schedule was established by s. 20, ch. 2010-147, Laws of Florida (CS/SB 1752), now in s. 288.108(6)(a), Florida Statutes.

The Department of Economic Opportunity[5] makes the final decision on designations. High-impact sectors have evolved over time. Currently, they are comprised of the following business sectors:[6]

1. Transportation Equipment (Aviation/Aerospace) (1997),
2. Information Technology (1999),
3. Life Sciences (2002),
4. Financial Services (2004),
5. Corporate Headquarters (2006), and
6. Clean Energy (2008).

Eligible Capital Costs and Cumulative Capital Investment. The CITC uses the term "eligible capital costs" to refer to the types of expenses that count toward meeting the minimum $25 million capital investment requirement. "Eligible capital costs" are defined broadly. They generally include all costs related to the acquisition and construction of a facility. Although not limited to specific costs, the statute lists several illustrative examples that qualify: (1) construction costs, including all obligations incurred for labor and obligations to contractors; (2) costs of acquiring land or rights to land, including recording fees; (3) costs for architectural or engineering services; and (4) costs associated with the acquisition and installation of fixtures and equipment.

The amount of "eligible capital costs" (sometimes referred to as "cumulative capital investment") determines the amount of annual credit for a qualifying business. The annual credit amount is essentially the total amount of eligible capital costs equally divided over 20 years.[7] For instance, a business with $40 million in eligible capital costs would have an annual credit limit of $2 million, while a company with the minimum $25 million in costs would have an annual credit limit of $1.25 million.

The CITC was designed as a three-tier program, and the level of eligible capital costs determined the tier that applied to a project. In order to qualify for the lowest tier, eligible capital costs must equal at least $25 million; the middle tier requires eligible capital costs of $50 million, while the highest tier requires eligible capital costs of $100 million. These tiers then determine what percentage of its tax liability, a project could offset. This limitation is discussed below.

Limitations on Annual Credit Amounts. Even though the annual credits potentially can be as high as 5 percent of the total eligible capital costs, two other limitations apply.[8] First, the credit can only be used against the tax liability arising out of the new or expanded facility ("qualifying project"). Second, only a set percentage of the project's tax liability can be offset.

The first limitation – related to the tax liability arising out of the qualifying project – limits the use of the credit in years when the qualifying project has little or no tax liability, even if the business as a whole does owe tax. As an example, assume that the qualifying business builds a new facility in Florida. The facility incurs a total of $40 million in eligible capital costs, and the business establishes the new facility as a division within the corporation.

Assume that in the first year of operations, the new facility has no tax liability, but the overall business is very profitable and owes Florida tax. In this instance, the business would have a potential annual credit of $2 million (5 percent of its $40 million in eligible capital costs). However, it cannot use any of the $2 million credit because that credit can only be used to offset the tax liability that arose out of the new facility, and the new facility did not

[5] The Department of Economic Opportunity was created recently by ch. 2011-142, Laws of Florida (SB 2156). Before the creation of the Department of Economic Opportunity, the Governor's Office of Tourism, Trade and Economic Development was assigned this authority, as well as numerous other responsibilities in administering the CITC. For consistency, references throughout this document will be made to the Department of Economic Opportunity, even when discussing the program at a time when the Governor's Office of Tourism, Trade, and Economic Development existed.
[6] Dates in parentheses are the year in which the sector was designated as high-impact.
[7] Section 220.191(2)(a), Florida Statutes, accomplishes this equation by limiting a taxpayer to 5 percent of its eligible capital costs per year for 20 years.
[8] *See* s. 220.191(2)(a), Florida Statutes.

have any tax liability. Under the original program, the $2 million credit potentially available for year 1 would expire and never be available for future use.

The second limitation – the percentage limit – limits the percentage of the project's tax liability that can be offset with the credits and is determined by the amount of eligible capital costs. If the taxpayer incurs eligible capital costs between $25 million and $50 million, the business can offset a maximum of 50 percent of the project's tax liability; for eligible capital costs between $50 million and $100 million, the business can offset 75 percent; and for projects with eligible capital costs equal to or exceeding $100 million, the business can offset 100 percent of the project's tax liability.

While the CITC has been amended, it still allows businesses to qualify for credit as high-impact sector businesses, with certain changes. The significant amendments to the CITC allow businesses outside of the high-impact sectors to qualify for the CITC.

Significant Amendments to the Credit

The following information outlines significant amendments to the CITC.

A. Insurance Premium Tax.[9] In 1999, the statute was amended to allow qualifying businesses to take the credit against the insurance premium tax.

B. Financial Services Sector Expansion.[10] In 2003, the CITC was expanded temporarily to allow financial services businesses to qualify for the CITC through June 30, 2004. Although now repealed, a financial services facility could have been a qualifying project if it created 2,000 new jobs paying an average wage of $50,000 and it incurred eligible capital costs of at least $30 million.

C. Target Industry Business Sector.[11] In 2005, the CITC was expanded to allow target industry businesses to qualify. Like high-impact sectors, target industries are determined by the Department of Economic Opportunity in consultation with Enterprise Florida. Target industry business sectors are determined through consideration of specified criteria, such as industry growth potential, industry stability, average industry wages, etc.[12] Currently, target industries are a slightly larger group than the high-impact sectors; target industries include all high-impact sectors, as well as businesses working in homeland security and defense activities.

There are certain types of businesses that are statutorily prohibited from participating as target industry businesses, such as retail industry businesses, electric utility companies, and certain mining activities. As with high-impact sectors, target industry designations are reviewed every 3 years.[13]

A target industry business facility can be a qualifying project if it creates or retains at least 1,000 jobs, 100 of which must be new jobs, and the jobs must pay an average wage of at least 130 percent of the average private sector wage in the area. The project also must incur eligible capital costs of $100 million.

The tax credit for target industry businesses is calculated differently than the typical 5 percent of eligible capital costs per year. Target industry businesses can only take credit for 5 years; however, these businesses may take a credit equal to one-half of the increase in the tax liability arising out of the project, without regard to the amount of eligible capital costs.

D. Corporate Headquarters Facilities.[14] In 2006, the CITC was expanded to allow any business that located its corporate headquarters in Florida to qualify for the credit, regardless of whether the business was in a high-impact

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[9] See s. 64, ch. 99-251, Laws of Florida (CS/SB 1566).
[10] See s. 1, ch. 2003-270 (HB 691).
[11] See s. 5, ch. 2005-282, Laws of Florida (CS/SB 202).
[12] *See* s. 288.106(2)(t), Florida Statutes.
[13] See s. 288.106(2)(t), Florida Statutes (flush language).
[14] See s. 1, ch. 2006-55, Laws of Florida (CS CS SB 2728).

or target industry business sector. A corporate headquarters facility can be a qualifying project if it is located in an enterprise zone and brownfield area, creates at least 1,500 jobs with an average pay at least 200 percent of the statewide average annual private sector wage, and incurs eligible capital costs of at least $250 million.

Like the high-impact sector business projects, the annual tax credit amount for a corporate headquarters project is equal to 5 percent of the eligible capital costs, but limited to $15 million.[15] Tax credits awarded for a corporate headquarters facility may only be taken against corporate income tax liability.

If the full tax credit associated with a corporate headquarters facility is not used in any one year, the taxpayer can carry the unused credit forward to any year within the normal 20-year window. In addition, this type of credit may be used by any corporation within the qualifying business's affiliated group.[16]

E. Transferability of CITC for Solar Panel Manufacturing Companies.[17] Generally speaking, the CITC may not be transferred or sold to other businesses. However, in 2008, the CITC was amended to allow certain qualifying projects to transfer unused tax credits.

In order to qualify to transfer a tax credit, the qualifying project must be a new solar panel manufacturing facility that generated at least 400 jobs within 6 months after commencing operations, and pays an average annual salary for the new jobs of at least $50,000. The qualifying business may transfer its credit to any other business, but the transferred amount cannot exceed the amount of the tax liability of the qualifying business's tax liability (or reduced percentage depending on which high-impact sector tier for which the business qualifies). A taxpayer that receives a credit under this transfer method must use the credit in the year the credit is received.

F. Extended Life for Certain Tax Credits.[18] In 2011, the CITC was amended to allow certain tax credits to be used outside of the normal 20-year period following commencement of operations of the qualifying project. The amendment only applies to high-impact sector projects that qualify for tier 3 – the $100 million eligible capital costs threshold. These companies can use any unused credit amounts beginning in the 21st year after the commencement of operations, but not later than the 30th year after operations commence.

G. Disproportionately Affected County Waiver.[19] In 2011, the CITC was amended to waive the requirement that a qualifying project be in a high-impact business sector for the period from July 1, 2011, through June 30, 2014. The business has to be an "otherwise eligible business from another state which locates all or a portion of its business to a Disproportionately Affected County." "Disproportionally Affected County" is defined to mean Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton, or Wakulla County.

Summary of the Current Types of Qualifying Projects

As amended, the CITC allows for three types of qualifying projects – high-impact sector businesses (which have 3 different tiers); target industry businesses, and corporate headquarters. The high-impact sector project type is largely the same as it was when the CITC was developed in 1998. The primary changes have been in adding the new types of qualifying projects and permitting special credit treatment in certain instances.

Overlap between Qualifying Project Types. Due to the changes in the high-impact business sectors, some overlap now exists between the types of qualifying projects. For example, the current statute has two different project types for headquarters facilities: a corporate headquarters facility could qualify as a high-impact sector project, or the facility could qualify under the specific headquarters facility project type. The investment requirements of these two project types differ significantly. The requirements for qualifying under the specific corporate

[15] This $15 million annual limit effectively caps credit for this type of project to $300 million in eligible capital costs. Any costs above $300 million will not generate additional CITC.
[16] "Affiliated group" is a reference to a feature of the federal income tax system wherein related corporations are grouped together for certain tax purposes. See Title 26 Internal Revenue Code s. 1504.
[17] See s. 10, ch. 2008-227, Laws of Florida (HB 7135).
[18] See s. 1, ch. 2011-223, Laws of Florida (CS/HB 879).
[19] See s. 95, ch. 2011-142, Laws of Florida (SB 2156).

headquarters project type are more onerous and require significantly more investment. The difference in the required investment makes it unclear whether any corporate headquarters project would attempt to qualify under the specific headquarters facility project type. This overlap between project types has not yet raised any administrative problems, but retaining the unused headquarters project type under these circumstances may not be useful.

The situation is similar for financial services businesses. The specific financial services facilities project type was repealed in 2004, but that year, financial services businesses were classified as a high-impact sector business. Thus, despite the statutory repeal, financial services businesses still potentially qualify for CITC. As with the specific project type for headquarters facilities, the financial services project type had job requirements far exceeding those required to qualify as a high-impact sector business.

Table 1 summarizes the various types of business operations that qualify for credit and the specific credit provisions related to each type.

