HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 289 CS Advertisement of Real or Personal Property with Delinquent Taxes
SPONSOR(S): Baxley and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 878

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	5 Y, 4 N, w/CS	Rice	Diez-Arguelles
2) Local Government Council	5 Y, 3 N, w/CS	Camechis	Hamby
3) Civil Justice Committee			
4) Fiscal Council			
5)			

SUMMARY ANALYSIS

Under current law, the Tax Collector, prior to selling a tax certificate, must advertise the sale once a week for three weeks. The bill also requires Lake, Marion, Seminole, and Sumter counties to participate in a pilot program that reduces the number of times real or personal property with delinquent taxes must be advertised before the tax certificate sale. For the specified counties, this bill changes the advertisement requirement to one advertisement at least 21 days prior to the sale. The four counties are required to participate in the program for two complete property tax cycles.

Finally, the bill requires Tax Collectors in Lake, Marion, Seminole, and Sumter counties to prepare a report comparing the effectiveness of single publication versus triple publication. The Tax Collectors must submit the report to the President of the Senate and the Speaker of the House of Representatives at the end of the pilot program. The reports must be submitted by October 1, 2007.

The bill takes effect July 1, 2005.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill reduces the number of times a Tax Collector must advertise property with delinquent taxes prior to selling a tax certificate on the property.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Ad valorem taxes on real property are collected by the county Tax Collector on an annual basis.

Section 197.332, F.S. provides that the Tax Collector has the authority and obligation to collect all taxes, as listed on the county tax roll, by their delinquency date or to collect delinquent taxes, interest, and costs, by sale of tax certificates on real property and by seizure and sale of personal property.

All taxes are due on November 1st of each year or as soon thereafter as the certified roll is received by the Tax Collector[1]. In accordance with s.197.322, F.S., the Tax Collector must publish in a local newspaper that the tax roll is open for collection and within 20 working days must mail tax bills to applicable individuals.

Under current statutes, specific items are required to be included with the tax bills. Section 197.222(5), F.S. specifies that the bill must include a notice that informs the taxpayer of the right to prepay taxes in installments. Section 197.254, F.S. requires that the Tax Collector notify property owners of non-ad valorem assessments and the right to defer payment of taxes.

Taxes become delinquent on April 1st of each year following the year in which they are assessed or immediately after 60 days have expired from the mailing of the original tax notice[2] [3]. Section 197.402, F.S. requires the Tax Collector to advertise the delinquent parcels in a local newspaper once a week for three consecutive weeks prior to the tax certificate sale. The cost of this advertising is added to the delinquent taxes.

Beginning on or before June 1st, the Tax Collector is required by law to hold a tax certificate sale. The certificates represent liens on all unpaid taxes on real estate. The sale allows citizens to buy these certificates by paying off the owed tax debt. The sale is conducted in reverse auction style with participants bidding downward on interest rates starting at 18%. The certificate is awarded to the lowest bidder.

A tax certificate, when purchased, becomes an enforceable first lien against the real estate. The certificate holder is actually paying the taxes for a property owner in exchange for a competitive bid rate of return on his or her investment. In order to remove the lien, the property owner must pay the Tax Collector all delinquent taxes plus accrued interest, cost, and other charges. The Tax Collector then notifies the certificate holder of any certificates redeemed and a check is issued to the certificate holder.

A tax certificate is valid for seven years from the date of issuance. The holder may apply for a tax deed when two or more years have elapsed since the date of delinquency. If the property owner fails to pay the tax debt, the property tax deed is sold at public auction.

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[1] s.197.333, F.S.

[2] s.197.333, F.S.

[3] If the delinquency date for ad valorem taxes is later than April 1 of the year following the year in which taxes are assessed, all dates or time periods specified in this chapter relative to the collection of, or administrative procedures regarding, delinquent taxes shall be extended a like number of days (s.197.333, F.S.).

Effect of Proposed Changes

The bill also amends s.197.402, F.S. to create a pilot program for Lake, Marion, Seminole, and Sumter counties that changes the number of times the county Tax Collector is required to advertise real or personal property with delinquent taxes from once a week for three weeks to one time at least 21 days before the sale of the tax certificate. The four counties must participate in the program for two complete property tax cycles. The Tax Collectors in Lake, Marion, Seminole, and Sumter counties must prepare a report comparing the effectiveness of single publication versus triple publication. The report must list the number and percentage of properties on which delinquent taxes were paid by in each publication scenario. The Tax Collectors must submit the report to the President of the Senate and the Speaker of the House of Representatives at the end of the pilot program. The reports must be submitted by October 1, 2007.

C. SECTION DIRECTORY:

Section 1. Creates a pilot program for Lake, Marion, Seminole, and Sumter counties that reduces the number of times real or personal property with delinquent taxes must be advertised.

Section 2. Provides an effective date of July 1, 2005.

II. 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: None.

2. Expenditures: For two tax-cycles, Tax Collectors' out-of-pocket expenditures in Lake, Marion, Seminole, and Sumter Counties, will be reduced. These expenses are added to the delinquent taxes when the taxes are collected.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: Less advertising costs will be added to the amount of delinquent taxes owed by property owners.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not specify a standardized time frame that the Tax Collectors should use for the triple publication portion of the effectiveness report.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 12, 2005, the Finance and Tax Committee adopted two amendments. One amendment changes the bill into a pilot program applicable to Lake, Marion, Seminole, and Sumter counties. The other amendment requires all Florida County Tax Collectors to include information on Federal and state tax exemptions and benefits relating to the ADA in commercial tax bills.

On April 20, 2005, the Local Government Council adopted an amendment to strike the provision in the bill requiring Tax Collectors to include in commercial tax bills information regarding Federal and state tax exemptions and benefits relating to the ADA.