

STORAGE NAME: h4225a.ca

DATE: April 8, 1998

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

BILL #: HB 4225

RELATING TO: The Duties of Property Appraisers

SPONSOR(S): Representative Carlton

COMPANION BILL(S): SB 2222 (s)

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

(1) COMMUNITY AFFAIRS YEAS 7 NAYS 0

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I. SUMMARY:

This bill authorizes property appraisers to correct a material mistake of fact in an appraisal, for a period of one year subsequent to the approval of the tax roll. The bill also authorizes property appraisers to directly submit a correction and refund order to the tax collector.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Property Appraisers are charged with determining the value of all property within the county, maintaining certain records, and determining the tax on taxable property after taxes have been levied. If a property owner disagrees with the property appraiser's assessment, there are three options for appeal:

- Property owners may informally confer with the property appraiser to discuss the property appraiser's assessment of their property, pursuant to section 194.011, Florida Statutes.
- Property owners may petition the County Value Adjustment Board to appeal the property appraiser's assessment of their property, pursuant to chapter 194, Florida Statutes.
- Property owners may contest the assessment in circuit court up to 60 days after the tax roll is certified by the County Value Adjustment Board pursuant to section 194.171, Florida Statutes.

If the property appraiser's assessment is in error, the statutes provide a means for correcting the error and collecting back taxes or issuing refunds. Pursuant to section 197.122(1), Florida Statutes, acts of omission or commission by the property appraiser may be corrected at any time. If back taxes are due as a result of such corrections, they may be collected pursuant to section 193.092, Florida Statutes. If a refund is due as a result of such corrections, the property owner may petition the Department of Revenue to approve the refund pursuant to section 197.182, Florida Statutes.

Section 197.122(3), Florida Statutes, authorizes a property appraiser to correct a material mistake of fact relating to an essential condition of the subject property to reduce an assessment if to do so requires only the exercise of judgement as to the effect on assessed or taxable value of that mistake of fact. These essential conditions means a characteristic of the property, including only:

- environmental restrictions, zoning restrictions, or restrictions on permissible use;
- acreage;
- wetlands or other environmental lands that are or have been restricted in use because of such environmental features;
- access to usable land;
- any characteristic of the subject parcel which characteristic, in the property appraiser's opinion, caused the appraisal to be clearly erroneous; or
- depreciation of the property that was based on a latent defect of the property which existed but was not readily discernible by inspection on January 1, but not depreciation resulting from any other cause.

Such material mistakes of fact may be corrected only within 60 days after the property appraiser's certification of the tax roll by the County Value Adjustment Board pursuant to section 193.122(2), Florida Statutes. Generally, if a refund is due as a result of such corrections, the property owner must petition the Department of Revenue to approve the refund pursuant to section 197.182, Florida Statutes.

B. EFFECT OF PROPOSED CHANGES:

This bill authorizes property appraisers to correct a material mistake of fact in an appraisal, for a period of one year subsequent to the approval of the tax roll. The bill also authorizes property appraisers to directly submit a correction and refund order to the tax collector.

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?

Yes. The bill extends the time that a material mistake of fact may be corrected from 60 days to one year.

The Property Appraisers' Association of Florida contends that the bill provides the opportunity for taxpayers, that are in disagreement with their property appraisal, to file suit that could result in a reduction of the assessed value of the property for up to two years.

- (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?

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?

No.

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

No.

4. Individual Freedom:

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

Yes. the bill expands the opportunities for taxpayers to apply to receive a reduction or refund of property taxes.

- 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. STATUTE(S) AFFECTED:

Section 197.122, Florida Statutes.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends section 197.122(3), Florida Statutes, to provide that material mistakes of fact by the property appraiser may be corrected within a one year period after the tax roll is approved by the Department of Revenue pursuant to section 193.1142, Florida Statutes, rather than within 60 days after the tax roll is certified by the County Value Adjustment Board pursuant to section 193.122(2), Florida Statutes. Thereby the opportunity for corrections of assessments is extended. Beginning in 1999, if such a correction results in a refund of taxes paid because of the erroneous assessment, the property appraiser may ask the Department of Revenue to approve the refund request as provided in section 197.182, Florida Statutes, or submit the correction and refund order directly to the tax collector for action.

Section 2: Provides that the bill will take effect January 1 of the year in which enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate.

2. Recurring Effects:

Indeterminate

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

Potentially results in a reduction or refund of property taxes for commercial properties.

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

N/A

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority local governments have to raise revenues in the aggregate.

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

The bill does not reduce the percentage of state tax shared with local governments.

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V. COMMENTS:

The Property Appraisers' Association of Florida, representing small counties, are strongly opposed to the bill. The Florida Association of Property Appraisers, representing large counties, strongly support the bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At their meeting on April 7, 1998, the House Committee on Community Affairs adopted an amendment which provides that if the property appraiser submits a correction and refund order directly to the tax collector, that it must be in accordance with the notice provisions of section 197.182 (2), Florida Statutes.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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