TABLE 1

CAPITAL INVESTMENT TAX CREDIT QUALIFYING PROJECT TYPES					
	High-Impact Tier 1	**High-Impact Tier 2**	**High-Impact Tier 3**	**Target Industry**	**Headquarters**
Investment Required	$25 Million	$50 Million	$100 Million	$100 Million	$250 Million
Taxes that the Credit can be Applied Against	Corporate Income Tax or Insurance Premium	Corporate Income Tax or Insurance Premium	Corporate Income Tax or Insurance Premium	Corporate Income Tax or Insurance Premium	Corporate Income Tax
Jobs Requirement	100 New Jobs	100 New Jobs	100 New Jobs	100 New, 900 New or Retained	1,500 New
Annual Credit Amount	5% of Eligible Costs	5% of Eligible Costs	5% of Eligible Costs	50% of increased tax liability arising out of the project	Lesser of $15 million or 5% of Eligible Costs
Annual Credit Limit	50% of tax arising out of project	75% of tax arising out of project	100% of tax arising out of project	50% of increased tax liability arising out of project	$15 million per year
Credit Period	20 years	20 Years	20 Years	5 years	20 years
Credit Carryover	None	None	Amounts not used within the 20-yr period can be taken between years 21 and 30	None	Annual unused amounts can be carried forward within the 20-yr period
Disproportionately Affected County Waiver	Between 7/1/11 and 6/30/14, the high impact sector requirement is waived for any business that relocates all or a portion of its out-of-state business to Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton or Wakulla County.			N/A	N/A
Taxpayer Permitted to Transfer Credit?	Generally not. However, if a project establishes a new solar panel manufacturing facility and generates at least 400 jobs within 6 months of commencing operations and pays those jobs at least $50,000 average annual salary, it may transfer its permissible credit to another business.				

The Process for Obtaining Tax Credits

Three agencies are involved in the administration of the CITC. A business interested in the CITC initially applies to Enterprise Florida, where a review is done to ensure that the business's planned project will meet the requirements for a qualifying project. After review, Enterprise Florida recommends eligible businesses to the Department of Economic Opportunity.

The Department of Economic Opportunity reviews the business's plan and makes a final determination on whether to enter into an agreement with the business. If so, the written agreement outlines the specifics of the project, including the planned date that operations will commence and the total amount of credit that the company can expect if the project proceeds as planned. At this point, the applicant is considered "certified" and the total amount of credit listed in the agreement is considered a "certified credit."

The agreement is drafted so that the qualifying business's annual credit amount begins on the date of commencement of operations, and the 20-year credit period begins at that time. If for some reason operations do not commence on time, the 20-year credit window is not adjusted. So, every year that the commencement of operations is delayed, a year of credit is lost.

Once construction is complete, the business is not permitted to take credit until it requests that the Department of Economic Opportunity audit its eligible capital costs. Once audited, the Department of Economic Opportunity makes any necessary adjustments to the initial certified credit amount.

Every year, the Department of Economic Opportunity reviews the status of all qualifying projects to ensure that the jobs requirements and any other requirements outlined in the agreement are still satisfied. For projects that still meet all requirements and for which the department has completed an audit, the department issues an annual credit letter that outlines how much credit the qualifying business could potentially take for that year.

The CITC also requires that the qualifying business agree with the Department of Revenue on a method to calculate the income from the qualifying project. As discussed above, the qualifying business may only apply its credit to a percentage of the income "arising out of the qualifying project." In some instances, the income from the qualifying project is difficult to separate from the other income of the qualifying business. Section 220.191(5), Florida Statutes, requires that the qualifying business and the Department of Revenue agree on the calculation. The Department of Revenue enters into these agreements by issuing a Technical Assistance Advisement – a binding opinion from the Department of Revenue.[20]

After an annual credit letter is received and the taxpayer has agreed with the Department of Revenue as to the calculation of the income arising out of the qualifying project, the taxpayer may claim the appropriate credit amount on its annual tax return.

Current CITC Statistics

The following information is current as of August 8, 2011.

Applicants and Certifications. Table 2 lists applicant data by project type. The table lists the number of applicants that applied to Enterprise Florida for participation in the program, the number of those applicants that Enterprise Florida (EFI) recommended that the Department of Economic Opportunity consider for participation, and the number of the applicants that the Department of Economic Opportunity (DEO) certified for participation in the program.

[20] Rule 12C-1.0191(1)(a), Florida Administrative Code.

TABLE 2

APPLICANTS AND CERTIFICATIONS BY PROJECT TYPE						
Qualifying Project Type	**High-Impact Sector $25 Million**	**High-Impact Sector $50 Million**	**High-Impact Sector $100 Million**	**Targeted Industries**	**Headquarters**	**Total**
Number of Applicants to EFI	21	6	14	1	0	**42**
Number of EFI Recommendations to DEO	11	3	10	0	0	**24**
Number of Applicants Certified by DEO	10	3	10	0	0	**23**

Summary Credit Information. Table 3 summarizes credit data by project type. Only high-impact sectors are included because no applicants have been certified under either the target industry or headquarters project types.

The table lists the amount of certified credit awarded under each high-impact sector tier, the amount of that credit that has been audited by the Department of Economic Opportunity, and the amount of the audited credit that has been claimed on tax returns. As discussed below, not all projects have requested audits or claimed credit. Thus, for reference, the number of projects involved has been included in parentheses below each dollar amount in the table.

TABLE 3

SUMMARY CREDIT DATA				
	High-Impact Sector $25 Million	**High-Impact Sector $50 Million**	**High-Impact Sector $100 Million**	**Total**
Initial Certified Credit Awarded	$189.3 million (10 projects)	$149.7 million (3 projects)	$2.3 billion (10 projects)	$2.6 billion (23 projects)
Amount of Certified Credit Audited	$37.3 million (2 projects)	$62.1 million (1 project)	$506.1 million (2 projects)	$605.5 million (5 projects)
Amount of Credit Claimed	$54.5 Million[21]			$54.5 million (5 projects)

The total amount of certified credit for all projects is $2.6 billion. This amount is the total amount of credit that potentially could have been taken between the first year that the first qualifying project planned to begin operations (2000) and the last year of the most recently certified project's 20-year window (2031).

As discussed above, before any qualifying business can take credit on its tax return, the Department of Economic Opportunity must complete an audit of the project's eligible capital costs. Table 3 illustrates that only 5 of 23 projects have requested this audit. Thus, the bulk of qualifying businesses have not taken the final steps to be able to take credit on their return.

[21] This amount represents the total credit for all three high-impact sector tiers. Section 213.053, Florida Statutes, prohibits the Department of Revenue from releasing specific taxpayer information. Due to this restraint, the Department of Revenue cannot provide the credit information relating to the individual high-impact sector tiers since there are so few taxpayers involved that release would potentially divulge specific taxpayer information.

The fact that relatively few companies have completed all steps to take credit is likely due to a lack of tax liability. Most businesses in Florida are not subject to the corporate income tax or insurance premium tax. Moreover, many of the businesses that are subject to tax have small tax liability. Thus, although it is difficult to know for certain, many of these companies may not have sufficient tax liability to warrant completing the final steps. If this is the case, the credits would not become valuable to these companies until the qualifying business becomes subject to tax or is able to sell the credit to other businesses.

Year-by-Year Credit Amounts. The figures above in Table 3 provide the total amount of credits that have been awarded and audited. Although they help measure the level of activity within the program, they span such a long time period that they are not useful for any type of revenue analysis.

To help illustrate how this credit could affect revenue in a given year, Table 4 lists credit data for 4 specific years. The year 2009 is the most recent year for which tax reporting data is available, thus it has been included. The years 2012 and 2019 are currently the highest years for which credit has been allocated. The final year that a participating business that has been audited can take credit is year 2027, thus it has been included.

TABLE 4

SPECIFIC YEARS' ANNUAL CREDIT DATA				
	2009	**2012**	**2019**	**2027**
Annual Certified Credit	$113.7 million	$130.6 million	$130.6 million	$48.1 million
Annual Audited Credit	$30.3 million (5 projects)	$30.3 million (5 projects)	$30.3 million (5 projects)	$7.5 million (1 project)
Credit Claimed on Tax Returns	$14.4 million (5 Projects)			

As discussed above, the audited credit amount is the amount of credit that a qualifying business is approved to claim on a return without any further action on behalf of a government agency. The amount of certified credit is the full potential credit available for qualifying taxpayers; however, most taxpayers would need to have their audits completed before they could claim their credit amounts on a tax return.

Unused Credits

As originally designed, the program discarded unused credits after the year in which they could have been claimed. For instance, Table 4 illustrates that in 2009 there was a potential $113.7 million of certified credit that had been awarded; however, only $14.4 million was claimed on tax returns. Under the original program, the difference of $99.3 million would have expired and would never become available for use on a future tax return.

In 2011, legislation changed the treatment of unused credits in certain circumstances. The program was amended to allow a high-impact sector business that qualified for tier 3 – the $100 million investment threshold – that was unable to fully use its available credit between years 1 and 20, to begin using that credit in years 21 through 30 following the commencement of operations. Thus, at least some credits that would have expired by year 20 may ultimately be available for use, which makes it difficult to project how much credit will ultimately be taken.

There are unresolved issues with the legislation that permits the use of credits between years 21 and 30. First, the new language provides that when the tax liability of the qualifying <u>business</u> is insufficient to permit full use of the credit, then the credits can be used in years 21 through 30.[22] This language seems to be concerned with offsetting the income of the qualifying business; however, until this legislative change, the statute only used the income of the qualifying <u>project</u> to determine the amount of credit.[23]

[22] See s. 220.191(2)(d), Florida Statutes.
[23] See s. 220.191(2)(a), Florida Statutes.

Under the language as written, the extension of the unused credits will apply in situations where the qualifying project had substantial tax liability to use the credit, but the credit was not used because the project's tax liability was offset by losses from the other ventures of the business. The extension will not apply if the credit cannot be used because the qualifying project did not generate an income tax liability.

Second, at the time the legislation was passed in 2011, almost $1 billion of the $2.61 billion of certified credit had already expired due to the fact that the credit was available, but went unused. The 2011 legislation does not specifically provide whether it was intended to apply to this already expired credit amount. If administrative agencies interpret the legislation to apply to this already expired credit, some of this credit will again become available in future years.

Lastly, as written, it is possible that qualifying companies could take multiple years' credit in a single year. The language provides that any unused credit may be taken in years 21 through 30. It is unclear whether the intent was to require companies to spread unused credits over years 21 through 30. Administrative agencies may administer this provision to allow companies to fully take all available credit in year 21.

Summary

As currently structured, there are no statutory limits on how much credit can be awarded or taken in any given year. To date, relatively small amounts of credit have been used. However, this is the result of actions outside the Legislature's control. While unlikely, the possibility exists that the annual amount of credit taken in each year could exceed $130 million instead of the less than $14 million taken in 2009.

The Legislature may want to explore adding some statutory controls or limitations that will limit the amount of the annual credit than can be taken to an acceptable level.

Florida's Capital Investment Tax Credit (CITC)

Report on Issue Brief 2012-204

The Florida Senate

Budget Subcommittee on Finance and Tax

October 20, 2011

Introduction

- Information discussed today:
  - The Three Types of Qualifying Projects
  - Number of Participating Businesses
  - Amount of Credit that has been "Awarded"
- History and other information is further detailed in the brief.

