

authorities other than school districts. (It also provides that the maximum millage rate limitations may be overridden by extraordinary votes of the governing bodies.) In 2007-08, the maximum millage rates for most municipalities and counties are less than their rolled-back rates, with the size of reduction determined by how much their per capita ad valorem revenue increased from fiscal year 2001-02 to fiscal year 2006-07. Municipalities and counties of special financial concern and those with low historic revenue growth are allowed to levy the rolled-back rate by majority vote.

For fiscal year 2008-09 the maximum millage rate for each local taxing authority except school districts is the rolled-back rate, adjusted for growth in per capita Florida personal income. However, if the millage rate levied in 2007-08 exceeded the maximum millage rate that could have been levied by a majority vote, the rolled-back rate must be based on the revenue that would have been raised at the majority vote rate, not the higher rate levied by an extraordinary vote.

For the purposes of calculating the maximum millage allowed in fiscal year 2007-08, “county of special financial concern” is defined as a county considered fiscally constrained pursuant to s. 218.67, F.S., and for which 1 mill will raise less than \$100 per capita, and “municipality of special financial concern” is defined as a municipality within a county of special financial concern or a municipality that has been at any time since 2001 in a state of financial emergency pursuant to 218.503, F.S. Twelve municipalities—Hawthorne, Indian Creek, Miami, Opa-Locka, Minneola, Crestview, Laurel Hill, Valparaiso, Eatonville, Pahokee, South Bay, and Mulberry—have been in a state of financial emergency at some time since 2001.

Paragraphs (d) and (e) of s. 200.165(13), F.S., as amended by ch. 2007-321, Laws of Florida, provide a procedure by which the revenue limitations imposed by s. 200.185, F.S., are enforced. Any county or municipality that exceeds the maximum total revenue must forfeit the distribution of local government half-cent sales tax revenues during the 12 months following a determination of noncompliance by the Department of Revenue. (The local government half-cent sales tax distribution is a portion of state sales and use tax collections distributed to counties and municipalities based upon their populations. This revenue may be used for local programs or tax relief. See ss. 218.60 – 218.64, F.S.) If the executive director of the Department of Revenue determines that any county or municipality is not in compliance with the limitation, he or she must notify the taxing authority, which must then repeat the hearing and notice process for adopting a millage rate. The taxing authority may remedy the noncompliance by adopting a millage that does not exceed the maximum millage allowed. During the pendency of any procedure pursuant to a determination by the executive director of noncompliance or any administrative or judicial challenge to any action taken under s. 200.165(13), F.S., the tax collector must escrow revenues collected by the noncomplying taxing authority in excess of the maximum amount allowed until the rehearing and renote process is completed and approved by the Department of Revenue. If the taxing authority remedies the noncompliance, any excess revenues collected must be held in reserve until the next fiscal year and then be used to reduce property taxes

III. Effect of Proposed Changes:

SB 44-C amends the definition of “municipality of special financial concern” so that a municipality must have been in a state of financial emergency pursuant to s. 218.503, F.S., after June 30, 2002, in order to qualify. It also provides that a municipality that no longer qualifies as a municipality of special financial concern because of this amendment, and that has adopted a millage rate in excess of the maximum millage rate to which it is entitled under the new definition, must follow the procedures provided in paragraphs (d) and (e) of s. 200.065(13), F.S. A municipality that fails to comply with these provisions will forfeit the distribution of local government half-cent sales tax revenues during the 12 months following the determination of noncompliance.

The City of Miami is the only municipality that will be affected by this change in the definition of a municipality of special financial concern. If it no longer qualifies as a municipality of special financial concern, it will fall into the category of municipalities whose maximum millage rate with a majority vote is 91 percent, or a 9 percent reduction, of the rolled-back rate. On September 27, 2007, the city commission adopted by a unanimous vote the rolled-back millage rate and a budget based upon that rate, but it has requested an extension until October 15 from the Department of Revenue for adopting its final budget.

The effect of SB 44-C depends upon how the City of Miami responds to it:

Scenario 1 -- Miami does nothing more than it has done to date. In other words the rate it has adopted is the final millage rate. Under this scenario, Section 2 of the bill applies and Miami will be deemed to have violated the law and will have the opportunity to correct the violation. The city commission will have to take another vote and either (1) adopt a lower millage rate (91 percent of the rolled-back rate) by majority vote or (2) obtain the votes needed to override. If Miami chooses (1), the higher millage will still be paid by taxpayers, but the taxes collected in excess of the adopted lower millage rate will be placed in escrow. If Miami chooses (2) the higher rate prevails. If Miami cannot accomplish (1) or (2), it will lose revenue sharing.

Scenario 2 -- Miami, in response to the change in SB 44-C, readopts the same rate or another rate as their final millage rate prior to October 15th. Under this scenario, Section 2 of the bill does not apply and Miami is treated just like any other municipality that is not a municipality of special financial concern. The millage it adopts will go on the tax bills and its millage adoption process will be evaluated the same as for all others. If the department determines the city has not complied with the law, Miami will get an opportunity to correct the situation, prior to losing its half-cent sales tax distribution.

SB 44-C affects the City of Miami’s 2008-09 fiscal year maximum millage rate, since that rate is the rolled-back rate based on the revenue that would have been raised at the majority vote rate, not the higher rate levied by an extraordinary vote.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

SB 44-C appears to fall under Art. VII, s. 18(b) of the Florida Constitution, which requires approval by two-thirds of the membership of the Legislature to enact, amend, or repeal any general law if its anticipated effect is to reduce the authority of municipalities or counties to raise revenue

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 200.185, F.S., created by ch. 2007-321, Laws of Florida, established several classes of local governments for the purpose of limiting property tax revenue in the 2007-08 fiscal year. SB 44-C changes the definition of one of these classes in a way that affects a single municipality, which may implicate Article III, section 10 of the Florida Constitution, which prohibits the enactment of any special law in the guise of a general law.

Also, section 11(5) of Art. VIII of the Florida Constitution of 1885, as preserved by section 6(e) of Art. VIII of the Florida Constitution of 1968, provides that the Legislature may enact general laws “which shall relate to...any municipality in Dade County and any other one or more municipalities of the State of Florida.”

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

SB 44-C limits the ability of the City of Miami to impose ad valorem tax levies for the 2007-08 fiscal year by requiring supermajority votes for any levies in excess of 91 percent of the previous year’s rolled back rate. It also reduces the rolled-back rate for fiscal year 2008-09, which lowers the maximum millage rate that can be levied without a supermajority vote.

The bill provides that if the City of Miami imposes a millage higher than the maximum millage without the required supermajority vote it forfeits its distribution of local government half-cent sales tax revenues, which is estimated to be \$26.7 million in fiscal year 2007-08.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Since the City of Miami has already adopted a budget based on the rolled-back rate, this bill requires the city commission to take another vote (whether to adopt a lower millage or adopt the same millage again by a supermajority vote) or forfeit its distribution of local government half-cent sales tax revenues.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:**Barcode 421624 by Finance and Tax on October 3, 2007:**

This amendment clarifies that the bill applies to a municipality that has adopted its final millage rate.