

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 Committee on Finance and Tax

BILL: CS/SB 1322

INTRODUCER: Finance and Tax Committee and Senator Ingoglia

SUBJECT: Millage Rates

DATE: February 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Shuler</u>	<u>Khan</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1322 provides that a taxing authority may not increase a previous millage rate unless approved by a two-thirds vote of the membership of the governing body of the taxing authority, unless a higher vote threshold is already required.

The bill takes effect July 1, 2024.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of a property as of January 1 of each year.¹ The property appraiser annually determines the “just value”² of property

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. Art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See, e.g., Walter v. Schuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *S. Bell Tel. & Tel. Co. v. Dade Cnty.*, 275 So. 2d 4 (Fla. 1973).

within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."³

Local governments, including counties, school districts, and municipalities, have the constitutional authority to levy ad valorem taxes. Special districts may also be given this authority by law.⁴

County, Municipal, Special District, and School Millage

Governing bodies of counties, municipalities, and other taxing authorities are responsible for determining the millage (tax) rate for the real property for which they are levying the tax.⁵ The millage rate is the amount of property tax charged per \$1,000 of taxable property value.⁶ County and municipal millages are set forth in four categories:

- General county and municipal nonvoted millage set by the respective governing body;
- County and municipal debt service millage necessary to pay for debt service as authorized by a vote of the electors;
- County and municipal voted millage set by the respective governing body as authorized by a vote of the electors; and
- County and municipal dependent special district millage.⁷

County and municipality ad valorem millage is limited to 10 mills, except as approved by voters.⁸ County and municipal millage may be increased beyond 10 mills for periods not exceeding 2 years, provided such levy has been approved by majority vote of the qualified electors in the county or municipality voting in an election called by the governing body for that purpose.⁹ The referendum to levy voted millage above 10 mills must specify the amount of millage sought to be levied and the purpose for which the proceeds will be expended.¹⁰

Special district millage rate limitations are specified by the Florida Constitution and in statute, and in the case of dependent special districts, are also contingent on the millage of its governing body. Independent special districts are limited to millage levies authorized by general law and approved by a vote of electors, except for water management districts.¹¹ Article VII, Section 9 of the Florida Constitution prescribes maximum millage rates for water management districts¹² and additional limits on water management districts are imposed by statute.¹³ Dependent special

³ See ss. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art VII, s. 9.

⁵ Section 200.065, F.S.

⁶ Florida Department of Revenue, A Florida Homeowner's Guide: Millage, *available at* https://floridarevenue.com/property/Documents/homeowner_guide_millage.pdf (last visited Feb. 2, 2024).

⁷ Section 200.001(1) and (2), F.S.

⁸ FLA. CONST. art VII, s. 9; sections 200.071 and 200.081, F.S.

⁹ FLA. CONST. art VII, s. 9; sections 200.091 and 200.101, F.S.

¹⁰ Section 200.091, F.S.

¹¹ Section 200.01(4), F.S.

¹² The constitutional limit for the Northwest Florida Water Management District is 0.05 mill, while the others are subject to a constitutional limit of 1.0 mill.

¹³ Section 373.503(3)(a), F.S. As specified in s. 373.503(3)(a), the maximum total millages for the districts are: Northwest Florida WMD: 0.05 mill; Suwannee River WMD: 0.75 mill; St. Johns River WMD: 0.6 mill; Southwest Florida WMD: 1.0 mill; South Florida WMD: 0.80 mill.

district millage, when added to the millage of the governing body to which it is dependent, may not exceed the maximum millage for its respective governing body.¹⁴

In order to receive funds under the Florida Education Finance Program (FEFP) for the operation of schools, a district school board must levy the millage¹⁵ set for its required local effort from property taxes.¹⁶ A school district's millage rate may not exceed the amount certified by the commissioner as the minimum millage rate necessary to provide the district required local effort for the current year.¹⁷

In addition to the required local effort, each school district may levy a discretionary nonvoted current operating millage.¹⁸ The Legislature prescribes annually in the General Appropriations Act the maximum amount of millage a district may levy. For the 2023-2024 Fiscal Year, the Legislature set a maximum levy of 0.748 mills.¹⁹

In addition to the maximum discretionary levy of nonvoted current operating millage, a school board may also levy no more than 1.5 mills for charter schools and for district schools to fund:²⁰

- New construction, remodeling projects, sites and site improvement or expansion to new sites, existing sites, auxiliary facilities, athletic facilities, or ancillary facilities.
- Maintenance, renovation, and repair of existing school plants or of leased facilities to correct deficiencies.
- The purchase, lease-purchase, or lease of school buses.
- The purchase, lease-purchase, or lease of new and replacement equipment, including computer and device hardware and enterprise resource software.
- Lease and lease-purchase agreements for educational facilities.
- Costs related to compliance with state and federal environmental requirements.
- Costs of opening day collection for the library media center of a new school.
- Costs of school buses when a school district contracts with a private entity to provide transportation services.
- Specified loans.
- Salaries and benefits for employees whose duties support the listed funded activities.

Method of Fixing Millage

After the property appraiser assesses all property in a jurisdiction, the property appraiser certifies to the governing board of the jurisdiction the taxable value of the property within the jurisdiction

¹⁴ Section 200.01(8)(d).

