

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1360

SPONSOR: Comprehensive Planning, Local and Military Affairs and Senator Pruitt

SUBJECT: Property Tax Administration

DATE: February 13, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cooper	Yeatman	CA	Favorable/CS
2.			FT	
3.				
4.				
5.				
6.				

I. Summary:

This CS:

- authorizes the Department of Revenue (DOR) to specify the form used to petition the County Value Adjustment Board (VAB);
- increases from 15 to 20 the calendar days the Clerk of Court has to notify the petitioner to the VAB of their scheduled appearance;
- establishes a uniform timeline for petitioners and property appraisers to exchange information used in VAB hearings;
- grants DOR authority to establish, by rule, uniform procedures for VAB hearings;
- for counties with populations over 75,000, requires VABs to use special masters, and revises the qualifications for those special masters;
- in limited circumstances, authorizes DOR to update the guidelines for tangible personal property assessment upon the approval of the executive director, rather than by administrative rule;
- establishes procedures and a schedule for processing property tax refund claims; and
- provides DOR flexibility in printing Truth-In-Millage (TRIM) forms to accommodate individual county needs.

This CS substantially amends the following sections of the Florida Statutes: 194.011, 194.032, 194.035, 195.062, 197.182 and 200.069.

II. Present Situation:

Ad Valorem Taxes / Appeal of Property Valuations

Section 4, Article VII, of the State Constitution requires that all property be assessed at “just” or market value for ad valorem tax purposes. Local governments annually levy the ad valorem tax on real and tangible property as of January 1 of each year, less any authorized exemptions.

Part I of chapter 194, F.S., provides for the administrative review of property taxes. Prior to final budget hearings, 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 an informal conference with the property appraiser. 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 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 194.032, F.S., establishes a schedule for VAB hearings. Subsection (2) requires the clerk of the governing body of the county to schedule appearances before the VAB. The clerk is required to notify each petitioner of the scheduled time of his or her appearance no less than 15 calendar days prior to the day of such scheduled appearance.

Chapter 194, F.S., does not provide for VAB petition forms, for uniform procedures for VAB hearings, or timelines for the reciprocal exchange of information between the parties. DOR states that because there are no uniform procedures, “counties individually establish procedures and forms leading to confusion, particularly for taxpayers who operate in more than one county.”

VAB Special Masters

Section 194.035, F.S., authorizes, but does not require, county VABs to appoint special masters to take testimony and make recommendations to them. A special master may be either a member of The Florida Bar and knowledgeable in the area of ad valorem taxation or a designated member of a professionally recognized real estate appraisers' organization with not less than 5 years' experience in property valuation.

DOR reports that most VABs use special masters in their VAB proceedings.

DOR Manual of Instructions

Section 195.002(1), F.S., provides that DOR has general supervision of the assessment and valuation of property by county property appraisers, thus ensuring that all property will value according to its just valuation, as required by the State Constitution. Section 195.027(1), F.S., requires DOR to prescribe reasonable rules and regulations for the assessing and collecting of taxes, and such rules and regulations are to be followed by the property appraisers, tax collectors, clerks of the circuit court, and VABs. Section 195.032, F.S., requires DOR to establish standard measures of value to be used by property appraisers in all counties to aid them in arriving at assessments of all real and tangible personal property. Section 195.062, F.S., requires DOR to

prepare and maintain a current manual of instructions for property appraisers and other officials connected with the administration of property taxes. This manual must contain all:

- rules and regulations;
- standard measures of value; and
- forms and instructions relating to the use of forms and maps.

While the standard measures of value are required to be adopted by rule, they do not “have the force or effect of such rules” and are to be used “only to assist tax officers in the assessment of property...” The rule adoption process takes approximately six months to complete. A DOR representative stated that by the time new standard measures of value for tangible personal property are incorporated into updated manuals, they are out-of-date.

In August 2000, the Auditor General conducted a performance audit of the administration of the Ad Valorem Tax Program of DOR. (Report No. 01-003) The report found the following:

The Department has not complied with law requiring it to maintain a current manual of instructions containing current standard measures of value and uniform market area guidelines for county property appraisers. The Department’s existing manual of instructions included standard measures of value that were 18 years old. (p. 3)

Property Tax Refunds

Section 197.182(1), F.S., requires DOR to order refunds of property taxes paid to local governments when certain conditions are met. Subsection (2) requires DOR to forward such order to the respective county tax collector, who is then responsible for factoring the pro rata share owed to the property owner by the county, the district school board, each municipality, and the governing body of each taxing district their pro rata shares of such refund.

There are no deadlines established for the denial or approval of refunds in current law.

TRIM Notices

Chapter 200, F.S., governs the method of fixing property tax millage by local taxing authorities (TRIM process). Section 200.069, F.S., specifies the manner of the notice of the proposed property taxes to property owners. The notice shows the taxpayer’s property taxes in the preceding year, his taxes for the current year if no budget changes are made, and his taxes for the current year under the proposed budgets and millage rates of the taxing authorities. The notice discloses the date, time, and location of public hearings on the local government’s proposed budgets and taxes. It also encourages the taxpayer to participate in the budget process.

The TRIM notice is very specific in what information is required and the form it is to be presented in. DOR is responsible for reviewing TRIM notices to insure compliance with s. 200.069, F.S.

III. Effect of Proposed Changes:

This CS incorporates, in part, some of the recent recommendations of DOR’s Property Tax Administration Advisory Council.

