

**STORAGE NAME:** h1341.sgc.doc  
**DATE:** April 17, 2001

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE  
COUNCIL FOR SMARTER GOVERNMENT  
ANALYSIS**

**BILL #:** HB 1341  
**RELATING TO:** Ad Valorem Tax/Refund of Filing Fees  
**SPONSOR(S):** Representative Benson  
**TIED BILL(S):** None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 9 NAYS 0
  - (2) COUNCIL FOR SMARTER GOVERNMENT YEAS 11 NAYS 0
  - (3)
  - (4)
  - (5)
- 

I. SUMMARY:

This bill requires the refund of the Value Adjustment Board filing fee if a petitioner prevails at a board hearing or in a conference with the property appraiser in getting his or her assessment reduced, or in receiving an increased exemption.

The Impact Conference has not considered this bill. The bill has no fiscal impact on state government. The bill has a negative fiscal impact on county government.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. 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 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.

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).

### **Exemptions from Ad Valorem Taxation**

Article VII, Section 3 of the Florida Constitution provides or allows for exemptions from ad valorem taxation. These include:

- property owned by a municipality and used exclusively by it for municipal purposes shall be exempt, and portions of property used predominantly for educational, literary, scientific, religious, or charitable purposes may be exempted by general law;
- household goods, to every head of a family, in an amount fixed by general law, and property, to every widow or widower or blind or totally and permanently disabled person, in an amount fixed by general law, shall be exempt;
- any county or municipality may grant community and economic development ad valorem tax exemptions, for the purpose of its respective tax levy, and subject to general law;
- by general law, an exemption is granted to a renewable energy source device and to the real property on which such device is installed; and
- any county or municipality may grant historic preservation tax exemptions for the purpose of its respective tax levy, subject to the limits of general law.

The above exemptions are implemented in chapter 196, F.S. The Legislature is without authority to grant an exemption from taxes where the exemption does not have a constitutional basis. *Archer v. Marshall*, 355 So.2d 781 (Fla. 1978).

### **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 are used to defray the costs of the value adjustment board.

Prior to the enactment of chapter 2000-262. L.O.F., s. 194.013(4), F.S., provided if the petitioner prevails in getting his or her assessment reduced, or in receiving an increased exemption, the clerk must refund the filing fee.

C. EFFECT OF PROPOSED CHANGES:

This bill requires the refund of the Value Adjustment Board filing fee if a petitioner prevails at a board hearing or in a conference with the property appraiser in getting his or her assessment reduced, or in receiving an increased exemption.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1.** Current subsection (4) of s. 194.013, F.S., is renumbered as subsection (5), and a new subsection (4) is added to provide that If the petitioner prevails at the value adjustment board hearing or in a conference with the property appraiser, resulting in a reduced assessment or increased exemption, the filing fee must be refunded to the taxpayer no later than 45 days after certification of the tax roll under s. 193.122(1), F.S. The subsection requires the refund to be made by the clerk of the value adjustment board without any further authority from the Department of Revenue under s. 197.182, F.S.

**Section 2.** An effective date of upon becoming a law is provided.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Filing fees are paid to the clerk of court, and are used to defray the costs of the value adjustment board. By requiring the refund of the VAB filing fee if a petitioner prevails at a board hearing or in a conference with the property appraiser, the bill reduces revenues available for such purposes.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals who prevail at a Value Adjustment Board hearing or in a conference with the property appraiser will receive a refund of their filing fee.

D. FISCAL COMMENTS:

The Impact Conference has not considered this bill.

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 expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill will not reduce the authority of countries and municipalities to raise total aggregate revenues, as such authority existed on February 1, 1989.

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

This bill does not reduce the total aggregate percent of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Thomas L. Hamby, Jr.

Joan Highsmith-Smith

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AS REVISED BY THE COUNCIL FOR SMARTER GOVERNMENT:

Prepared by:

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Don Rubottom