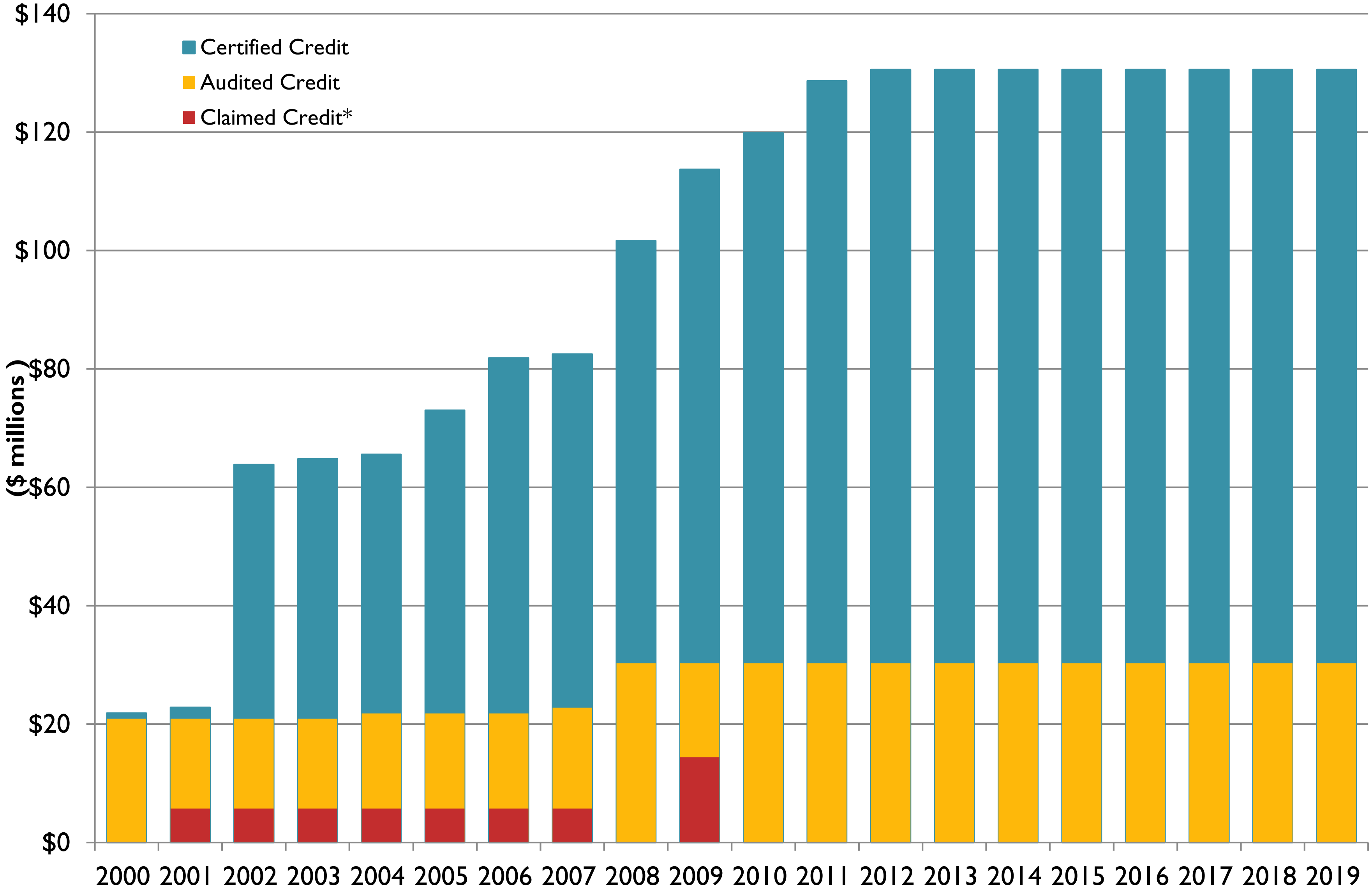
CITC Projects by Type

	High-Impact Sector			Target Industry	Headquarters
	Tier 1	*Tier 2*	*Tier 3*		
Investment	$25 M	$50 M	$100 M	$100 M	$250 M
Jobs	100 New	100 New	100 New	1000 (100 new)	1,500 New
Annual Credit Amount	5% for 20 years	5% for 20 years	5% for 20 years	50% of increased tax for 5 years	5% for 20 years
Annual Limit	50% of Tax	75% of Tax	100% of Tax	N/A	$15 million
Carryover	None	None	Yrs 21 – 30	None	Only within 20-yr window
High-Impact Waiver	Between 7/1/11 and 6/30/14, High-Impact requirement waived for certain counties			N/A	N/A

Credit Participation

- 23 Certified Companies
- 5 Audited Companies
- 5 Companies claiming credit, thus far.

Credit Amounts



* The total amount of credit claimed for years 2001 through 2007 was $40.1 million. These years have been averaged for illustrative purposes only; the actual credit amounts for each specific year are confidential. The amount claimed in 2009 (which is currently the most recent year of data available) was $14.4 million.

Summary Credit Data

Summary Credit Data				
	High-Impact Sector			
	Tier 1	*Tier 2*	*Tier 3*	
	$25 Million	**$50 Million**	**$100 Million**	**Total**
Certified Credit	$189.3 Million (10 projects)	$149.7 Million (3 projects)	$2.3 Billion (10 projects)	$2.6 Billion (23 projects)
Audited Credit	$37.3 Million (2 projects)	$62.1 Million (1 project)	$506.1 Million (2 projects)	$605.5 million (5 projects)
Claimed Credit	$54.5 Million			$54.5 million (5 projects)

Conclusion

- The CITC statute does not contain any mechanism to constrain growth of the credit. Although unlikely, the credit could increase to as much as $130 million per year under current participation levels.

- Legislation passed in 2011, which allows for use of the credit in later years, may need clarification.

- The amendments to the program have created some overlap between project types, which may need review.

The Florida Senate

Issue Brief 2012-207 *September 2011*

Budget Subcommittee on Finance and Tax

PROPERTY TAX UPDATE

Statement of the Issue

In 2007, the Florida Legislature passed major legislation dealing with property taxes and proposed a constitutional amendment, which was approved by the voters, making several property tax changes. In addition, in 2008 the Tax and Budget Reform Commission proposed constitutional amendments dealing with property taxes which were approved by the voters. In 2009 and 2010 the Legislature made further statutory changes addressing the process by which taxpayers can challenge property assessments.

During the same period, the real estate market in Florida and the nation experienced significant turmoil and property values have declined substantially. The combined effects of changes to the property tax laws and the changes in the real estate market have altered the structure of Florida's property tax. This issue brief reviews recent statutory and constitutional changes in the context of Florida's historic treatment of property tax, and examines how these changes, combined with changes in the real estate market, have affected the level and distribution of property taxes.

Discussion

Property taxation in Florida dates back to territorial days. The following table highlights significant milestones in its development:

Milestones in Florida Property Tax

Uniform and Equal Rate of Property Taxation	1885	Required by art. IX, sec. 1 of the State Constitution of 1885. (See also art. VII, sec. 2 of the State Constitution (1968)).
Legislature must ensure a just valuation of property	1885	Required by art. IX, sec. 1 of the State Constitution of 1885. (See also art. VII, sec. 4 of the State Constitution (1968)).
Homestead Property Tax Exemption	1934	State Constitution was amended to provide a $5,000 tax exemption for homestead property.
No state tax on real or tangible property	1940	State Constitution was amended to prohibit the levy of property taxes on real or tangible property for state purposes.
Certain types of property exempted from property tax	1968	The 1968 State Constitution provided exemptions for municipal property; motor vehicles, boats and airplanes; and property used predominantly for educational, literary, scientific, religious, or charitable purposes.
Fixed-value exemptions	1968	The 1968 Florida Constitution provided fixed-value exemptions for homesteads ($5,000), household goods (not less than $1,000, but totally exempted under s. 196.181, F.S.), and property owned by widows, blind or totally-disabled persons ($500).
Assessment on the basis of character or use	1968	The 1968 Florida Constitution provided for assessment of agricultural land and non-commercial recreational land on the basis of its character or use.[1]

[1] Assessment of agricultural property on the basis of its use was provided for by statute in ch. 57-305, L.O.F.

Millage Limitation	1968	The 1968 Florida Constitution limited millage rates to 10 mills for county purposes, 10 mills for municipal purposes, and 10 mills for school purposes. These rates could be exceeded for not more than two years if approved by the voters, or to repay bonds authorized by the voters.
Water Management Districts	1975	Constitutional amendment to authorize the levy of property taxes for water management purposes.[2]
TRIM Legislation	1980	Truth in Millage (TRIM) legislation was intended to provide information to taxpayers that would shift taxpayer concern over the level of taxes away from the assessment process and toward the local budgetary processes where millage rates were set. Under this legislation, proposed tax rates are compared to a tax rate which will, if applied to the same tax base, provide the same amount of property tax revenue for each taxing authority as was levied during the prior tax year. This is referred to as the –rolled-back rate.” A millage rate higher than the rolled-back rate must be advertised as a tax increase, even if the actual level is lower.
Increased Homestead Exemption from $5,000 to $25,000	1980	Homestead property received an immediate $25,000 exemption for school taxes, and a phased increase in the homestead exemption for other taxes, contingent on compliance with fair market assessment in the county where the property is located.
Business Inventories and Livestock	1980	Authorized the Legislature to tax at a percentage of value, classify for tax purposes, or exempt. (Now exempt under s. 196.185, F.S.)
Local Option Economic Development Exemption	1980	Counties or municipalities may provide property tax exemptions for new and expanding businesses, subject to referendum, and applicable to the millage of the jurisdiction granting the exemption.
Save Our Homes	1992	Limits yearly increases in the assessed value of homestead property to 3 percent or the consumer price index, whichever is lower.
Save Our Seniors	1998, 2006	Additional homestead exemption up to $25,000 for low-income seniors, available by local option for counties and municipalities and applicable to the millage of the authorizing local government. In 2006 the limit was increased to $50,000.
Maximum Millage Limitations	2007	Provides maximum majority vote tax levies for counties, municipalities, and independent special districts. The first-year maximum levies required reductions in taxes levied for most jurisdictions; going forward the maximum is based on the rolled-back rate and the change in per capita Florida income. The maximum levy may be exceeded by a super-majority vote or referendum.
Additional Homestead Exemption	2008	On the assessed value greater than $50,000 and up to $75,000; not applicable to school taxes.
Save Our Homes Portability	2008	Allows homestead property owners to transfer up to $500,000 of Save Our Homes assessment differential to a new homestead if the property owner had received a homestead exemption within either of the 2 years immediately preceding the establishment of the new homestead.

[2] Before the creation of Water Management Districts, drainage district projects were paid for by taxes levied on properties that benefited from the projects.

