

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

This bill changes the deadline for adoption of a non-ad valorem assessment roll at a public hearing from between June 1 and September 15, to between January 1 and September 15.

This bill also clarifies that after the initial notice of the assessment, the assessment notice by first-class mail as required by s. 197.3632(4)b, F.S., may be accomplished by inclusion in the property appraiser's notice of proposed taxes pursuant to s. 200.069, F.S.

Current Law

Section 197.3632, F.S., establishes a uniform method for the levy, collection, and enforcement of non-ad valorem assessments. Any local government which is authorized to impose a non-ad valorem assessment may elect to use the uniform method provided in this statutory section for the collection of non-ad valorem assessments by complying with the actions and notice requirements of the section.

Section 197.3632(4)(a), F.S, provides:

A local government shall adopt a non-ad valorem assessment roll at a public hearing held between June 1 and September 15 if:

1. The non-ad valorem assessment is levied for the first time;
2. The non-ad valorem assessment is increased beyond the maximum rate authorized by law or judicial decree at the time of initial imposition;
3. The local government's boundaries have changed, unless all newly affected property owners have provided written consent for such assessment to the local governing board; or
4. There is a change in the purpose for such assessment or in the use of the revenue generated by such assessment.

Section 197.3632(6), F.S., provides:

If the non-ad valorem assessment is to be collected for a period of more than 1 year or is to be amortized over a number of years, the local governing board shall so specify and shall not be required to annually adopt the non-ad valorem assessment roll. However, the local governing board shall inform the property appraiser, tax collector, and department (DOR) by January 10 if it intends to discontinue using the uniform method of collecting such assessment.

Background

One state appellate court considered a property owner's challenge to a city's imposition of a non-ad valorem assessment for city stormwater utility fees. The court found that the City of Port St. Lucie could use the uniform method for levy, collection, and enforcement of non-ad valorem assessments but had to provide written notice and a public hearing for the years in which the city raised the fee or changed the formula for determining assessments.¹

C. SECTION DIRECTORY:

Section 1: amends ss. 197.3632(4)(a) and (6), F.S., to specify a filing deadline for non-ad valorem assessment adoption hearings; and to provide for meeting notice requirements for multi-year non-ad valorem assessments.

Section 2: Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: Not applicable.
2. Expenditures: Not applicable.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: Not applicable.
2. Expenditures: Indeterminate. The use of the uniform method of levy, collection, and enforcement of non-ad valorem assessments is discretionary to counties, municipalities, and special districts imposing non-ad valorem assessments. Therefore, any reduction in expenditures that may be achieved under the provisions of this bill are unknown.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: Not applicable.

D. FISCAL COMMENTS:

According to legal counsel for the Association of Special Districts, the requirement to provide annual notice of multi-year assessments is an unnecessary expense to special districts and local governments when the original notice provides the maximum rate assessable and the method for determining the annual assessment. Specifically, counsel represents that the Solid Waste Authority of Palm Beach County, a dependent special district, spends roughly \$150,000 per year on stamps and notices for a hearing that is strictly pro forma to readopt its assessment schedule.²

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

¹ *Atlantic Gulf Communities Corporation v. City of Port St. Lucie*, 764 So.2d 14 (Fla. 4th DCA 1999).

² Terry Lewis, Esquire, Lewis, Longman & Walker, P.A., 2/20/03.

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

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

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

2. Other: Not applicable.

B. RULE-MAKING AUTHORITY: Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

There do not appear to be any technical drafting issues.

Other Comments

The sponsor indicates that this bill is intended to clarify the law with regard to property owners notices of non-ad valorem assessments. Specifically, with respect to multi-year assessments, s. 197.3632(4)b, F.S., requires that annual notice be given to "each person owning property subject to the assessment" by first-class United States mail; and that the notice provide that the property owner has a right to appear at a public hearing at which the tax roll is adopted. This notice can be expensive and appears to be inconsistent with the language of s. 197.3632(6), F.S., which provides that local governing boards are not required to annually adopt the non-ad valorem tax roll. This bill is intended to make clear that, if proper notice is initially provided, no further individual first-class mail notices would be required.

No reply has been received to a request for comment from either the Florida Association of Property Appraisers or the Property Appraisers Association of Florida.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Subcommittee on Local Affairs, at its meeting on 3/6/03, favorably recommended two amendments to the bill, as introduced.

Amendment No. 1 by the Sponsor changed the time requirements for holding a public hearing at which to adopt a tax roll from between June 1 and September 15, to between January 1 and September 15.

Amendment No. 2 by the Sponsor is a clarifying amendment to reword the amendment to s. 197.3632(6), F.S.