

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1195 Millage Rates
SPONSOR(S): Ways & Means Committee, Garrison
TIED BILLS: **IDEN./SIM. BILLS:** SB 1202, HB 1141, SB 1322

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee	15 Y, 7 N, As CS	Rexford	Aldridge
2) Local Administration, Federal Affairs & Special Districts Subcommittee	10 Y, 4 N	Roy	Darden
3) State Affairs Committee			

SUMMARY ANALYSIS

Ad valorem taxes are annual taxes levied by counties, cities, school districts and certain special districts. These taxes are based on the just value of real and tangible personal property as determined by county property appraisers on January 1 of each year. Each year, local governing boards levy millage rates (i.e., tax rates) on the taxable value of property to generate the property tax revenue contemplated in their annual budgets.

The Florida Constitution prescribes specific maximum millage rates that can be levied by each local government, except for special districts, which can levy a maximum rate as determined by voters. To ensure that local governments collect roughly the same amount of ad valorem revenue as the prior year, statute provides a formula for calculating the yearly maximum millage rates that local governments can charge without providing public notice of a proposed tax increase.

The governing body of a county, a municipality, or an independent special district votes to adopt the yearly millage rates. By a majority vote, a governing board can adopt the maximum millage rate calculated using the formula. Local governments are allowed to override this maximum rate by extraordinary votes of their governing boards or by referendum.

A higher rate may be adopted only under the following conditions:

- A rate of not more than 110 percent of the maximum rate must be adopted by a *two-thirds* vote of the governing body; or
- A rate in excess of 110 percent of the maximum rate must be adopted by a *unanimous* vote the governing body or by a *three-fourths* vote of the membership of the governing body if the governing body has nine or more members, or if the rate is approved by a referendum.

The bill provides that a two-thirds vote of the governing body of a county, municipality, or independent special district is required to pass any millage rate increase, except where a higher vote threshold is already required under current law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.¹ The ad valorem tax is an annual tax levied by counties, municipalities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.² The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,³ and it provides for specified assessment limitations, property classifications, and exemptions.⁴ After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.⁵ Each year, local governing boards levy millage rates (i.e., tax rates) on taxable value to generate the property tax revenue contemplated in their annual budgets.

Maximum Millage Rates

The Florida Constitution prescribes specific maximum millage rates that can be levied by each local government, except for special districts.⁶ The maximum millage rate that can be charged by a special district is determined by law approved by vote of the electors.⁷ The constitution prohibits the levy of ad valorem taxes in excess of:

- Ten mills for county purposes;
- Ten mills for municipal purposes;
- Ten mills for school purposes; and
- One mill for water management district purposes, except for the Northwest Florida Water Management District, which is limited to .05 mills.⁸

Property taxes levied for the payment of bonds and taxes levied for periods not longer than two years, when authorized by a vote of the electors, are not subject to millage limitations.⁹

Rolled-Back Rate

Chapter 200, F.S., "Determination of Millage," generally governs the process, procedures, and limitations on the establishment of millage rates by units of local government with ad valorem taxing authority.

A central concept in this process is the "rolled-back rate," as defined in s. 200.065(1), F.S., which is:

[A] millage rate which, exclusive of new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation which

¹ Art. VII, s. 1(a), Fla. Const.

² S. 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. S. 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in Art. VII, s. 1(b), Fla. Const., and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

³ Art. VII, s. 4, Fla. Const.

⁴ Art. VII, ss. 3, 4, and 6, Fla. Const.

⁵ S. 196.031, F.S.

⁶ Art. VII, s. 9(b), Fla. Const.

⁷ *Id.*

⁸ Art. VII, s. 9, Fla. Const. A mill is equal to \$1 per \$1,000 of value, or .001. A tax rate of 10 mills is equal to 1%.

⁹ Art. VII, s. 9(b), Fla. Const.

increased the assessed value of such improvements by at least 100 percent, property added due to geographic boundary changes, total taxable value of tangible personal property within the jurisdiction in excess of 115 percent of the previous year's total taxable value, and any dedicated increment value, will provide the same ad valorem tax revenue for each taxing authority as was levied during the prior year less the amount, if any, paid or applied as a consequence of an obligation measured by the dedicated increment value.

If a local government levies a property tax rate in excess of the rolled-back rate, such levy must be characterized as a tax increase in the authorizing resolution or ordinance and in the advertisement required prior to adoption of a final millage rate and budget.¹⁰

Millage Rates in Excess of the Rolled-back Rate

In 2007, the Legislature created a formula using the rolled-back rate to determine the maximum millage rate (and implicitly a maximum revenue) that could be levied by a non-school taxing authority governing board by a simple majority vote.¹¹

The maximum millage rate that most non-school taxing authorities can levy by a simple majority vote is the rolled-back rate assuming the previous year's maximum millage rate was actually levied, as adjusted by the change in Florida per capita personal income.¹² Local governments are allowed to override this maximum rate by extraordinary votes of their governing boards or by referendum. A higher rate may be adopted only under the following conditions:

- A rate of not more than 110 percent of the rolled-back rate based on the previous year's maximum millage rate, adjusted for change in per capita Florida personal income, may be adopted if approved by a *two-thirds* vote of the membership of the governing body of the taxing authority; or
- A rate in excess of 110 percent may be adopted if approved by a *unanimous* vote of the membership of the governing body of the taxing authority or by a *three-fourths* vote of the membership of the governing body if the governing body has nine or more members, or if the rate is approved by a referendum.¹³

Effect of Proposed Changes

The bill provides that a two-thirds vote of the governing body of a county, municipality, or independent special district is required to pass any millage rate increase, other than a millage rate increase that already requires a three-fourths, unanimous vote, or approval in a referendum under current law.

B. SECTION DIRECTORY:

Section 1: Amends s. 200.065, F.S., relating to methods of fixing millage.

Section 2: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹⁰ Ss. 200.065(2)(d) and (3)(a).

¹¹ Ch. 2007-321, Laws of Fla.

¹² S. 200.065(5), F.S. The calculation of Florida per capita personal income is to be provided by the Office of Economic and Demographic Research, per s. 200.001(8)(i), F.S.

¹³ S. 200.065(5)(a), F.S.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Subsection 18(b), art. VII of the Florida Constitution provides that the Legislature, except upon approval by a two-thirds vote, may not enact a general law if the anticipated effect of doing so would be to reduce the authority that counties or municipalities have to raise revenues in the aggregate.

It is unclear whether requiring a two-thirds vote of the governing body of a county or municipality in order to pass any millage rate increase represents a reduction in revenue raising authority as contemplated by subsection 18(b). If the purpose of subsection 18(b) is to determine whether the amount of potential revenue available to counties and municipalities was reduced, then this bill does not reduce that potential and the requirement for a two-thirds vote of the Legislature is not applicable. However, if the purpose of subsection 18(b) is to consider the methods for adopting a millage rate, then the provisions of this bill (requiring a two-thirds vote of the governing body of a county or municipality to pass any millage rate increase) may be considered a mandate requiring a two-thirds vote of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 22, 2024, the Ways & Means Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarified that the two-thirds vote requirement created by the bill does not apply to existing millage rate increases that require a three-fourths or unanimous vote of the governing body or voter approval in a referendum under current law.

This analysis is drafted to the committee substitute as passed by the Ways & Means Committee.