Tangible Personal Property Exemption	2008	$25,000 exemption for tangible personal property.
Assessment Increase Limitation for Non-Homestead Property	2008	Beginning in 2009, assessment increases for non-homestead property were limited to 10 percent, for purposes of non-school taxation.
Taxation and Budget Reform Commission Amendments	2008	These amendments provide for: • Assessment of working waterfront property on the basis of its current use • Assessment of land used for conservation purposes on the basis of its character or use • An exemption for property dedicated in perpetuity for conservation purposes • Legislative authority to prohibit the consideration of any change or improvement made for the purpose of improving a property's wind resistance or the installation of a renewable energy source device in the determination of the assessed value of property used for residential purposes.
Value Adjustment Board (VAB) Rewrite	2008	Required the Department of Revenue to develop a uniform policies and procedures manual and to provide training for special magistrates. Changed the make-up of VABs to include 2 citizen members; imposed several conditions on the qualifications for special magistrates and board counsel; and expressed the intent of the Legislature that a taxpayer shall never have the burden of proving that the property appraiser's assessment is not supported by any reasonable hypothesis.
Presumption of Correctness	2009	Changed the burden of proof in challenging the property appraiser's assessment of value. Provides that the property appraiser's assessment is presumed correct, if the appraiser can prove by a preponderance of the evidence that the assessment was arrived at by complying with s. 193.011, F.S. However, a taxpayer who challenges an assessment is entitled to a determination by the VAB or the court, as to the appropriateness of the appraisal methodology used.
Deployed Military Exemption	2010	Constitutional amendment that requires the Legislature to provide an additional homestead property tax exemption by law for members of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard, who receive a homestead exemption and were deployed in the previous year on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. The exempt amount will be based upon the number of days in the previous calendar year that the person was deployed on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. Implementing legislation was enacted by the 2011 Legislature.[3]

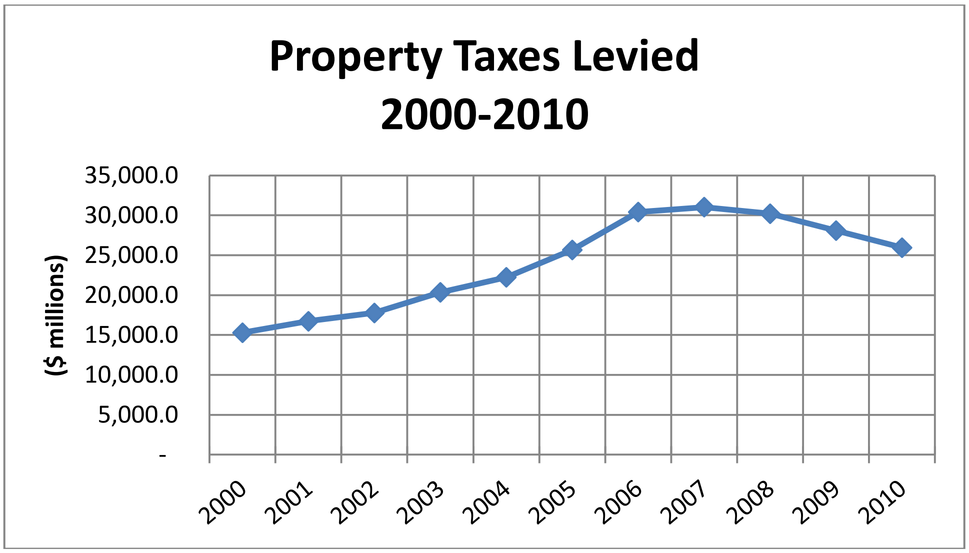
[3] Ch. 2011-93, L.O.F.

CS/HJR 381	Approved by the 2011Legislature, to be put before the voters on the 2012 general election ballot.	• This amendment provides that the Legislature may, by general law, provide that the assessment of homestead and specified nonhomestead property may not increase if the just value of that property is less than the just value of the property on the preceding January 1, subject to any adjustment in the assessed value due to changes, additions, reductions, or improvements to such property which are assessed as provided for by general law. • This amendment reduces from 10 percent to 5 percent the limitation on annual changes in assessments of nonhomestead real property. • This amendment authorizes general law to provide, subject to conditions specified in such law, an additional homestead exemption to every person who establishes the right to receive the homestead exemption provided in the Florida Constitution within 1 year after purchasing the homestead property and who has not owned property in the previous 3 calendar years to which the Florida homestead exemption applied. The additional homestead exemption applies to all levies except school district levies. The additional exemption is an amount equal to 50 percent of the homestead property's just value on January 1 of the year the homestead is established. The additional homestead exemption may not exceed an amount equal to the median just value of all homestead property within the county where the property at issue is located for the calendar year immediately preceding January 1 of the year the homestead is established. The additional exemption will apply for the shorter of 5 years or the year of sale of the property. The amount of the additional exemption will be reduced in each subsequent year by an amount equal to 20 percent of the amount of the additional exemption received in the year the homestead was established or by an amount equal to the difference between the just value of the property and the assessed value of the property determined under Article VII, Section 4(d), whichever is greater. Not more than one such exemption shall be allowed per homestead property at one time. The additional exemption applies to property purchased on or after January 1, 2012. The additional exemption is not available in the sixth and subsequent years after it is first received. • This amendment also delays until 2023, the repeal, currently scheduled to take effect in 2019, of constitutional amendments adopted in 2008 which limit annual assessment increases for specified nonhomestead real property and delays until 2022 the submission of an amendment proposing the abrogation of such repeal to the voters.

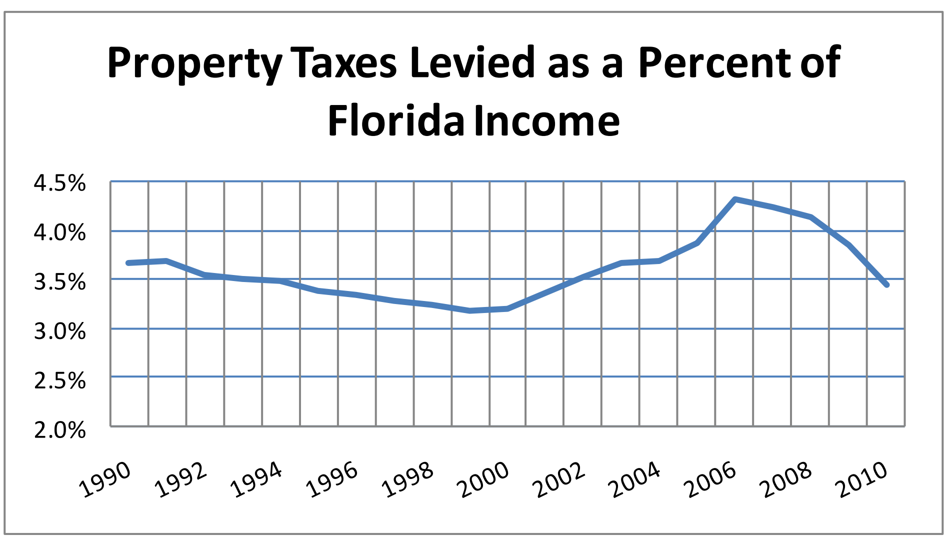
Property Tax Burden[4]

The property tax burden—a measure of the state's economic resources transferred from property owners to various local governments to fund education and other services and facilities provided by these entities—can be measured several ways. Since 2000, there have been significant increases and decreases in most of these measures.

Since 2007 total property taxes levied have fallen by 17 percent, reversing the upward trend that went back to at least 1975. From 2000 to 2010 total taxes levied grew 69.7 percent, but this measure obscures what occurred in the intervening years. Taxes levied grew 103 percent from 2000 through 2007 and fell by 17 percent from 2007 to 2010.



Property taxes as a percent of Florida income is a reliable measure of how much of the state's economic output is transferred from property owners to counties, municipalities, special districts, and school districts. In 1990, property taxes were 3.7 percent of Florida income; this figure decreased over the next decade to 3.2 percent in 1999 as income growth outpaced the rise in property values. This trend reversed in the next decade and by 2006 property taxes were 4.6 percent of Florida income. The percentage has fallen every year since then; in 2010 it was 3.6 percent. This decrease is attributable to falling property values and lower millage rates.

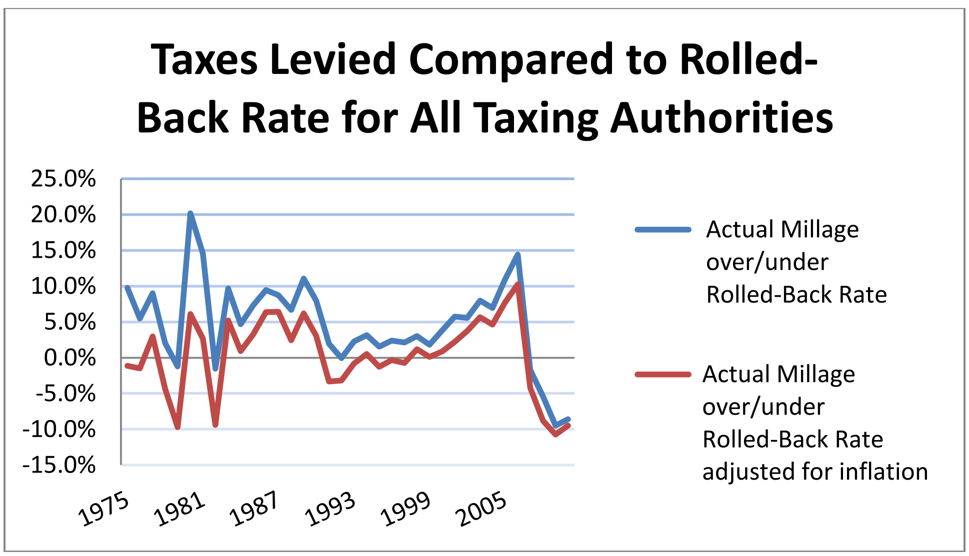


[4] This report contains extensive data compiled by the Florida Department of Revenue as part of its continuing oversight of property taxation, and additional data from the Office of Economic and Demographic Research. Preparation of this report would not have been possible without their generous assistance.

Property tax millage rates compared to the rolled-back rate show overall tax increases or decreases, as defined by Florida Statutes.[5] This characterization of a millage rate that exceeds the rolled-back rate as a tax increase was a part of the 1980 property tax reform known as ―Truth in Millage," which was designed to shift taxpayer concern over the level of taxes away from the assessment process and toward the local budgetary processes where millage rates are set. Local taxing authorities were required to advertise a tax increase if the proposed tax rate was in excess of the rolled-back rate, i.e., the tax rate which will, if applied to the same property, provide the same property tax revenue for each taxing authority as was levied during the prior tax year. Taxpayers were provided notice of their previous year's taxes, their taxes in the current year if no budget changes are made, and their taxes in the current year under proposed budgets and millage rates. If a local taxing authority levied the rolled-back rate each year its property tax revenue would grow only by the amount of new property value that is added to the tax roll, and in an inflationary period the purchasing power of this revenue would shrink.

In fact, property tax levies have tended to exceed the rolled back rate. Since 1975, overall property taxes levied by all local taxing authorities have exceeded the rolled-back rate in all but 8 years, and 4 of those were the most recent years. Non-school district taxing authorities have levied less than the rolled back rate in 7 years; school districts levied less than the rolled-back rate in 5 years.

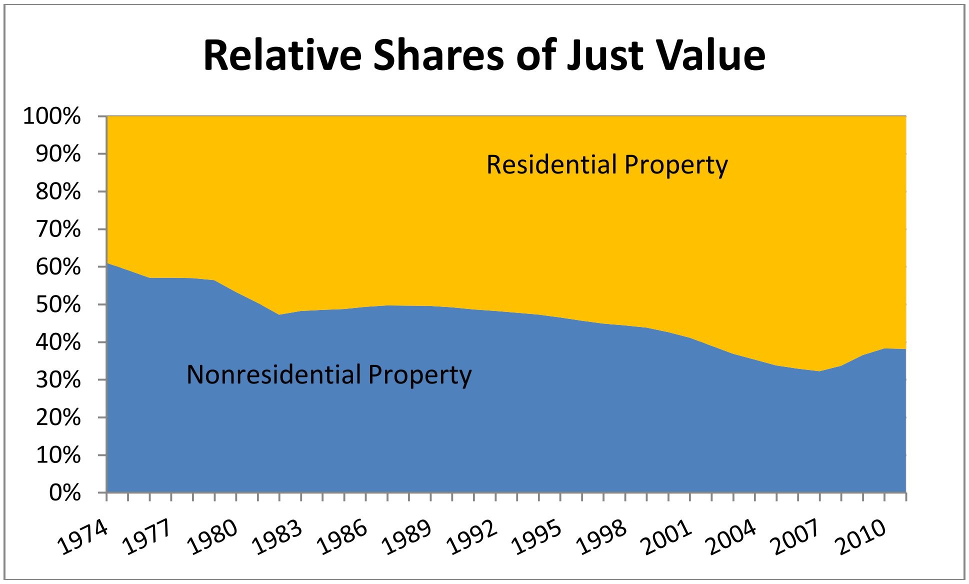
After adjusting for inflation, it appears that property tax levies have grown relatively little compared to the cost of living plus the value of property added to the tax roll. Tax levies for all taxing authorities and non-school district taxing authorities were less than the rolled-back rate after adjustment for inflation in 15 of 36 years, and school levies were less than the adjusted rolled-back rate in 14 of those years.