¹⁵ Section 200.001(3)(a)-(e), F.S. School millage is composed of five categories: nonvoted required school operating millage, nonvoted discretionary school operating millage, voted district school operating millage, nonvoted district school capital improvement millage, and voted district school debt service millage.

¹⁶ Section 1011.71(1), F.S.

¹⁷ *Id.* The state average millage was set at 3.262; for the 67 school districts, the certified required millage varied from 3.319 mills (Miami Dade County) to 1.184 mills (Monroe County). See Florida Senate and Florida House of Representatives, 23 *Funding for Florida School Districts*, at 1 & 30, available at https://www.flsenate.gov/PublishedContent/Session/2023/Conference/7/RelatedDocument/FEFP%205-2-23_1185.pdf (last visited Feb. 9, 2024).

¹⁸ Section 1011.71(1), F.S.

¹⁹ Specific Appropriation 80, s. 2, ch. 2023-239, Laws of Fla.

²⁰ Section 1011.71(2)(a)-(k), F.S.

of the taxing authority.²¹ The form that the property appraiser uses for providing each taxing authority the certified value must also include instructions to allow the taxing authority to compute what is referred to as the “rolled-back rate.”²² The rolled-back rate is the millage rate that would provide the same ad valorem tax revenue for each taxing authority as what was raised the previous year, minus certain adjustments to value.²³

The taxing authority must prepare a tentative budget and compute the millage rate necessary to fund the tentative budget.²⁴ The taxing authority gives public notice and holds hearings regarding a proposed millage rate, and ultimately adopts a proposed millage rate.²⁵ If the proposed millage exceeds the rolled-back rate, additional notices related to proposed tax increases are required.²⁶

Maximum Millage Rate

In 2007, the Legislature restricted the ad valorem tax levies of counties, municipalities, dependent and independent special districts, and municipal service taxing units, and set a maximum rate which could be levied based on then-current revenues.²⁷ This maximum millage rate is a different rolled-back rate calculated by increasing the previous year’s maximum millage rate through a formula based on the growth of per capita Florida personal income.²⁸ A millage rate up to this maximum rate, or the previous year’s adopted millage rate if higher, may be enacted by simple majority. By super-majority, a taxing authority may levy millage not exceeding 110 percent of this rate; and a higher rate may be authorized either by unanimous vote, three quarters’ vote if the governing body has nine or more members, or if approved by referendum.²⁹

III. Effect of Proposed Changes:

The bill amends s. 200.065, F.S., to provide that in each fiscal year and except when a higher vote threshold is already required, the previous millage rate may only be increased if approved by a two-thirds vote of the membership of the governing body of the taxing authority.

When increasing the millage rate beyond the rolled-back rate based on the previous year’s maximum millage rate, a county, municipality, or independent special district must work through the procedures for a proposed millage rate provided in statute, and ultimately levy millage by

²¹ Section 200.065(1), F.S.

²² *Id.*

²³ *Id.* The calculation requires excluding value attributable to “new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation which 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” when determining the millage rate that will provide the same revenue as was levied the previous year and subtracting any amount paid or applied due to obligations measured by the dedicated increment value. *Id.* “Dedicated increment value” refers to the proportion of the increase in taxable value used to determine amounts to be paid for tax increment financing. Section 200.001(8)(h).

²⁴ Section 200.065(2), F.S.

²⁵ For precise notice, hearing, and advertisement requirements, see s. 200.065(2) and (3), F.S.

²⁶ Section 200.065(3), F.S.

²⁷ Chapter 2007-321, Laws of Fla.

²⁸ Section 200.065(5), F.S.

²⁹ *Id.*

resolution or ordinance. The adoption by a county, municipality, or independent special district governing body of any rate higher than the rolled-back rate based on last year's maximum millage rate currently requires a super-majority vote threshold.

This bill would require a two-thirds vote of the membership of the governing body of any taxing authority to increase any millage rate higher than the previous rate, unless a unanimous or 3/4 vote is already required.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

This bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. **Government Sector Impact:**

The bill may create certain scenarios where a local government must revise its budget downward due to inability to raise millage rates.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

Subsection (15) of s. 200.065 states that “[t]he provisions of this section shall apply to all taxing authorities in this state which levy ad valorem taxes” This language would be inclusive of district school boards, thus likely applying the 2/3 vote requirement to any millage rate increase voted on by district school boards. However, to receive its allocation of state funds, each district school board is required to levy the millage set for its required local effort (RLE) after the Legislature sets the amount of RLE during the state budgeting process and the Florida Commissioner of Education certifies the district local effort millage rates. If a board’s millage rate for RLE specified by the Legislature and certified by the Commissioner is higher than the millage rate for the previous year, the 2/3 vote requirement for the district school board would likely be triggered. If the vote fails to meet the super majority vote requirement proposed by this bill, that district would not receive its annual allocation of state funds.

VIII. **Statutes Affected:**

This bill substantially amends section 200.065 of the Florida Statutes.

IX. **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 February 8, 2024:

The committee substitute provides an exception to the 2/3 vote requirement on millage rate increases to maintain the requirement for higher vote thresholds when adopting rates in excess of 110% of the rolled-back rate based on last year’s maximum millage rate.

B. **Amendments:**

None.