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DATE: April 7, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1373

RELATING TO: Taxation (Delinquent Personal Property Taxes)

SPONSOR(S): Representative Stafford

STATUTE(S) AFFECTED: Chapter 197, F.S.

COMPANION BILL(S): SB 1410 (i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS
- (2) FINANCE & TAXATION
- (3)
- (4)
- (5)

I. SUMMARY:

This bill allows county tax collectors to implement an installment payment program for delinquent personal property taxes. If implemented, the program must be available to each delinquent personal property taxpayer whose delinquent taxes exceed \$1,000.

The bill also allows a county tax collector to issue all tax certificates for delinquent property taxes to the county in lieu of conducting a sale if the board of county commissioners, by ordinance, requests such certificates be issued to the county. All such tax certificates issued to the county must impose the maximum rate of interest allowed (18%). The county may use the tax certificates as collateral to borrow money to fund county programs.

This bill has no fiscal impact.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Notice of Tax Delinquency

Section 197.322, F.S., requires the property appraiser to deliver to the tax collector the certified assessment roll along with his or her warrant and recapitulation sheet. Section 193.023, F.S., requires the property appraiser to complete an assessment of the value of all property no later than July 1 of each year, unless the Department of Revenue grants an extension of time for good cause shown.

Within 20 working days after receipt of the certified ad valorem tax roll and the non-ad valorem assessment rolls, the tax collector is required to mail a tax notice to each taxpayer stating the amount of current taxes due from the taxpayer and, if applicable, the fact that back taxes remain unpaid and advising the taxpayer of the discounts allowed for early payment.

All taxes are due and payable on November 1 of each year or as soon thereafter as the certified tax roll is received by the tax collector. Taxes become delinquent on April 1 following the year in which they are assessed or immediately after 60 days have expired from the mailing of the original tax notice, whichever is later. If the delinquency date for ad valorem taxes is later than April 1 of the year following the year in which taxes are assessed, all dates or time periods relative to the collection of, or administrative procedures regarding, delinquent taxes are extended a like number of days.

Section 197.343, F.S., requires an additional tax notice to be mailed to each taxpayer whose payment has not been received at least 30 days prior to the date of delinquency. The notice must include a description of the property and the following statement: "If the taxes for the (year) on your property are not paid, a tax certificate will be sold for these taxes, and your property may be sold at a future date. Contact the tax collector's office in the courthouse at once."

On or before June 1 or the 60th day after the date of delinquency, whichever is later, the tax collector is required to advertise once each week for 3 weeks and sell tax certificates on all real property with delinquent taxes. The tax collector makes a list of such properties in the same order in which the lands were assessed, specifying the amount due on each parcel, including interest at the rate of 18 percent per year from the date of delinquency to the date of sale; the cost of advertising; and the expense of sale.

Sale of Tax Certificates

Pursuant to section 197.332, F.S., the tax collector has the authority and obligation to collect all taxes as shown on the tax roll by the date of delinquency or to collect delinquent taxes by sale of tax certificates on real property and by seizure and sale of personal property.

On the day and approximately at the time designated in the notice of the sale, the tax collector commences the sale of tax certificates on those lands on which taxes have not been paid, and continues the sale from day to day until each certificate is sold to pay the taxes, interest, costs, and charges on the parcel described in the certificate. In cases

where there are no bidders, the certificate is issued to the county. All tax certificates issued to the county are held by the tax collector of the county where the lands covered by the certificates are located. Delinquent taxes on real property may be paid after the date of delinquency but prior to the sale of a tax certificate by paying all costs, advertising charges, and interest.

Application for Obtaining Tax Deed by a County as Holder of Tax Sale Certificate

The county where the lands described in the certificate are located is required by section 197.502, F.S., to make application for a deed on all certificates on property valued at \$5,000 or more on the property appraiser's roll, except deferred payment tax certificates, and may make application on those certificates on property valued at less than \$5,000 on the property appraiser's roll. Such application is required be made 2 years after April 1 of the year of issuance of the certificates. Upon application for a tax deed, the county must deposit with the tax collector all applicable costs and fees but shall not deposit any money to cover the redemption of other outstanding certificates covering the land.