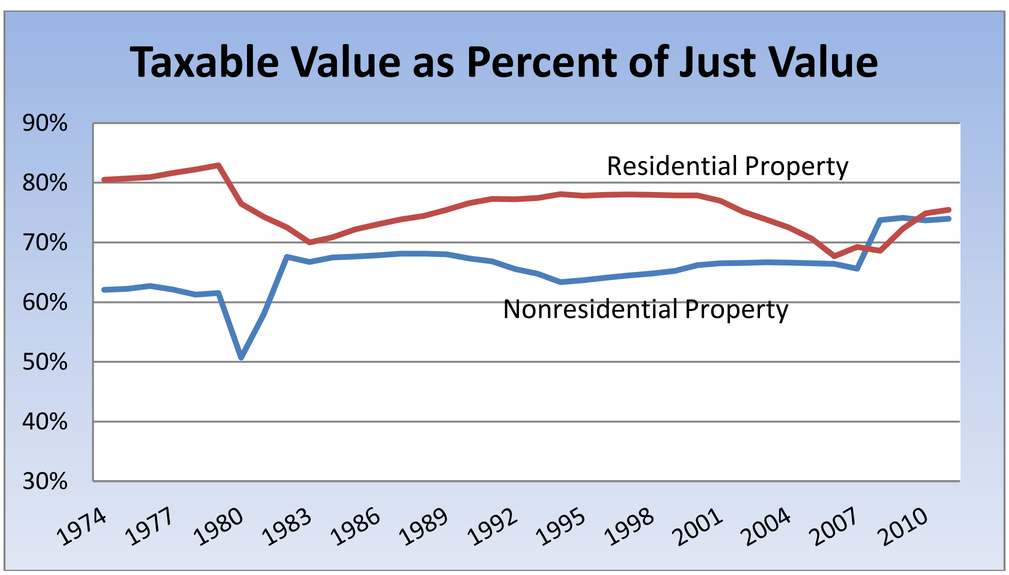
Distribution of Property Taxes across Property Classes and Effect of Save Our Homes on this Distribution

The trend in Florida property values for the last quarter of the 20th century was the increasing share of residential property. As the state's population grew, the just (market) value of residential property grew faster than the just value of nonresidential property, peaking at 67.7 percent of total just value in 2007. Since then, it has fallen to 61.8 percent as residential property values have fallen more than nonresidential values.

[5] Section 200.065(1)(d), F.S.



Assessment differentials and exemptions may cause a property's taxable value to be lower than its just value. As taxable value has diverged from just value, various classes of property have not been affected equally. In 1974, the taxable value of nonresidential property[6] was 62 percent of its taxable value, while taxable value of residential property was 81 percent of its just value. Over the rest of the 20th century the ratio of taxable value to just value for nonresidential property increased to 66 percent in 2000 and further increased to 74 percent by 2011. For residential property, on the other hand, the ratio of taxable value to just value has shown considerable variation because of the effects of the increased homestead exemption in 1980, Save Our Homes, falling residential real estate values, and the 10 percent cap on assessments of non-homestead property.



Effects of Save Our Homes

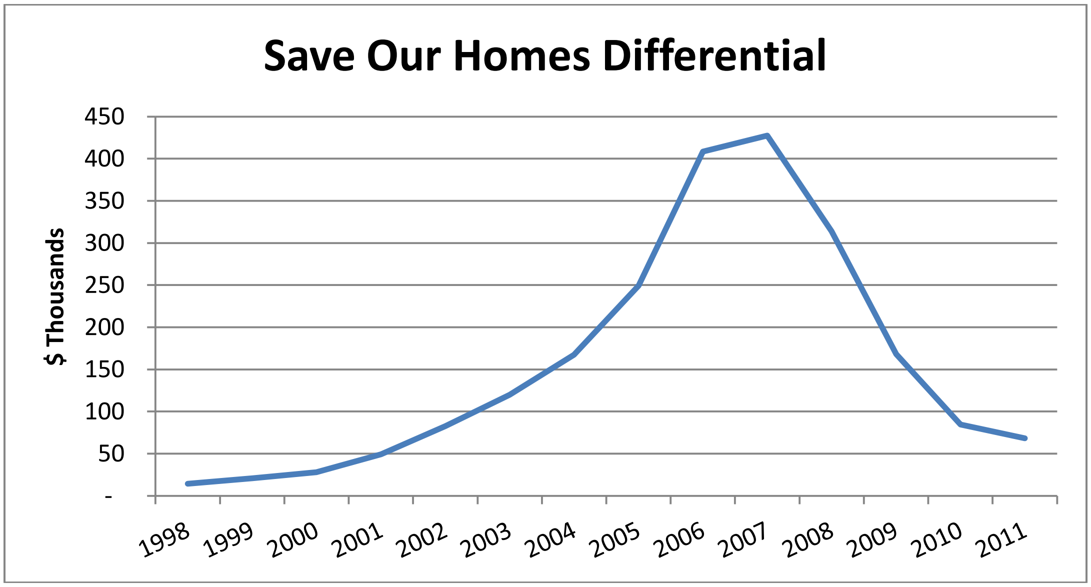
In addition to the various exemptions provided for homestead property, in 1992 Florida voters approved a petition-initiated amendment that limited increases in the assessment of homestead property to 3 percent per year or the percent change in the consumer price index, whichever is lower. After a change in ownership or other termination of the homestead, property is reassessed at just value. This amendment was popularly known as ―Save Our Homes."

[6] Nonresidential property includes agricultural property, which is assessed based on its character or use, often at a small fraction of its just value.

While Save Our Homes allowed long term residents with a fixed income to be able to afford to stay in their homes without being hit by large tax increases as their property value increases, it had consequences that may not have been fully anticipated by its proponents, and many of these consequences were aggravated by changes in the residential real estate market during the early years of the new century.

Impact on Distribution of Tax Burden

The impact of Save Our Homes on the tax base can be quantified—the Save Our Homes differential, which is the difference between just value and assessed value for homestead property—is shown below.



The Save Our Homes differential grew from $14 billion in 1998 to $408 billion in 2006, when it equaled 38 percent of just value of homestead property. It grew slightly in 2007, but since has fallen to $68.3 billion in 2011, less than its 2002 level. As a percent of homestead property just value, it has fallen to 9.6 percent, less than the 2001 level.

The number of homesteads benefiting from Save Our Homes has also dropped dramatically. From 2007 to 2011, the number of homesteads with any Save Our Homes differential dropped from 3.9 million to 1.8 million, fewer than half of all homesteads. The average amount of differential for all homesteads fell from $96,690 to $16,473.

In 2007, the Department of Revenue presented a report titled *Florida's Property Tax Structure: An Analysis of Save Our Homes and Truth in Millage Pursuant to Chapter 2006-311, L.O.F.*[7] The report included an analysis of the distribution of Florida's property tax burden with Save Our Homes, compared to what it would have been without Save Our Homes. At the time the report was prepared, Save Our Homes had had a significant impact on the proportions of property taxes paid by residential versus nonresidential property owners and by homestead versus non-homestead residential property owners.

Since 2006, the impact of Save Our Homes has fallen significantly, and a smaller proportion of the tax burden is shifted from homestead to non-homestead property. Depreciation in the real estate market has eroded the Save Our Homes differential for existing homesteads, and most newly-created homesteads have not accumulated any differential. The impact of Save Our Homes by property class in 2006 and 2011 are shown in the following table:

[7] http://dor.myflorida.com/dor/property/trim/ptsreport/pdf/ptaxstructure.pdf

Percent of Taxable Value			
	With Save Our Homes (Current Law)	Without Save Our Homes	Impact of Save Our Homes on Tax Burden
Nonresidential 2006	32	26	23 percent higher
Nonresidential 2011	38	36	6 percent higher
Non-Homestead Residential 2006	34	28	21 percent higher
Non-Homestead Residential 2011	32	30	7 percent higher
Homestead 2006	33	46	28 percent lower
Homestead 2011	31	34	9 percent lower

Other Impacts of SOH:

- Effect on mobility. - By 2005, rapidly increasing housing prices combined with the effect of Save Our Homes had created what was being called a ―lock-in effect," which discouraged homestead property owners from selling their homes and buying new ones. As an example of how this could happen, if an owner had a homestead exemption on a home valued at $100,000 in 1995, and the exemption was still valid in 2005, the most the home could be assessed for tax purposes was approximately $126,000. By way of comparison, the House Price Index of the Federal Housing Finance Agency indicates that the price of housing in Florida rose 122.6 percent from 1995 through 2005. So if the owners sold the home they had bought in 1995 and bought an identical one at the 2005 price of $222,600, their property tax liability would increase by approximately 96 percent (taking into account the $25,000 homestead exemption that applies to either home), significantly increasing the total effective cost of the new homestead.

  In 2011, Ihlanfeldt[8] found evidence that Florida's SOH cap did reduce mobility. This study detected a nontrivial lock-in effect, based on comparisons of sales of homesteaded property in Duval and Miami-Dade counties before and after the implementation of Amendment 1 in 2008, which allows portability of the Save Our Homes tax benefit to new homesteaded property. This article points out that, because of the lock-in effect, assessment caps have the potential to cause significant misallocation of resources by discouraging homeowners from moving to take advantage of better employment opportunities or more suitable housing options. (Portability of tax benefits, as provided by Amendment 1, alleviates some impacts of Save Our Homes, but creates its own questions and policy challenges, discussed below.)

- Insulate homestead property owners from local government budget decisions. – Another consequence of Save Our Homes was that during the period of rapidly-increasing residential real estate values, homestead property owners were largely insulated from the impact of increasing local government budgets. As property values rose, local governments were able to finance larger budgets at constant or even decreasing millage rates, and nearly all of the revenue increase was borne by non-homestead residential and nonresidential property, new construction, and newly-created homesteads, since existing homestead assessed values were capped by Save Our Homes.

- Shift in tax burden. - Since homestead property taxes did not increase with the value of homestead property, the burden of funding local governments shifted increasingly onto non-homestead property. The Florida Constitution requires a uniform tax rate, but the Save Our Homes assessment cap resulted in effective millage rates being higher for non-homestead property. In 2007 the statewide average millage rate was 18.55, but the effective millage rate for homestead property was 9.90 because of the combined

[8] ―Do Caps on Increases in Assessed Values Create a Lock-In Effect? Evidence form Florida's Amendment One," National Tax Journal, March 2011, 64(1),7-26

effect of Save Our Homes and the homestead exemption. Long-tenured homestead property had a lower effective millage rate than more recent homesteads.