Section 1 amends s. 194.011(3), F.S., to require that petitions to the VAB must be in substantially the form prescribed by DOR. However, county officers may not refuse to accept a form provided by DOR if petitioners choose to use it, notwithstanding s. 195.022, F.S. This allows private tax representatives to use DOR forms when petitioning the VAB on behalf of their clients. Section 195.022, F.S., requires DOR to prescribe and furnish all forms to be used by property appraisers, tax collectors, clerks of the circuit court, and value adjustment boards in administering and collecting ad valorem taxes. Counties currently may use their own forms, but only after obtaining written permission from the executive director of the DOR.

This section also creates subsection (4) to establish a timeline for the reciprocal exchange of information between petitioners and VAB. At least 10 days before the hearing, the petitioner is required to provide to the property appraiser a list of evidence to be presented at the hearing, together with copies of all documentation to be considered by the VAB and a summary of evidence to be presented by witnesses, and to mail a copy of this information to the VAB.

The property appraiser then has 5 days after the petitioner provides this information to the VAB to reciprocate by giving to the petitioner a list of evidence to be presented at the hearing, together with copies of all documentation to be considered by the VAB and a summary of evidence to be presented by witnesses. The property appraiser must also mail a copy of this information to the VAB. The evidence list must contain the property record card provided by the clerk.

Subsection (5) is added to require DOR to prescribe, by administrative rule, uniform procedures for VAB hearings which include requiring:

- that the clerk may not accept any petition that is not fully completed by the petitioner;
- procedures for the exchange of information and evidence by the property appraiser and the petitioner consistent with s. 194.032, F.S., which specifies the timetable for VAB hearings; and
- that the value adjustment board hold an organizational meeting for the purpose of making these procedures available to petitioners.

Section 2 amends s. 194.032, F.S., increases from 15 to 20 the calendar days the Clerk of Court has to notify the petitioners to the VAB of their scheduled appearance.

Section 3 amends s. 194.035, F.S., to require rather than authorize, in counties with populations over 75,000, to use special masters for taking testimony and making recommendations to the VAB on challenges to property appraiser's decisions of property valuations, exemptions and classifications. Current law requires special masters be members of the Florida Bar and be knowledgeable in the area of ad valorem taxation or a "designated member of a professionally recognized real estate appraisers' organization" with at least five years' experience in property valuation. This proposal would change the qualifications for special masters hearing challenges relating to valuation of real property. Such special masters must be a "state-certified" real estate appraiser with at least 5 years' experience in property valuation. (State certified appraisers are certified by the Department of Business and Professional Regulation under Part II of ch. 475, F.S.) Special masters for issues related to tangible personal property would be required to be a designated member of a professionally recognized real estate appraisers' organization with at

least 5 years' experience. The qualifications for a special master hearing challenges relating to exemptions and classifications would remain the same as is in current law.

Section 4 amends s. 195.062, F.S., to authorize DOR to annually update "guidelines" of standard measures of value to incorporate new market data into the manual of instructions for property appraisers. While the manual would continue to be adopted by rule, such guidelines may be incorporated into the manual upon the approval of the executive director of DOR, unless there is an objection filed within 30 days of such approval. If an objection is filed, the guidelines must be adopted pursuant to the rule amendment procedures required under the Administrative Procedures Act in s. 120.032, F.S.

Section 5 creates paragraphs (e) through (l) in s. 197.182(1), F.S., to establish a process and timeframe for property tax refund claims to be approved or denied. First, when DOR orders a refund of property taxes, and if funds are available, the taxpayer is entitled to receive a refund within 100 days after a claim for refund is made, unless the tax collector, property appraiser, or department states good cause for remitting the refund after that date. The deadlines imposed by this paragraph may be extended for good cause.

As in current law, taxpayer applications for refunds are made to the tax collector. When the taxpayer inadvertently contacts the property appraiser first, the property appraiser is required to refer the taxpayer to the tax collector. If a correction to the roll is required as a condition of refund, the tax collector has 30 days after the application for refund is filed to advise the property appraiser of the taxpayer's application for refund and forward the application to the property appraiser. The property appraiser then has 30 days to correct the tax roll, if such correction is permitted by law. If the property appraiser determines a refund is not due the petitioner, the roll is not corrected and the request is considered to be denied. If no good cause has been shown for the denial, the tax collector must issue the denial in writing to the taxpayer. If the refund is not one that can be directly acted upon by the tax collector, for which an order from DOR is required, the tax collector must then forward the claim for refund to DOR. However, approved refunds of less than \$400 must be made directly by the tax collector, without order from the department, and from undistributed funds. Such refunds may be made without approval of the various taxing authorities. DOR is then required to approve or deny all refunds within 30 days after receiving from the tax collector the claim for refund, unless good cause is stated for delaying the approval or denial beyond that date.

Court challenges contesting the denial of refund may not be brought later than 60 days after the date the tax collector issues the denial to the taxpayer, which notice must be sent by certified mail, or 4 years after January 1 of the year for which the taxes were paid, whichever is later. Finally, in computing any time period under this section, when the last day of the period is a Saturday, Sunday, or legal holiday, the period is to be extended to the next working day.

Section 6 amends s. 200.069, F.S., to allow DOR and property appraisers flexibility in printing the TRIM form, the contents and design of which are provided in this section. DOR is allowed to adjust "the spacing and placement of the form of the elements listed in this section" when it considers necessary to accommodate individual county needs. Counties are authorized to use forms they design only after approval by the executive director of DOR. Subsection (10) is deleted, consistent with these proposed changes.

Section 7 provides that this CS will take effect January 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 5 of the CS imposes a deadline for a property owner to contest a denial of tax refund.

C. Government Sector Impact:

Section 2 requires counties with populations over 75,000 to use special masters to hear challenges and make recommendations to the VAB. In addition, this section specifies new minimum qualifications for such special masters hearing valuation challenges. Such counties that do not currently use special masters, or use special masters that do not meet the proposed minimum qualifications, will incur additional costs associated with challenges to the VAB.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.