B. EFFECT OF PROPOSED CHANGES:

This bill creates section 197.4155, F.S., to allow county tax collectors to implement an installment payment program for payment of delinquent personal property taxes. If implemented, the program must be available to each delinquent personal property taxpayer whose delinquent taxes exceed \$1,000. Each person who participates in the program must submit an application to the tax collector that includes the name, address, and telephone number of the taxpayer, a description of the property subject to personal property taxes, and the amount of the personal property taxes owed by the taxpayer. Within 10 days after a taxpayer submits the required application, the tax collector shall prescribe an installment payment plan for the full payment of the taxes owed.

If a tax warrant is issued against a delinquent taxpayer participating in the installment program, the tax warrant is unenforceable as long as the taxpayer is paying the installments on the prescribed timetable. If the amounts due are not paid in accordance with the plan, the tax collector may use all enforcement methods available under the law.

The bill also allows a county tax collector to issue all tax certificates for delinquent property taxes to the county in lieu of conducting a sale if the board of county commissioners, by ordinance, requests such certificates be issued to the county. All such tax certificates issued to the county must impose the maximum rate of interest allowed (18%). The county may use the tax certificates as collateral to borrow money to fund county programs.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No. The implementation of the installment program and the alternative tax certificate sale method is discretionary for local governments and the tax collector.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

Not Applicable (N/A)

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes. The possibility of paying delinquent taxes on an installment basis gives persons an additional option to pay their taxes.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

N/A

a. If the bill purports to provide services to families or children:

N/A

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

N/A

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. SECTION-BY-SECTION RESEARCH:

Section 1: Creates section 197.4155, F.S., to allow county tax collectors to implement an installment payment program for delinquent personal property taxes. If implemented, the program must be available to each delinquent personal property taxpayer whose delinquent taxes exceed \$1,000. Each person who participates in the program must submit an application to the tax collector that includes the name, address, and telephone number of the taxpayer, a description of the property subject to personal property taxes, and the amount of the personal property taxes owed by the taxpayer. Within 10 days after a taxpayer submits the required application, the tax collector shall prescribe an installment payment plan for the full payment of the taxes owed.

If a tax warrant is issued against a delinquent taxpayer participation in the installment program, the tax warrant is unenforceable as long as the taxpayer is paying the installments on the prescribed timetable. If the amounts due are not paid in accordance with the plan, the tax collector may use all enforcement methods available under the law.

Section 2: Creates section 197.4315, F.S., to allow a county tax collector to issue all tax certificates for delinquent property taxes to the county in lieu of conducting a sale if the board of county commissioners, by ordinance, requests such certificates be issued to the county. All such tax certificates issued to the county must impose the maximum rate of interest allowed (18%). The county may use the tax certificates as collateral to borrow money to fund county programs.

Section 3: Amends subsection (1) of section 197.432, F.S., to provide a cross-reference to the procedures created in Section 2 of the bill to current law relating to the sale of tax certificates.

Section 4: Provides that the act shall take effect 60 days after becoming a law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Persons who have delinquent taxes may now have another option for paying their taxes and delaying the sale of the tax certificate.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

If a county tax collector issues tax certificates to the county in lieu of conducting a sale, the provisions of the bill do not allow for competitive interests rates for such certificates. All such tax certificates must impose the maximum rate of interest which is currently 18 percent. Therefore, competitive interest rates are not available. This will result in higher costs to taxpayers who pay their taxes and pay the costs to eliminate the tax certificate.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require the expenditure of funds by counties or municipalities.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue raising authority of counties or municipalities.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

The bill allows the tax collector "all necessary flexibility" in prescribing an installment plan to collect delinquent personal property taxes. As drafted, the Department of Revenue may be called upon by tax collectors to interpret this phrase. No statutory guidance is given to what this phrase means.

If it is the intent of the bill to encourage collection activity before resorting to issuing a warrant to seize and sell personal property, the bill should be amended to require an application to be filed before the issuance of the warrant.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Four amendments will be offered by the sponsor as follows:

Amendment 1: Provides that an application for the delinquent payment program must be made before the issuance of a warrant to seize the property.

Amendment 2: Provides that the tax collector has flexibility as to dates and amounts of payments.

Amendment 3: Changes the length of time allowed for repayment from 2 years after the due date of the first payment, to not later than one year after the date of delinquency.

Amendment 4: Deletes provisions authorizing the sale of tax certificates to the county in lieu of sale.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

Jenny Underwood Dietzel

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