

STORAGE NAME: h2023.fpr.doc

DATE: March 13, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FISCAL POLICY AND RESOURCES
ANALYSIS**

BILL #: HB 2023 (PCB FPR 02-04)

RELATING TO: Taxpayer's Rights

SPONSOR(S): Committee on Fiscal Policy and Responsibility and Representative Wallace

TIED BILL(S):

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

- (1) FISCAL POLICY AND RESOURCES YEAS 13 NAYS 0
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I. SUMMARY:

This bill expands and revises the rights of taxpayers. In addition to providing new cross references and adding rights contained elsewhere in the statutes to the Taxpayer's Bills of Rights, this bill:

- Grants property owners who fill out incomplete petitions to the value adjustment board the right to provide the required information without having their original petition dismissed.
- Grants certain parties the right to take a dispute regarding property taxes to a Chapter 120 hearing in lieu of a circuit court hearing.
- Grants taxpayers the right to reschedule a value adjustment board hearing one time.
- Provides for a fair and timely exchange of information between the taxpayer and the property appraiser before a value adjustment board hearing.
- Specifies that employees and officials of the state or a taxing jurisdiction cannot serve as special masters for value adjustment board hearings.
- Instructs the Department of Revenue to assist counties with a population of 75,000 or less in finding qualified special masters and, subject to appropriation, provides assistance to these small counties in paying the cost of hiring special masters.
- Amends the qualifications for special masters to refer value adjustment board cases to those special masters best qualified to handle the issues.
- Instructs the Department of Revenue to settle interest when the department is responsible for a delay in the determination of the amount due.

The bill has no impact on local revenues, and the impact on state revenues is indeterminate. This bill will take effect upon becoming law.

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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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

In 1992 the Legislature created the Florida Taxpayer’s Bill of Rights to “guarantee that the rights, privacy, and property of Florida taxpayers are adequately safeguarded and protected during tax assessment, collection, and enforcement”. This bill of rights covered all State Taxes and is contained in Section 213.015, F.S.

In 2000 the Florida Tax Watch Ad Valorem Task Force proposed the creation of a similar bill of rights for property taxpayers. This property Taxpayer’s Bill of Rights is contained in Section 192.0105, Florida Statutes.

In 2001, as an interim project, the Committee on Fiscal Policy and Resources solicited comments from interested parties regarding possible improvements to these bills of rights. This bill is the result of the responses received to that inquiry.

For more specific information please see “Section-by-Section Analysis.”

C. EFFECT OF PROPOSED CHANGES:

Please see “Section-by-Section Analysis”

D. SECTION-BY-SECTION ANALYSIS:

Section 1- Creates section 120.585, F.S., which provides procedures for a chapter 120 hearing when a taxpayer elects to go to an administrative hearing instead of circuit court as permitted under Section 7 of this bill.

Section 2– Adds a cross reference from Section 192.0105, F.S. to Section 213.015, F.S., in order to assist taxpayers who have found one of the taxpayer’s bills of rights in finding the other similar section. In addition, it adds the right to have certain taxes and special assessments levied by special districts individually stated on the TRIM notice to the rights listed in this section. This right was created by Chapter 2001-137, Laws of Florida, but it was not then added to the list of rights contained in Section 192.0105, F.S.

Section 3 –Under the proposed bill, if a property appraiser finds that a petition to the value adjustment board is incomplete, they will have 15 days to notify the taxpayer of what information is missing. The taxpayer will then be required to provide that additional information to the property appraiser at least ten days before the scheduled hearing. Current law provides no direction for proceeding when a petition to the value adjustment board is incompletely filed out. As a result a taxpayers petition may be dismissed without a hearing due to such an oversight.

This section also provides for the standardization of the form used to file a petition with the value adjustment board.

Section 4- In the 2000 regular session, the legislature passed CS/SB 290 which deleted subsection 194.013(4), F.S. Said Language provided a refund of all filing fees if the petitioner prevailed at a value adjustment board hearing. This section recreates that right by putting the deleted language back into the statutes.

Section 5 – Currently the clerk of the value adjustment board receives all petitions to the value adjustment board and sets the hearing dates. No provisions are made for a petitioner the request that the hearing be rescheduled. This section would give the taxpayer the right to reschedule the value adjustment board hearing on their case one time. In addition, this section also requires that no more than 10 days before a scheduled hearing, the Petitioner and the Property Appraiser shall exchange copies of all documents to be considered at the hearing and a summary of all testimony which will be presented at the hearing.

Section 6 – This section shall take effect on January 1, 2003.

First, current law specifies that elected or appointed officials or employees of the county cannot be used as special masters for the value adjustment board. This provision would specify that employees and elected or appointed officials of a taxing jurisdiction and the state are also excluded from serving as a special master.

This section requires the Department of Revenue to provided to any county of under 75,000 in population a list of qualified special masters. In addition, subject to appropriation, the Department of Revenue is instructed to reimburse these small counties for the cost of hiring special masters. Reimbursements are to be made on a pro-rata basis if the funds appropriated are insufficient to pay for all such special masters.

In addition, this bill further revises the qualifications for serving as a special master. Under present law special masters are either members of The Florida Bar with ad valorem knowledge or a member of a professionally recognized real estate appraisers' organization with at least five years experience. Under this bill, the qualifications of a special master would reflect the types of cases he or she could hear. That is, a member of the Florida Bar with five years experience in the area of ad valorem taxation will hear cases involving exemptions and classifications, a state certified real estate appraiser with five years experience will hear cases involving the valuation of real estate, and a member of a nationally recognized appraiser's organization with at least five years experience in tangible personal property valuation will hear cases involving the valuation of tangible personal property.

Section 7- If a taxpayer did not have their petition to that value adjustment board heard by a special master and they are contesting an assessment involving either : 1) a matter which would raise or lower the petitioners' tax bill by \$100,000 or more, or 2) concerns a noncommercial non homestead property upon which the assessment has increased by 25% or more, where the increase was not due to new construction or due to the operation of the Save our Homes provision, then the petitioner may opt to proceed to a Chapter 120 hearing in lieu of going to Circuit Court.

Section 8 - Adds a cross reference from Section 213.015, F.S. to Section 192.0105, F.S., in order to assist taxpayers who have found one of the taxpayer's bills of rights in finding the other similar section. In addition, it adds the following rights to the list of rights contained in this section:

- The right to have the department identify and review certain types of multistate proposals (This right was created by HB 21 in 2001)
- The right to have the department investigate and implement electronic business methods
- The right to a wavier of interest that accrues as a result of errors or delays caused by the department of revenue (This right is created in Section 6 of this bill)
- The right to participate in free educational activities

Section 9 – Specifies that the Department of Revenue will settle or compromise the interest due when the Department of Revenue is responsible for the delay in determining the amount due from the taxpayer.

Section 10 – Provides that, except as otherwise provided, this bill will take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. The Department will be required to waive interest accumulated due to its failure to promptly determine the amount due.

2. Expenditures:

Indeterminate. If the Chapter 120 hearing procedure is used and compensation for the costs of such hearings are not received from the local governments or the petitioner, the state may end up bearing the cost of these Chapter 120 hearings.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

Indeterminate. If the Chapter 120 hearing procedure is used, local governments may end up paying to the Department of Administrative Hearings compensation for the costs of such hearings.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

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 spend funds of to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON FISCAL POLICY AND RESOURCES:

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