

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1496

SPONSOR: Fiscal Resource Committee and Senator Bronson

SUBJECT: Ad Valorem Tax Assessment

DATE: April 19, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bowman</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/1 Amendment</u>
2.	<u>Fournier</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The committee substitute defines conservation lands and directs the property appraiser to consider whether certain actions by governmental units regarding permits, limitations on use, or delineations of lands as wetlands or surface waters constitutes a constraint on the highest and best use of the property.

This bill amends section 193.015 of the Florida Statutes.

II. Present Situation:

Section 4, Article VII, of the Florida Constitution requires:

By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, . . .

The Florida Supreme Court has interpreted "just valuation" to mean fair market value, i.e., the amount a purchaser, willing but not obliged to buy, would pay a seller who is willing but not obliged to sell. *Walter v. Schuler*, 176 So. 2d 81 (Fla. 1965).

Pursuant to Section 4(a), Article VII, of the Florida Constitution, agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes are exceptions that may be assessed solely on the basis of their character or use. Tangible personal property held for sale as stock in trade and livestock may be assessed at a specified percentage of its value or totally exempted. The Legislature may also allow counties and municipalities to authorize by ordinance that historic property may be assessed solely on the basis of character of use, but such assessment may only apply to the jurisdiction adopting the ordinance.

Section 193.011, F.S., directs property appraisers to take into consideration eight factors when deriving a just valuation of property. Briefly, these factors include:

1. The present cash value of the property, exclusive of reasonable fees and costs of purchase;
2. The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking all legal limitations imposed on the property into consideration;
3. The location of the property;
4. The quantity or size of the property;
5. The cost of the property and the present replacement value of improvements;
6. The condition of the property;
7. The income from the property;
8. The net proceeds from the sale of the property, exclusive of reasonable fees and costs of the sale.

Although the statute outlines the factors that property appraisers are to consider in deriving just valuation, the Florida Supreme Court has ruled that the factors used and the weight given to any factor or method of valuation is left to the discretion of the property appraiser. *Valencia Center, Inc. v. Bystrom*, 543 So.2d 214 (Fla. 1989).

Section 193.015, F.S., provides that if the Department of Environmental Protection issues or denies a permit to dredge, fill, or otherwise construct in or on waters of the state, as defined in chapter 403, F.S., to their landward extent as determined under s. 403.817(2), F.S., the property appraiser is to consider the effect of that issuance or denial on the value of the property and any limitation that the issuance or denial may impose on the highest and best use of the property to its landward extent. The provision does not apply under specified circumstances.

Assessment of Conservation Lands

Section 4, Article VII, of the Florida Constitution does not provide for land designated as wetlands or conservation lands to be classified by general law and assessed solely on the basis of character of use unless such land is land producing high water recharge to Florida's aquifers or used exclusively for non-commercial recreational purposes. As a result, such land must be assessed at fair market value.

As part of the factors the property appraiser must take into consideration in arriving at just valuation, s. 193.011(2), F.S., requires the property appraiser to consider:

The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise authorized by applicable law. The applicable governmental body or agency or the Governor shall notify the property appraiser in writing of any executive order, ordinance, regulation, resolution, or proclamation it adopts imposing any such limitation, regulation, or moratorium.

Some property appraisers have expressed concern that their ability to determine “highest and best use” of conservation lands is constrained due to uncertainties regarding allowed uses under various regulations applied to such lands.

However, section 193.501, F.S., already provides for the assessment of lands subject to a conservation easement, environmentally endangered lands, or lands used for outdoor recreational or park purposes when land development rights have been conveyed or conservation restrictions have been covenanted. In the case where the owners of:

- ▶ land subject to a conservation easement pursuant to s. 704.06(1), F.S.
- ▶ lands qualified as environmentally endangered following the definition in 193.501(6)(I), F.S.
- ▶ lands designated as conservation land in a local government comprehensive plan
- ▶ any land used for outdoor recreational or park purposes

convey the development right of the land or covenant that the use of the property is limited to conservation purposes, for a term of not less than 10 years, to the governing board of any public agency where the land is located, the Board of the Internal Improvement Trust Fund, or with a charitable corporation or trust, the property appraiser is required to assess the property as provided in the section. Specifically, the property appraiser shall assess the property as follows:

- If the covenant extends for a period of not less than 10 years from January 1 in the year the assessment is made, he shall consider no factors other than those relative to its value for the present uses, as restricted by the conveyance of development rights.
- If the covenant is for less than 10 years, the land shall be assessed under the provisions of s. 193.011, F.S., (factors to consider in deriving just valuation), recognizing the nature and length of any restriction placed on the use of the land.

Under section 193.501, F.S., property qualified as environmentally endangered is defined as:

..land that has unique ecological characteristics, rare or limited combinations of geological formations, or features of a rare or limited nature constituting habitat suitable for fish, plants or wildlife, and which, if subject to a development moratorium or one or more conservation easements or development restrictions appropriate to retaining such land or water areas predominantly in their natural state, would be consistent with the conservation, recreation and open space, and, if applicable, coastal protection elements of the comprehensive plan adopted by formal action of the

local governing body pursuant to s. 163.3161, the Local Government Comprehensive Planning and Land Development Regulation Act; or surface waters and wetlands, as determined by the methodology ratified in s. 373.4211.

In order to meet this definition, the property in question must have its development rights restricted in some fashion. If the development rights are not restricted for a period in excess of 10 years, the section requires the property appraiser to assess the property following the just value calculation of s. 193.011, F.S., although the appraiser can recognize the nature and length on any restrictions placed on the use of lands.

Moreover, language in this section indicates that property subject to the section is considered to have a classified use. For example, s. 193.501(7)(a), F.S., requires the property appraiser to report to the Department of Revenue “the just value and the classified use value of property that is subject to a conservation easement under s. 704.06, property assessed as environmentally endangered land pursuant to this section, and property assessed as outdoor recreational or park land.”

III. Effect of Proposed Changes:

This committee substitute amends s. 193.015, F.S., to say that the property appraiser may consider the effect of issuance or denial of certain permits by the Department of Environmental Protection, water management districts, or local governments on the highest and best use to which that property is expected to be put in the immediate future and on the present use of the property. It requires the Department of Environmental Protection, water management districts, or local governments to provide the property appraiser of each county in which such property is located with a copy of any final agency action relating to an application for such a permit.

The committee substitute creates a new subsection (2) in s. 193.015, F.S., authorizing the property appraiser to consider whether a permit, development order, or other governmental approval which restricts the use of property for conservation purposes constitutes a constraint on the highest and best use of the property. It defines conservation purposes. It also provides that if the United States Army Corps of Engineers, any state agency, water management district, or local government delineates land as wetlands or waters of the United States or surface waters, the property appraiser may consider whether such delineation constitutes a constraint on the highest and best use of the property.

The effective date of the committee substitute is July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

To the extent the bill authorizes the property appraiser, through the requirement of the bill that “the designation of lands as wetlands or conservation lands constitutes a constraint on the determination of the highest and best use of the property,” to derive a value that is less than just value, the terms may violate Section 4, Article VII, Florida Constitution.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

This bill has the potential to reduce ad valorem tax revenue for local governments, but an estimate of such reduction, if any, is not available.

B. Private Sector Impact:

This bill may reduce the ad valorem taxes imposed on lands subject to certain development restrictions.

C. Government Sector Impact:

This bill reduces the authority of property appraisers to determine the just value of certain types of property.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.