

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Finance and Tax Committee

BILL: CS/SB 2080

INTRODUCER: Finance and Tax Committee and Senator Haridopolos

SUBJECT: Value Adjustment Boards

DATE: March 26, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	Johansen	FT	Fav/CS
2.			CA	
3.			EA	
4.			RC	
5.				
6.				

Please see Section VIII. for Additional Information:

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|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | ☒ | Statement of Substantial Changes |
| B. AMENDMENTS..... | ☐ | Technical amendments were recommended |
| | ☐ | Amendments were recommended |
| | ☐ | Significant amendments were recommended |

I. Summary:

This committee substitute implements many of the recommendations found in the Auditor General's Report No. 2006-007 concerning county value adjustment boards. It requires the Department of Revenue (DOR) to develop a uniform policies and procedures manual for use by boards, special magistrates, and taxpayers in board proceedings, and to make the manual available on existing websites. The committee substitute provides for 2 citizen members of the board, precludes county attorneys from serving as counsel to the board and provides conditions for private counsel appointed by the board.

The committee substitute requires each counties to appoint special magistrates, regardless of its population, and to verify the qualifications of the special magistrate appointees. The recommendations of special magistrates must include proposed findings of fact, conclusions of law, and reasons for upholding or overturning the determination of the property appraiser. It requires DOR to provide training for special magistrates with an emphasis on the assessment of tangible personal property. Training must be offered at least once a year in at least five locations throughout the state. Persons completing the training may serve as special magistrates with 3 years experience in the relevant area and the training must be open to the public.

Finally, the committee substitute amends public notice requirements by adding a column concerning the petitions withdrawn or settled prior to the board's consideration.

This committee substitute substantially amends, creates, or repeals the following sections of the Florida Statutes: 194.011, 194.015, 194.035, and 194.037.

II. Present Situation:

Section 194.015, F.S., creates a value adjustment board (VAB) for each county. Pursuant to s. 194.032(1)(a), F.S., the VAB meets for the purposes of hearing petitions related to assessments, complaints relating to homestead exemptions, appeals from exemptions denied or disputes arising from exemption granted, and appeals concerning ad valorem tax deferrals and classifications. The VAB remains in session until all petitions, complaints, appeals, and disputes are heard. The VAB comprises three members of the board of county commissioners, one of whom must be elected chairman, and two members of the district school board. Section 194.035, F.S., requires that, in counties having a population of more than 75,000, the VAB must appoint special magistrates who hear testimony, examine evidence, and render decisions in the form of recommendations to the VAB.

Between July 1, 2003 and June 30, 2005, the Auditor General conducted a performance audit of 14 county value adjustment boards. The following findings and recommendations are published in Report No. 2006-007:

Finding No. 1: The Legislature should consider the creation of an appeal process at the regional or State level, but only after consideration of the other recommendations in this report and the extent to which those recommendations are adopted by the Legislature, the Department, and the various Boards.

Finding No. 2: Some written procedures for the conduct of value adjustment board proceedings encompassing statute and rule provisions are in need of improvement. A procedures manual required to be used by all value adjustment board clerks, board members, special masters, and the public would provide for consistent and uniform procedures Statewide for hearings before the value adjustment boards.

Finding No. 3: To promote consistency in the conduct of petitioner hearings, consideration should be given to revising Section 194.035(1), Florida Statutes, to require that all counties use special masters.

Finding No. 4: Instances were noted where it appeared that attempts were made by a property appraiser to influence the decision-making process of a Board regarding the selection of special masters or the disqualification of a particular special master who ruled against the property appraiser in past petitioner hearings.

Finding No. 5: In circumstances where county attorneys represent both the county and the value adjustment boards, there exists the potential for bias.

Finding No. 6: To promote consistency and fairness Statewide among all counties, consideration should be given to providing petitioners in all counties the opportunity to have good cause hearings when warranted.

Finding No. 7: Written decisions of value adjustment boards and special masters were not always sufficiently detailed and in conformance with applicable statutes and rules.

Finding No. 8: Rates of petition denial among some categories of appeal, and by some boards, appeared to be inconsistent with other categories of appeal.

Finding No. 9: The information pertaining to the qualifications of the special masters, included on the list of special masters compiled by the Department of Revenue pursuant to Section 194.035(1), Florida Statutes, was not verified.

Finding No. 10: Documentation that was required to be contained in value adjustment board clerk files was sometimes missing.

Finding No. 11: Published data as to the number of petitions filed versus the number of petitions heard by the board was not always in compliance with statutory requirements, and may be in need of statutory change.

Finding No. 12: We noted in several counties that training sessions, generally conducted by the county attorney, are sometimes held with the special masters. These meetings are generally not considered by the counties as meetings that would be subject to public notice requirements. However, in order to better prepare potential petitioners for the hearings, it might be beneficial to provide citizens the opportunity to attend.

