

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 290

SPONSOR: Fiscal Resource Committee, Senators Sullivan and Casas

SUBJECT: Tax Assessments

DATE: April 25, 2000 REVISED: _____

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

I. Summary:

This committee substitute requires the property appraiser to consider the reduced values determined by the value adjustment board in the previous year for tangible personal property, if the property appraiser did not successfully appeal the adjustment. If the property appraiser raises those values for the same tangible personal property, he or she must assert additional basic and underlying facts not properly considered by the board.

This committee substitute also amends s. 194.013, F.S., deleting the refund of filing fees which must be paid when a taxpayer successfully appeals an assessment to the value adjustment board.

This bill creates s. 193.016 and amends s. 194.013, F S.

II. Present Situation:

Valuation of Property

The Florida Constitution requires “a just valuation of all property for ad valorem taxation...” (Article VII, s. 4). However, the constitution does allow agricultural, high water recharge, and non-commercial recreational property to be classified by the Legislature and assessed solely on the basis of character or use. In addition, tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

The Florida Supreme Court has interpreted “just valuation” to mean fair market value. *Walter v. Schuler*, 176 So.2d 81 (Fla. 1965). Such an assessment may be exclusive of reasonable fees and costs of sale. *Oyster Pointe Resort Condo. v. Nolte*, 524 So. 2d 415 (Fla. 1988)

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

- the present cash value of the property, exclusive of reasonable fees and costs of purchase;
- the highest and best use to which the property came to 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;
- the location of the property;
- the quantity or size of the property;
- the cost of the property and the present replacement value of improvements;
- the condition of the property;
- the income of the property; and
- the net proceeds from the sale of the property, exclusive of reasonable fees and costs of the sale.

While the statutes outline 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).

Appeal of Property Valuations

Part I of chapter 194, F.S., provides for the administrative review of property taxes. Property owners are required to be notified of the assessment of all real and tangible personal property they own. (This is referred to as the “TRIM” notice or process.) A taxpayer that objects to the assessment placed on any taxable property may request the property appraiser to informally confer with the taxpayer. Once the request has been received, the property appraiser or a staff member is required to meet with the taxpayer to discuss the correctness of the assessment. The informal conference is not to be perceived as a prerequisite to the administrative review of property assessments.

If the taxpayer is not satisfied with the facts provided by the property appraiser, they may file a petition to the County Value Adjustment Board (VAB). The VAB consists of three members of the governing body of the county and two members of the school board. The VAB is required to render a written decision on filed petitions. These decisions may be appealed in the circuit court. Court proceedings are *de novo*, and the burden of proof is upon the party initiating the appeal.

Section 194.013, F.S., provides that the value adjustment board of any county may require a filing fee to be paid by taxpayers petitioning the board. This fee cannot exceed \$15 for each separate parcel of property. No filing fee may be assessed for an appeal of disapproval of a homestead exemption or tax deferral. Filing fees are paid to the clerk of court, and if the petitioner prevails in getting his or her assessment reduced, the clerk must refund the filing fee. These filing fees are used to defray the costs of the value adjustment board.

III. Effect of Proposed Changes:

Section 1 creates s. 193.016, F.S., to require property appraisers, when assessing tangible personal property, to consider the reduced values determined by the value adjustment board in the previous year for tangible personal property, if the property appraiser did not successfully appeal the adjustment. If the property appraiser raises those values for the same tangible personal

property, he or she must assert additional basic and underlying facts not properly considered by the board.

Section 2 amends s. 194.013, F.S., deleting the refund of filing fees which must be paid when a taxpayer successfully appeals an assessment to the value adjustment board.

Section 3 provides that the committee substitute will take effect January 1, 2001.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18(b), of the Florida Constitution provides:

“Except upon approval of each house of the Legislature by two-thirds of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989.”

However, laws of insignificant fiscal impact (\$1.5 million) are exempt from this provision.

The Legislative Impact Conference has not estimated the recurring annual fiscal impact of this committee substitute.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

To the extent that this committee substitute requires property appraisers to use consider the previous year's assessment in valuing tangible personal property, it is subject to constitutional challenge.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not estimated the recurring annual fiscal impact of this committee substitute.

B. Private Sector Impact:

Owners of property affected by this requirement will likely benefit from this change. The corresponding shift in tax burden may be imposed on other property owners in the county. Taxpayers who successfully petition the value adjustment board will no longer receive a refund of their filing fees.

C. Government Sector Impact:

Property appraisers currently have the option of relying on the valuation methods used by the VAB. It is not likely that considering values determined by the VAB will result in additional costs. The clerks of court will retain filing fees for value adjustment board petitions, providing more funding for the operation of the board.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.