

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 651 Value Adjustment Board Proceedings

**SPONSOR(S):** Hutson

**TIED BILLS:**           **IDEN./SIM. BILLS:** SB 806

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	17 Y, 0 N	Wolfgang	Langston
2) Local & Federal Affairs Committee	16 Y, 0 N, As CS	Miller	Rojas
3) Appropriations Committee			

### SUMMARY ANALYSIS

The CS makes the following revisions to the process for petitioning a value adjustment board (VAB):

- Requires the clerk of the VAB to have available and distribute petition forms (a function already performed by the property appraiser).
- Allows an owner of multiple, similar items of tangible personal property to file a single, joint petition protesting the assessment of such property.
- Provides that during the evidence exchange process the property appraiser must include the property record card regardless of whether the card was provided by the clerk.
- Provides one becomes an agent of the taxpayer for purposes of VAB proceedings if the taxpayer so authorizes in writing.
- Authorizes a petitioning taxpayer to request the rescheduling of a noticed VAB hearing at least 5 calendar days before the hearing.
- Authorizes a petitioner to request a hearing be rescheduled fewer than 5 days before the hearing date only in the event of an emergency. The request may be granted only on a showing of good cause.
- A petitioner's request to reschedule a VAB hearing must be denied if the hearing was twice previously rescheduled at the petitioner's request.

The Revenue Estimating Impact Conference estimated that the bill would have a negative, recurring impact on local government fee revenues of \$100,000.

The bill has an effective date of July 1, 2014.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

Present Situation

#### **Value Adjustment Boards**

Chapter 194, F.S., provides for administrative and judicial review of ad valorem tax assessments. Each county in Florida has a value adjustment board (VAB) composed of five members<sup>1</sup> that hears petitions pertaining to property assessments made by the county property appraiser.<sup>2</sup> The VAB hears evidence from both petitioners and property appraisers as to whether properties are appraised at their fair market value, as well as issues related to tax exemptions, deferments, and portability.<sup>3</sup>

#### **Petition Process for VAB Hearing**

Property appraisers establish the value of taxable property as of January 1 each year, and review and apply exemptions, assessment limitations, and classifications that may reduce a property's taxable value.<sup>4</sup> VABs have no authority to review, by their own motion, the determinations of the property appraiser.<sup>5</sup> Rather, the property owner files a petition to initiate a review, which may cost up to \$15 per petition.<sup>6</sup>

The Florida Department of Revenue (DOR), in its property tax oversight role, maintains a calendar indicating when the petition process begins (early March), and when petitions must be received (by mid-September), each year.<sup>7</sup> VAB petitions may be found at the DOR website, the County Property Appraiser's office, and in most counties at the office or website of the VAB Clerk. The clerk of the value adjustment board<sup>8</sup> is responsible for receiving completed petitions, acknowledging receipt to the taxpayer, sending a copy of the petition to the property appraiser, and scheduling appearances before the value adjustment board.

Prior to the hearing, an exchange of evidence can take place between the petitioner and the property appraiser, if so requested in writing. Regardless of whether petitioners initiate an evidence exchange, the property appraiser is required to provide the property record card to petitioners on receipt of the petition if the petitioner checks the appropriate box on the petition, unless the property record card is available online from the property appraiser.<sup>9</sup>

#### **Filing Fees and Joint Petitions**

The cost to file a petition is capped at \$15 by statute.<sup>10</sup> There is no fee for timely-filed petitions appealing disapprovals of homestead exemptions or denials of certain tax deferrals.<sup>11</sup> The VAB waives the filing fee of a petitioner who demonstrates at the time of filing that the petitioner is an eligible

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<sup>1</sup> Section 194.015, F.S.

<sup>2</sup> Section 194.011, F.S. The VAB also hears complaints about homestead exemptions and appeals exemption, deferral, or classification decisions. Section 194.032(1)(a), F.S.

<sup>3</sup> Additionally, VABs appoint special magistrates, who are qualified real estate appraisers, personal property appraisers or attorneys, to act as impartial agents in conducting hearings and making recommendations on all petitions. Section 194.035(1), F.S.

<sup>4</sup> For timeframes and instructions on filing, see DEP'T OF REVENUE, *PETITIONS TO THE VALUE ADJUSTMENT BOARD*, <http://dor.myflorida.com/dor/property/brochures/pt101.pdf> (last visited March 11, 2014).

<sup>5</sup> See Chapter 2013-95, ss. 1-4, Laws of Fla. (CS/HB 1193).

<sup>6</sup> Section 194.013, F.S.

<sup>7</sup> See the most recent calendar for exact dates. DEP'T OF REVENUE, *VALUE ADJUSTMENT BOARD CALENDAR*, <http://dor.myflorida.com/dor/property/cofficials/pdf/pt902020.pdf> (last visited March 11, 2014).

<sup>8</sup> The county clerk usually serves as the clerk of the value adjustment board. Section 194.015, F.S.

<sup>9</sup> Section 194.032(3)(a), F.S.

<sup>10</sup> Section 194.013(1), F.S.

<sup>11</sup> Section 194.013(1), F.S.

recipient of temporary assistance under Ch. 414, F.S.<sup>12</sup> All filing fees are allocated and utilized to defray costs incurred in connection with the operation of the VAB.

