

STORAGE NAME: h1467.rpp

DATE: April 2, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Real Property & Probate
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1467

RELATING TO: Collection of non-ad valorem assessments

SPONSOR(S): Representative Livingston

STATUTE(S) AFFECTED: Section 197.3632, Florida Statutes

COMPANION BILL(S): SB 1108

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

- (1) Real Property & Probate
 - (2) Finance & Taxation
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

HB 1467 provides that when authorized by ordinance, the uniform collection method may be used for any non-ad valorem assessments levied by local governments.

In addition, the bill clarifies the separate procedures available for levying and collecting capital project assessments.

The bill will take effect upon becoming a law.

The bill will have a positive fiscal impact on local governments.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

In response to a request from the City of Sunrise in 1992, the Attorney General issued an opinion construing the provisions of section 197.3632, Florida Statutes, added in 1990. The City asked whether it could use the uniform method to collect non-ad valorem assessments imposed in the early 1980s for funding road, utility and drainage improvements. See 1992 Fla. Atty. Gen. Op. 11 (February 12, 1992).

The Attorney General construed section 197.3632(9)(a), Florida Statutes, to mean that the uniform collection method may only be used to collect capital project assessments imposed before January 1, 1990, or which were previously collected by another method. Id. This appears contrary to the plain language of section 197.3632(9)(a), Florida Statutes, which makes the uniform collection method available **whether or not** a capital project assessment was imposed before January 1, 1990, or has previously been collected by another method.

Under the plain language of the statute, and under the Attorney General Opinion, it seems the uniform collection method is only available for the collection of capital project assessments. However, the Attorney General Opinion seems to impose additional limitations on using the uniform method to collect capital project assessments.

This opinion has led to confusion among local governments as to the appropriate use of the uniform collection method.

Under the uniform method of levy, collection, and enforcement provided in section 197.3632, Florida Statutes, the tax bill sent out is provided for in section 197.3635, Florida Statutes, and is referred to as the combined notice of ad-valorem and non-ad valorem assessments. The information is contained in two parts; the ad valorem and the non-ad valorem part. The ad valorem part lists the parcel basis, the taxing authorities, millage rates, assessed value, taxable value, and the associated tax. The non-ad valorem part lists the levying authorities, assessment rates, and actual assessment amount. The purpose of the assessment may also be listed.

Section 197.3632, Florida Statutes, defines non-ad valorem assessments as an assessment not based on millage and which can become a lien against a homestead as permitted in s. 4, Art. X of the State Constitution. Section 4(a), Art. X of the State Constitution precludes liens against the homestead except for the payments of taxes and assessments.

A capital project assessment is defined by section 197.3632(1)(g), Florida Statutes, to mean "a non-ad valorem assessment levied to fund a capital project, which assessment may be payable in annual payments with interest, over a period of years.

B. EFFECT OF PROPOSED CHANGES:

HB 1467 amends section 197.3632, Florida Statutes, to provide that where authorized by ordinance, local governments may use the uniform method to collect any non-ad valorem assessments, regardless of whether the assessment is a capital project assessment.

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.

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

No.

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

(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?

The bill should reduce the costs to local governments associated with billing taxpayers for assessments.

- 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?

No.

- 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?

No.

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

No.

5. Family Empowerment:

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

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. SECTION-BY-SECTION RESEARCH:

Section 1

This section amends section 197.3632, Florida Statutes, clarifying that the uniform method of collecting assessments is available for local governments to collect any non-ad valorem assessments levied pursuant to general or special law or ordinance.

This section also clarifies existing procedures which must be followed in order to levy a capital project assessment.

Section 2

This section provides legislative intent language that ratifies the use of the uniform method when it has been authorized by ordinance for the collection of non-ad valorem assessments.

Section 3

This section provides that the bill will take effect upon 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:

Unknown.

2. Recurring Effects:

Generally, the uniform method reduces billing costs for taxpayers. For example, according to the Director of the Environmental Services Division for Lee County, using the uniform method to collect annual solid waste assessments will save Lee County taxpayers over \$750,000.00 annually.

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Billing costs are reduced for taxpayers.

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

Unknown.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

STORAGE NAME: h1467.rpp

DATE: April 2, 1997

PAGE 8

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

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

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON Real Property & Probate:
Prepared by:

Legislative Research Director:

Kurt Bauerle

P.K. Jameson