The following table shows how Save Our Homes affected the distribution of the property tax burden among classes of property. It shows the distribution of taxable value (for school purposes) with and without Save Our Homes, assuming all other property tax exemptions and differentials remain unchanged.

Proportionate Tax Burden - Residential and Non-Residential Property
Current Law and Without Save Our Homes - Percent of Total Taxable Value
1987 - 2011

	All				Residential Property as % of All Property				Homestead as a % of Residential Property			
	Current Law		Without SOH		Current Law		Without SOH		Current Law		Without SOH	
	Non-Residentia	Residentia	Non-Residentia	Residentia	Homestea	Non-Homestea	Homestea	Non-Homestea	Homestea	Non-Homestea	Homestea	Non-Homestea
1987	48	52			25	27			48	52		
1988	47	53			26	27			49	51		
1989	47	53			27	26			51	49		
1990	46	54			28	26			52	48		
1991	45	55			29	26			53	47		
1992	44	56			30	26			53	47		
1993	43	57			31	26			54	46		
1994	42	58			32	26			55	45		
	Begin Save Our Homes											
1995	42	58	41	59	33	26	33	26	56	44	56	44
1996	41	59	40	60	33	26	34	26	56	44	57	43
1997	40	60	40	60	34	26	35	26	57	43	58	42
1998	40	60	39	61	34	26	35	26	56	44	58	42
1999	40	60	38	62	34	26	36	26	56	44	58	42
2000	39	61	37	63	34	27	37	26	56	44	58	42
2001	38	62	36	64	34	28	38	27	55	45	59	41
2002	36	64	33	67	35	29	40	27	54	46	60	40
2003	35	65	31	69	35	30	42	27	54	46	61	39
2004	33	67	29	71	36	31	44	27	53	47	62	38
2005	32	68	27	73	36	32	46	27	53	47	63	37
2006	33	67	26	74	33	34	46	28	49	51	63	37
2007	31	69	25	75	34	35	47	28	50	50	62	38
2008	35	65	30	70	30	34	41	29	47	53	58	42
2009	37	63	34	66	31	32	37	29	49	51	56	44
2010	38	62	36	64	31	31	35	29	50	50	54	46
2011	38	62	36	64	31	32	34	30	49	51	53	47

Role of "Recapture" as part of SOH

Under the Save Our Homes provision of the Florida Constitution, the annual reassessment of homestead property is unrelated to changes in the property's just (market) value, except that the assessed value may not exceed just value. Growth in the assessed value of homestead property is limited to 3 percent or the change in the consumer price index (CPI) for the preceding year, whichever is less. Since property values increased more rapidly than the CPI early in the period after Save Our Homes was enacted, relatively little notice was taken of the other consequence of separating homestead property assessment increases from changes in just value, namely, the constitutional requirement that homestead property be reassessed at 3 percent or the CPI, limited only by just value. This requirement, sometimes called ―recapture," has been part of the rule for reassessing homestead property since 1995.

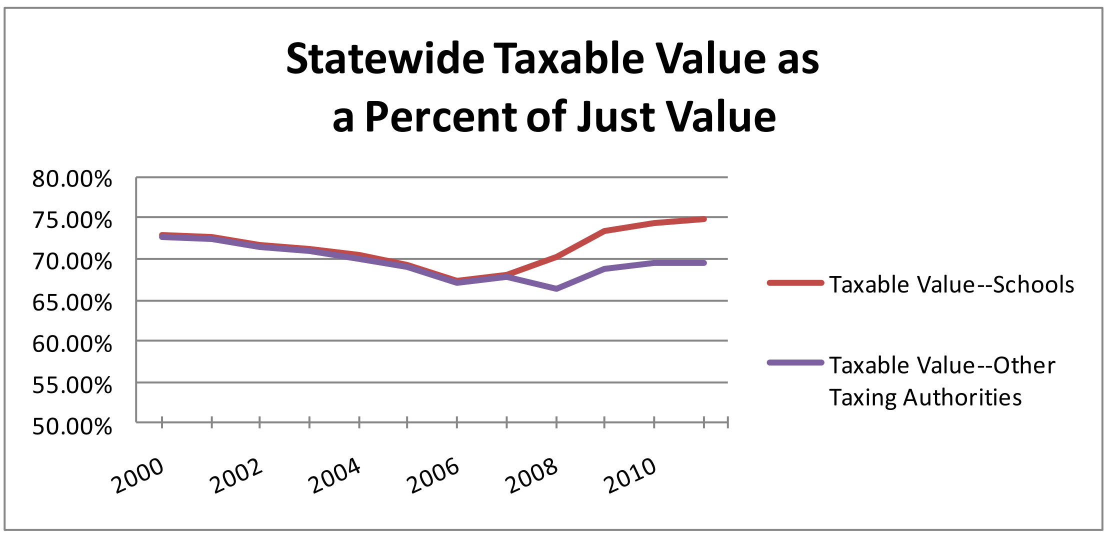
As property values have fallen since 2007, ―recapture" has contributed to restoration of horizontal equity in the tax roll. Property that is assessed at less than just value (property that has a reduced effective tax rate because of its Save Our Homes differential) is reassessed each year by 3 percent or the CPI, whichever is less, until its assessed value equals its just value. Since 2007, the total Save Our Homes differential has fallen from $433.1 billion to $68.3 billion (2011), and fewer than half of all homesteads have any SOH differential. For those homesteads *with a differential*, the average differential has fallen from $110,291 to $39,611 and the median differential has fallen from $79,120 to $17,633.

Despite the effect of ―recapture," significant SOH differentials still exist. According to DOR data for 2010, 2,827 homesteads have a SOH differential greater than $1 million and 10,121 have a differential greater than $500,000.

Divergence of County Taxable Value and School Taxable Value

Before 2007, the difference between the tax base for school levies and the tax base for other taxing jurisdictions was limited to a small number of local option tax exemptions—historic property[9], economic development[10], and additional homestead exemptions for low-income seniors.[11] Several of the property tax changes enacted in 2007 did not apply to school levies and the tax bases have diverged.

The largest source of divergence to date has been the additional homestead exemption on the assessed value greater than $50,000 and up to $75,000. This exemption reduced non-school taxable value by $93.9 billion in 2008. The impact of the exemption on the tax base fell to $84.2 billion in 2011 because the number of homesteads has decreased and more homesteads have an assessed value less than $75,000 and are unable to use the entire exemption. Another source of divergence is the 10 percent cap on assessment increases for non-homestead property, as explained in a later section.



The Effects of Tax Law Changes since 2007 on the Overall Tax Burden and Distribution of the Tax Burden among Property Classes

The property taxes levied on a parcel of property are the product of two factors—the millage rate, or tax rate measured in taxes per $1,000 of value of the property, imposed by the local taxing authority, and the property's taxable value. Since 2007, statutes and constitutional provisions governing property taxes have changed both of these factors, limiting the millage rates that local taxing authorities may levy and reducing the taxable value of certain types of properties by assessment limitations or additional exemptions.

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[9] Section 196.1997, F.S.
[10] Section 196.1995, F.S.
[11] Section 196.075, F.S.

Effect of Maximum Millage Legislation

From 2001-2006, tax levies exceeded the rolled back rate even after adjustment for inflation, and in 2007 the Legislature enacted legislation[12] that imposed limits on property tax rates for counties, municipalities, and independent special districts stricter than the 10 mill constitutional cap already in place for counties and municipalities, and the caps in enabling legislation for independent special districts. The legislation created a maximum millage rate that may be levied by a majority vote of the local governing authority, for fiscal year 2009 and thereafter, equal to the rolled-back rate calculated using the prior year's taxes levied at the maximum millage rate, adjusted for the change in per capita Florida personal income.[13] The maximum millage rate may be exceeded if the local governing authority adopts the higher rate by a supermajority or unanimous vote, or with the approval of local voters.[14]

The Department of Revenue has tracked local property taxes levied since 2007 and reports how they have compared to taxes levied at the rolled-back rate, the maximum millage rate, and the previous year's millage rate. In each year since 2007, local taxes levied have fallen in comparison to each of these measures.

County Taxes Levied in Comparison to Taxes Levied at the Rolled-Back Rate, the Majority Vote Rate, and the Previous Year's Millage Rate

	Taxes Levied	Percent Difference From		
		The Rolled-Back Rate Millage	The Majority Vote Maximum Rate	The Previous Year's Millage Rate
2007	10,707,450,674	-6.3%	-0.2%	-2.3%
2008	10,369,900,642	-6.6%	-3.6%	-3.3%
2009	9,540,592,879	-9.3%	-15.6%	-7.4%
2010	8,973,161,011	-7.3%	-20.5%	-6.3%

Municipal Taxes Levied in Comparison to Taxes Levied at the Rolled-Back Rate, the Majority Vote Rate, and the Previous Year's Millage Rate

	Taxes Levied	Percent Difference From		
		The Rolled-Back Rate Millage	The Majority Vote Maximum Rate	The Previous Year's Millage Rate
2007	3,979,074,041	-5.2%	1.1%	-1.4%
2008	3,989,391,543	-4.2%	0.0%	-0.4%
2009	3,741,725,248	-8.0%	-13.7%	-5.1%
2010	3,268,891,602	-8.5%	-21.5%	-7.7%

[12] Section 200.065(5), F.S., as created by ch. 2007-321, L.O.F.

[13] Maximum millage rate calculations for 2007-08 and 2008-09 were further limited, based on historic tax increases for counties and municipalities.

[14] A rate of not more than 110 percent of the rolled-back rate based on the previous year's maximum millage rate, adjusted for change in per capita Florida personal income, may be adopted if approved by a two-thirds vote of the membership of the governing body. A rate in excess of 110 percent may be adopted if approved by a unanimous vote of the membership of the governing body, or if the rate is approved by a referendum. (Section 200.065(5)1. and 2., F.S.)

Special Districts Taxes Levied in Comparison to Taxes Levied at the Rolled-Back Rate, the Majority Vote Rate, and the Previous Year's Millage Rate

	Taxes Levied	Percent Difference From		
		The Rolled-Back Rate Millage	The Majority Vote Maximum Rate	The Previous Year's Millage Rate
2007	2,530,955,873	-3.4%	-0.4%	0.1%
2008	2.553,905,955	-5.8%	-3.7%	-3.0%
2009	2,346,410,837	-9.6%	-17.5%	-7.7%
2010	2,102,900,118	-10.3%	-31.8%	-5.4%

School district millage rates are not subject to maximum millage limitations under s. 200.065, F.S., but are limited by other provisions of Florida law. School districts are required to levy a certain millage in order to receive state education funding, and are authorized to levy limited additional millage. The table below shows how school district tax levies have compared to the rolled-back rate millage and previous year's millage rate.

	Taxes Levied	Percent Difference From	
		The Rolled-Back Rate Millage	The Previous Year's Millage Rate
2007	13,231,684,609	3.7%	-2.7%
2008	13,070,204,630	-4.0%	-0.7%
2009	12,097,511,607	-9.2%	4.0%
2010	11,159,012,185	-8.9%	2.7%

Effects of Assessment Differentials and Exemptions on the Property Tax Base

The Florida Constitution requires a ―just valuation" of all property,[15] and statutory guidance is provided for deriving just valuation,[16] but a property's taxable value is often lower than its just value. The Constitution provides various assessment differentials and exceptions for certain classes of property[17] and provides exemptions for certain taxpayers or property used for certain purposes.[18] The taxable value of any parcel is calculated by first applying any assessment differential or limitation and then subtracting any applicable exempt amount.