Owners of “contiguous, undeveloped parcels” may file a single, joint petition if the Property Appraiser determines such parcels are substantially similar in nature.<sup>13</sup> Condominium, cooperative, or homeowners’ associations may file a single joint petition on behalf of any association members who own parcels of property that the “property appraiser determines are substantially similar with respect to location, proximity to amenities, number of rooms, living area, and condition.”<sup>14</sup> A single filing fee for joint petitions is to be charged, and the fee must not exceed \$5 per parcel and is to be proportionately paid by affected parcel owners.

### **Ad Valorem Taxation – Tangible Personal Property**

Local governments may levy ad valorem tax assessments on real property<sup>15</sup> and tangible personal property.<sup>16</sup> Anyone who owns tangible personal property on January 1 and who has a proprietorship, partnership, or corporation, or is a self-employed agent or a contractor, must file a tangible personal property return to the property appraiser by April 1 each year.<sup>17</sup> Property owners who lease, lend or rent property must also file. “Each tangible personal property tax return is eligible for an exemption from ad valorem taxation of up to \$25,000 of assessed value. A single return must be filed for each site in the county where the owner of tangible personal property transacts business.”<sup>18</sup> The requirement to file an annual tangible personal property return is waived for taxpayers if they file an initial return on which the exemption is taken, and the value of the tangible personal property is less than \$25,000.<sup>19</sup> The VAB reviews petitions for tangible personal property assessments using substantially the same procedures as for petitions for real property assessments.<sup>20</sup>

### Proposed changes

The CS makes the following revisions to the VAB hearing process under section 194.011, F.S.:

- In addition to the property appraiser, the clerk of the value adjustment board shall have available petition forms prescribed by the Department of Revenue.
- An owner of multiple items of tangible personal property will be authorized to file a single joint petition with the VAB if the property appraiser determines that the items of tangible personal property are substantially similar.
- An individual, agent, or legal entity becomes a taxpayer’s agent if the taxpayer authorizes the representation in writing.
- During the evidence exchange process in s. 194.011, F.S., the property appraiser’s evidence list must contain the property appraiser’s property record card regardless of whether the record card was provided by the VAB clerk.

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<sup>12</sup> To be eligible for the waiver, the petitioner must submit appropriate documentation issued by the Department of Children and Family Services along with the petition. Section 194.013(2), F.S.

<sup>13</sup> Section 194.011(3)(f), F.S.; rule 12D-9.015(8), F.A.C.

<sup>14</sup> Section 194.011(3)(e), F.S.; rule 12D-9.015(8), F.A.C.

<sup>15</sup> “Real property” means land, buildings, fixtures, and all other improvements to land. The terms “land,” “real estate,” “realty,” and “real property” may be used interchangeably. Section 192.001(12), F.S..

<sup>16</sup> “Tangible personal property” means all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in s. 1(b), Art. VII of the State Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself. Section 192.001(11)(d), F.S.

<sup>17</sup> Section 193.062, F.S.; See also FLORIDA DEPARTMENT OF REVENUE, TANGIBLE PERSONAL PROPERTY, available at <http://dor.myflorida.com/dor/property/tpp/> (last visited March 11, 2014).

<sup>18</sup> Section 196.183(1), F.S.

<sup>19</sup> Section 196.183(3), F.S.

<sup>20</sup> Section 194.011, F.S.

- On receiving notice of a VAB hearing scheduled on the petition, the taxpayer will be authorized to request the hearing be rescheduled if submitted at least five calendar days before the hearing.
- Less than five calendar days before the hearing, a petitioner may request the hearing be rescheduled only for an emergency and only based on good cause. The request must be denied if the VAB, or board designee, determine good cause was not shown.
- A petitioner's request to reschedule the hearing must be denied if the hearing was twice previously rescheduled at the petitioner's request.

**B. SECTION DIRECTORY:**

Section 1 amends s. 194.011(3), F.S.:

- Requiring the clerk of the VAB to have available and distribute specified forms.
- Authorizing a joint VAB petition for tangible personal property under certain circumstances
- Requiring the property appraiser's evidence list include the property record card during the evidence exchange prior to the VAB hearing.
- Allowing an agent to represent a taxpayer in VAB proceedings if the taxpayer so authorizes in writing.

Section 2 amends s. 194.032(2), F.S.:

- Authorizing a petitioning taxpayer to request rescheduling of a VAB hearing if made at least five days prior to the hearing date.
- A request to reschedule a VAB hearing less than five days before the hearing date may be made only for an emergency and must show good cause. The VAB or board designee determines whether good cause is shown. If not, the request must be denied.
- A petitioner's request to reschedule the hearing must be denied if the hearing was twice previously rescheduled at the petitioner's request.

Section 3 sets an effective date of July 1, 2014.

**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:

The Revenue Estimating Conference estimates that there will be a \$100,000 negative, recurring impact to local government fees.

2. Expenditures:

None

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

There may be a cost-savings for owners of multiple pieces of similar tangible personal property that choose to contest their assessment because they can file a single joint petition rather than multiple petitions.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Article VII, section 18(b) of the Florida Constitution requires any general law that reduces a local government's authority to raise revenues in the aggregate to be passed by a two-thirds vote of the membership of each house of the Legislature. However, the bill may be exempt under article VII, section 18(d) of the Florida Constitution because it is expected to have an insignificant impact.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department may need to revise rule 12D-9.015, F.A.C., relating to the filing of petitions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On April 3, 2014, the Local & Federal Affairs Committee adopted an amendment requiring an agent representing a petitioning taxpayer have written authorization from the taxpayer and amending the requirements for petitioners to seek rescheduling of a VAB hearing. This analysis is drawn to the committee substitute approved and reported favorably by the Committee.