III. Effect of Proposed Changes:

The committee substitute implements several of the recommendations of the Auditor General's report. It amends s. 194.011, F.S., to require the Department of Revenue (DOR) to develop a uniform policies and procedures manual for use by boards, special magistrates, and taxpayers in board proceedings. It also requires both DOR and the clerks of the circuit courts to make the manual available on their existing websites.

The committee substitute amends s. 194.015, F.S., to provide for 2 citizen members of the VAB. One of these members is appointed by the governing board of the county and must own homestead property in the county; the other is appointed by the school board and must own a business that occupies commercial space located within the school district. A citizen VAB member may not be a member or an employee of any taxing authority, and may not be a person who represents property owners in any administrative or judicial review of property taxes. The committee substitute also precludes county attorneys from serving as counsel to the board, and provides that private counsel appointed by the VAB may not represent the property appraiser, tax collector, any taxing authority, or any property owner in any administrative or judicial review of property taxes.

The committee substitute amends s. 194.035, F.S., requiring each county to appoint special magistrates, regardless of its population. Prior to appointment, the board must verify the qualifications of a special magistrate, and the recommendations of special magistrates must include proposed findings of fact, conclusions of law, and reasons for upholding or overturning the determination of the property appraiser. It requires DOR to provide training for special magistrates with an emphasis on the assessment of tangible personal property. Training must be offered at least once a year in at least five locations throughout the state. Persons completing the training may serve as special magistrates with 3 years experience in the relevant area and the training must be open to the public.

Finally, the committee substitute amends s. 194.037, F.S., to amend the public notice requirements by adding a column concerning the petitions withdrawn or settled prior to the board's consideration.

The committee substitute has an effective date of July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandates provision of Article VII, s. 18(b) and (c), Florida Constitution, are not applicable because the committee substitute does not reduce the percentage of a state tax shared with counties or municipalities, nor does the committee substitute reduce the authority that counties and municipalities have to raise revenue in the aggregate. The mandates provision of Article VII, s. 18(a), Florida Constitution, may apply because the committee substitute requires the expenditure of funds. The amount of the required expenditure has not been determined.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

To the extent that the requirement that all counties use special magistrates and the change in composition of the VAB affects the outcome of VAB appeals, this committee substitute has the potential to increase or decrease local revenue, or change the distribution of the property tax burden.

B. Private Sector Impact:

To the extent that the requirement that all counties use special magistrates and the change in composition of the VAB affects the outcome of VAB appeals, this committee substitute has the potential to increase or decrease property tax levies, or change the distribution of the property tax burden.

C. Government Sector Impact:

The committee substitute has not been analyzed by the Revenue Estimating Impact Conference. The committee substitute appears to create an unknown fiscal impact on the Department of Revenue, as it requires the Department to develop a uniform policies and procedures manual for use in proceedings before value adjustment boards. It also requires the Department to provide training for special magistrates at least once each year in at least five locations throughout the state.

The committee substitute creates an unknown fiscal impact on local governments because all counties are required to appoint special magistrates.

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.)**CS by Finance and Tax on March 26, 2008:**

This committee substitute:

- Implements recommendations of the Auditor General's 2005 report.
- Requires the Department of Revenue to develop a uniform policies and procedures manual for VAB procedures. This manual will be available on the DOR website and existing clerks of the circuit courts websites.
- Changes the make-up of the VAB to include 2 citizen members, and requires at least one citizen member to be present for a quorum.
- A citizen members may not be a member or employee of a taxing authority, and may not represent property owners before the VAB or in court.
- Says that the county attorney may not represent the VAB, and the VAB's private counsel may not also represent any unit of local government or property owners.
- Requires all VABs, not just those in large counties, to appoint special magistrates with 5 years' experience in the relevant fields to hear VAB petitions and make recommendations to the VAB.

- Requires each VAB to verify the special magistrates' qualifications, and to make appointments solely on the basis of experience and qualifications, and without the influence of the property appraiser.
- Requires the special magistrate to keep records of all testimony and include proposed findings of fact and conclusions of law with their recommendations.
- Requires the Department of Revenue to provide and conduct training for special magistrates at least once a year in at least 5 locations throughout the state. The training must emphasize the department's standard measures of value for real and tangible personal property.
- Provides that a person who has taken the DOR training may serve as a special magistrate with 3 years' experience.
- Requires that the clerk publish additional information about the results of the VAB process, including the number of parcels for which the VAB considered the petition and reduced the assessment and the number of petitions that were filed but not heard by the VAB because they were withdrawn or settled prior to the board's consideration.

B. Amendments:

None.