The effect of these exemptions and assessment differentials and limitations has been to reduce the value of property subject to ad valorem taxation and shift the tax burden among taxpayers and classes of property. Several significant exemptions and assessment differential were added to the Constitution by Amendment 1 in 2008, and each resulted in reductions in the taxable value of property.

[15] Art. VII, sec. 4, State Constitution.
[16] Section 193.011, F.S.
[17] Art. VII, sec. 4, State Constitution provides for assessment of agricultural, conservation, and working waterfront property on the basis of its character or use, and limits assessment increases for homestead and non-homestead real property.
[18] Art. VII, sec.3 and sec. 6, State Constitution.

Amendment 1 (2008)		
	Impact on Tax Base (2011)	Applicable Millage
Additional $25,000 homestead exemption	-$84.2 billion	Non-School Millages
$25,000 exemption for tangible personal property	-$7.6 billion	School and Non-School Millages
10 percent annual cap on assessment increases for non-homestead property	-$12.9 billion	Non-School Millages
Portability of Save Our Homes differential, up to $500,000	-$524 million (2011)[19]	School and Non-School Millages

10 Percent Cap Impact

Amendment 1 limited increases in the assessed value of non-homestead property to 10 percent each year, for all levies other than school district levies. The limit first applied to the 2009 tax roll. Since that time, overall property values have been falling, but significant numbers of parcels have benefited from the assessment cap even in the climate of falling values. The Department of Revenue has supplied preliminary information about the number of parcels in each property category that benefited from the assessment cap in 2011, and how much the assessment cap reduced value in each.

Of particular interest is the effect of the assessment cap on the vacant land categories, both residential and nonresidential. The market value of such property is often influenced by nearby developments, such as new roads or other infrastructure provided at public expense, or new residential or commercial developments, in addition to any generalized increase or decrease in real property values. The impact of the assessment cap on 2011 tax revenue, assuming constant millage rates from 2010, is -$130.6 million.

[19] $524 million is the amount of Save Our Homes differential that was transferred in 2011 and does not include the impact on the tax base of previously-transferred differential.

Impact of 10 Percent Cap, by Type of Property				
		# of Affected Parcels	Average Benefit per Parcel	Benefit as percent of Just Value of Affected Parcels
Non-Homestead Residential Property		227,847	$ 17,680.10	11.3%
	Vacant Residential	71,488	$ 11,439.61	24.7%
	Single Family	49,904	$ 21,631.91	9.1%
	Mobile Home	7,296	$ 5,690.48	11.0%
	Condominia	87,837	$ 21,120.27	10.0%
	Cooperatives	4,559	$ 23,945.84	20.8%
	Multi-family <10 units	6,763	$ 18,514.78	13.9%
Multi-family > 10 units		703	$ 512,416.09	7.8%
Nonresidential property		19,893	$ 110,019.53	15.1%
	Commercial	12,274	$ 130,579.86	14.8%
	Industrial	3,576	$ 75,006.43	13.3%
	Institutional	339	$ 250,397.58	13.2%
	Miscellaneous	2,164	$ 45,784.13	19.3%
	Vacant Land	1,475	$ 86,136.32	39.5%
	Centrally Assessed	65	$ 102,241.57	4.8%
Total		248,443	$ 26,472	12.0%

Impacts of Other Property Tax Law Changes

Tax and Budget Reform Commission Amendments		
	2011 Tax Roll Impact	Statewide Tax Impact
Working Waterfront Assessment	-$196.3 million	-$3.5 million
Conservation Lands Assessment	-$43.2 million	-$0.8 million
Conservation Lands Exemption	-$164.4 million	-$2.9 million

The Revenue Estimating Conference estimated that ch. 2009-121, L.O.F., which changed the burden of proof in challenging the property appraiser's assessment of value, would reduce property tax revenue by $652.8 million on a recurring basis. Because this measure will impact the entire assessment process, affecting the behavior or property appraisers and taxpayers as well as the outcomes of administrative and judicial challenges to assessments, it is not possible to pinpoint its effect on the tax roll.

The Revenue Estimating Conferences estimated that the disabled veterans' property tax discount, approved by the voters in Nov. 2010, would reduce school and non-school taxes by a recurring $7.7 million by 2013-14, assuming millage rates remained constant.

Summary

This Issue Brief shows that a lot has changed in the property tax area since 2007. The changes have been brought about by law changes, constitutional amendments approved by the voters, and the drastic decline in property values.

Statewide, property taxes have declined from $31 billion in 2007 to $25.8 billion in 2010, or 17 percent. This trend is expected to continue in 2011. The decline is due in large part to a combination of the maximum millage limitations enacted in 2007 and the drop in statewide property values. These two factors affect all taxpayers, and the maximum millage limitations are expected to continue to place downward pressure on property taxes when property values begin increasing again.

Other items that have lowered property taxes for select groups of taxpayers over the past three years are the additional $25,000 homestead exemption, portability of Save Our Homes, the $25,000 tangible personal property exemption, and the 10 percent assessment limitation on nonhomestead property. These items provide a benefit to the property owners that qualify for the benefit. In the long-run, they operate to shift the tax burden to those property owners that do not receive the benefit.

Property Tax Update

Changes in Florida Property Taxation since 2007

Issue Brief 2012-207

Highlights of Property Tax Issue Brief

- This presentation will review changes in property taxes in recent years, focusing on:
  - Changes in the level of taxation
  - Changes in the effect of Save Our Homes, and
  - Constitutional and statutory changes
- The issue brief contains information that will not be covered here, because of time limitations

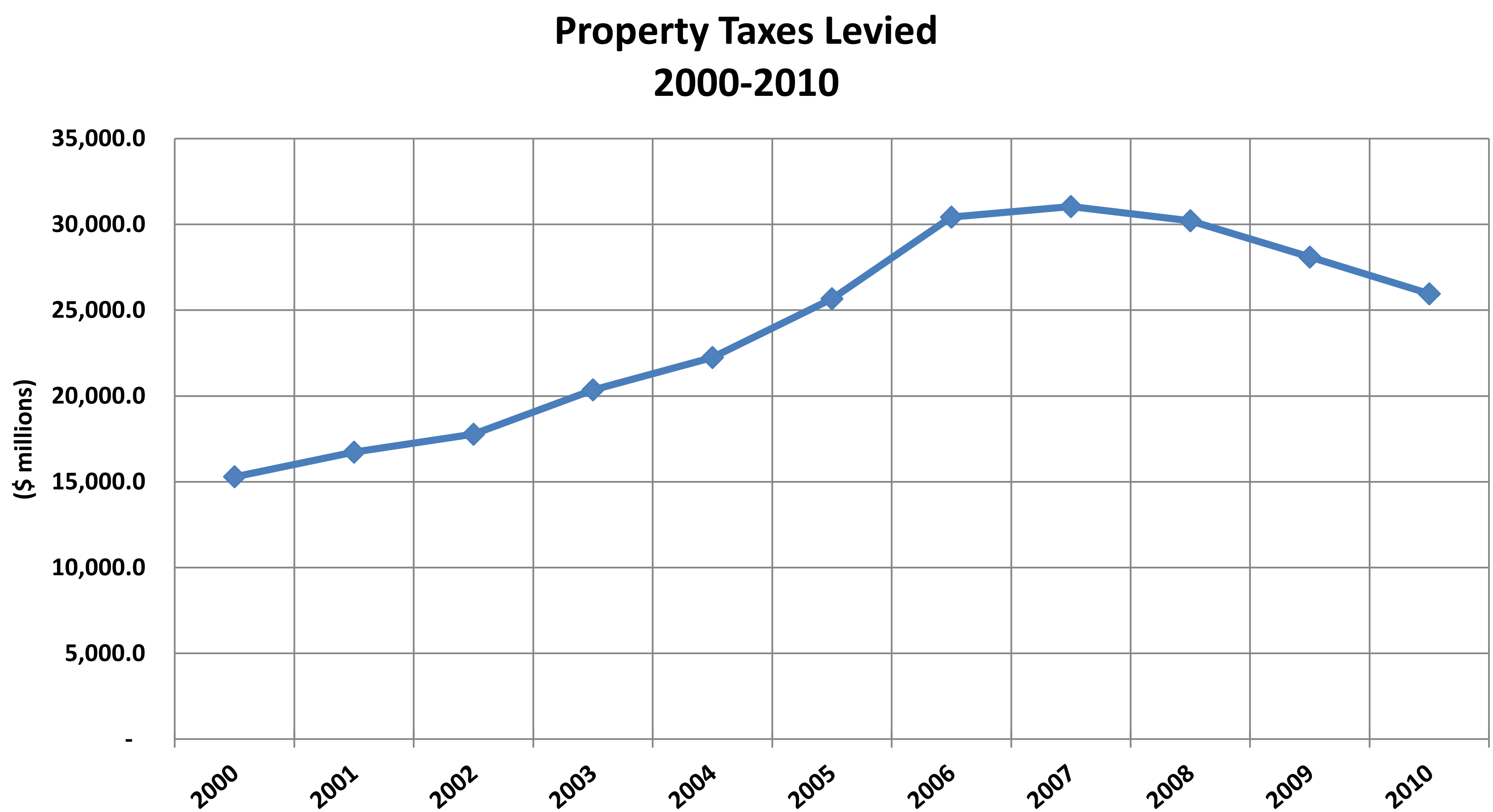
Review of How Property Taxes are Determined

- Property Tax = Taxable Value x Millage Rate
- Taxable value = Assessed Value - exemptions
- Assessed value may not exceed market value.
- For homestead and agricultural property, assessed value has not been tied to market value because of Save Our Homes and agricultural classification.

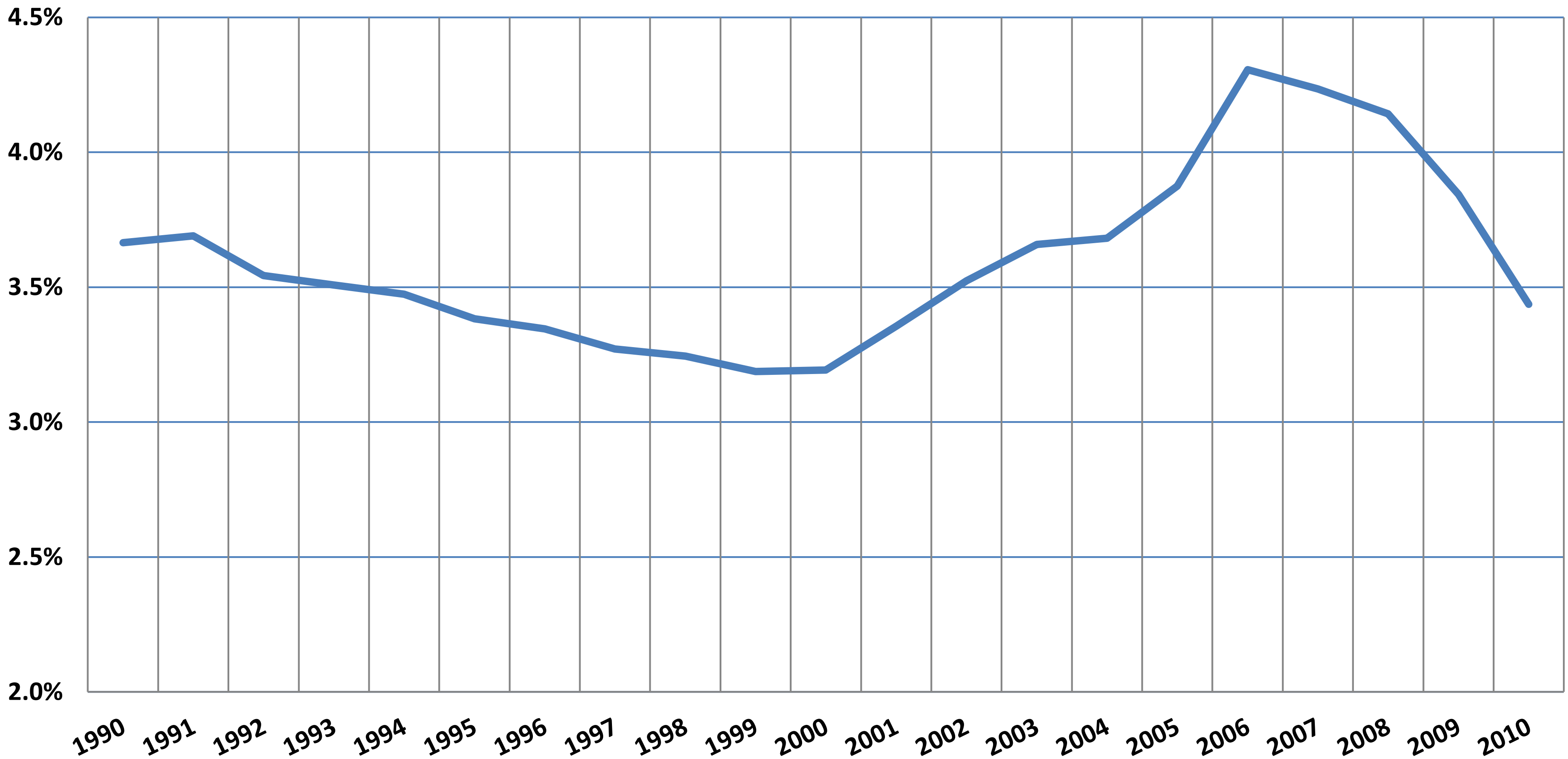
How has property tax changed since 2007?

- Turmoil in real estate markets has reduced the just value of Florida properties, shrinking the potential tax base.
- Statutory and constitutional changes have affected both the assessed value of property and the millage rates that may be levied.

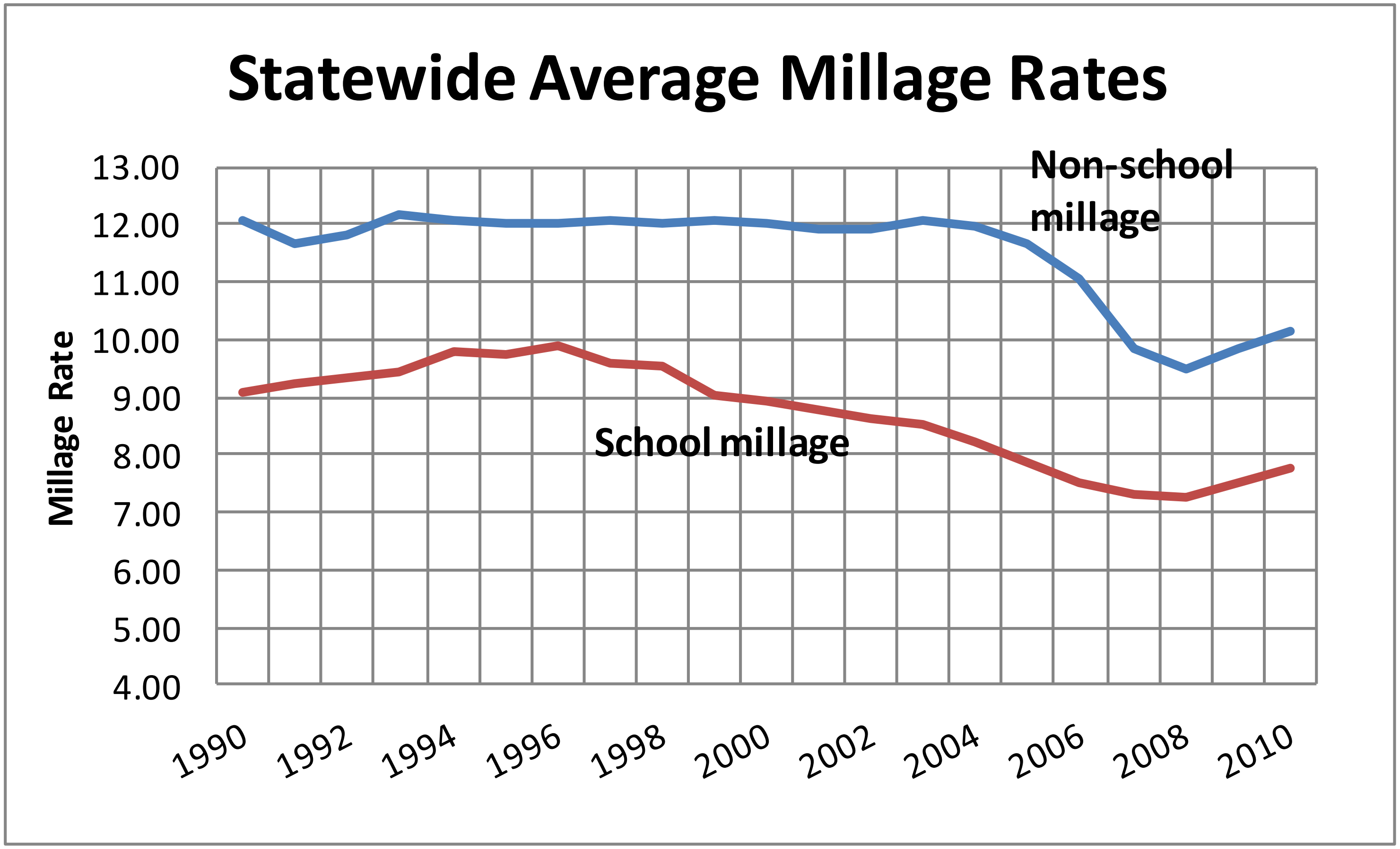
Taxes levied have decreased since 2007



Taxes levied as a percent of Florida personal income have decreased since 2006



Statewide average millage rates decreased until 2008, and have risen somewhat since then



How changes in market conditions have affected property taxes

- Falling property values have shrunk the potential property tax base by 30.5 percent.
- Since 2007, the just (market) value of property in Florida has fallen from $2.66 trillion to $1.85 trillion.

Loss in Taxable Value 2007 to 2011

- The final taxable value for school purposes has fallen 23.6 percent.
- The taxable value for non-school purposes has fallen 28.7 percent.

Market changes have also affected the distribution of the property tax burden, mainly through the interaction of changing market values and Save Our Homes.

Role of Save Our Homes

- Save Our Homes was the single largest policy influence on the distribution of property tax burden at the height of the real estate boom.

Save Our Homes Impact 2007 and 2011

	2007	2011
Reduction in Assessed Value of Homestead Property	36.6 percent	9.6 percent
Number of Homesteads with SOH differential	3.9 million	1.8 million
Percent of Homesteads with SOH Differential	87.7 percent	41.6 percent
Average differential value for homesteads with a differential	$110,291	$39,611
Impact on nonhomestead property taxes	22 percent higher	7 percent higher

Other Save Our Homes Impacts

- Lock-In effect
- Homestead property insulated from local budget decisions

Tax Policy Changes Since 2007

Millage Limitations

- In 2007, the Legislature imposed limits on property tax rates for counties and municipalities stricter than the 10 mill constitutional cap that was already in place.
- Millage rates were also limited for independent special districts.
- Since 2008, statewide average millages for counties, municipalities, and independent special districts have never exceeded the maximum millage rates that may be imposed by a majority vote.

Amendment 1(2008)made four big changes to property tax policy

Two changes applied to homestead property, two applied to non-homestead property

Additional Homestead Exemption

- Amendment 1 provided an additional $25,000 homestead exemption, with 2 important differences from the original homestead exemption:
  - It applies to the value from $50,000 to $75,000
  - It does not apply to school taxes

Portability

- Portability allows a homestead property owner to transfer his or her Save Our Homes differential to another homestead. The amount that can be transferred is limited to $500,000, and the transfer must occur within 2 years of the January 1 assessment date of the previous homestead.

$25,000 Exemption for Tangible Personal Property

- Amendment 1 also provided a $25,000 exemption for tangible personal property.
- This exemption was expected to reduce the taxable value of tangible personal property by 12 percent while reducing the number of taxpayers by 77 percent.

10 percent cap on non-homestead property

- The assessed value of non-homestead real property may not increase by more than 10 percent in any year.
- Even though property values have fallen significantly since the enactment of this limitation, in 2011 248,443 parcels were affected.

Divergence of school and non-school tax base

- Before 2007, school and non-school taxes applied to virtually the same tax base.
- Amendment 1 created a 7 percent ($98 billion) gap between the school and nonschool tax base.
- The additional homestead exemption and the 10 percent assessment cap apply to non-school millages only.

Amendment 1 Impacts

	Impact on Tax Base (2011)	Statewide Tax Impact*	Applicable Millage
Additional $25,000 homestead exemption	-$84.2 billion	-$855.5 million	Non-School Millages
Portability of Save Our Homes differential, up to $500,000	-$524 million	-$9.4 million	School and Non-School Millages
10 percent annual cap on assessment increases for non-homestead property	-$12.9 billion	-$131.1 million	Non-School Millages
$25,000 exemption for tangible personal property	-$7.6 billion	-$136.0 million	School and Non-School Millages

* Assuming 2010 millage rates

TBRC amendments

- The Tax and Budget Reform Commission placed 3 property tax-related amendments on the ballot in the 2008.
- All were approved by the voters.
- Two were self-implementing, the 3rd is at the discretion of the Legislature.

Working waterfronts

- Certain working waterfront property must be assessed on the basis of its current use.
- The Legislature may provide conditions, limitations, and reasonable definitions for assessment of working waterfront property, but even without Legislative action qualified property is assessed un a current use basis.

Conservation lands—assessment and exemption

- Land used for conservation purposes is assessed solely on the basis of its character or use, as provided by general law.
- Real property dedicated in perpetuity for conservation purposes is granted an exemption, as defined by general law.

TBRC Amendment Impacts

	2011 Tax Roll Impact	Statewide Tax Impact*
Working Waterfront Assessment	-$196.3 million	-$3.5 million
Conservation Lands Assessment	-$43.2 million	-$0.8 million
Conservation Lands Exemption	-$164.4 million	-$2.9 million

* Assumes the 2010 statewide millage rate of 17.9 mills.

Taxpayer Challenges

- Amendments to Value Adjustment Board statute in 2008
- Changes to the presumption of correctness in challenges to assessments in 2009

Deployed service members

- In 2010 the voters approved a property tax exemption for deployed military personnel pro-rated by the number of days they were deployed in the previous year overseas in support of military operations designated by the Legislature.

The End