

Committee on State Affairs

**Wednesday, February 20, 2008
2:30 PM – 4:00 PM
Morris Hall**

**Marco Rubio
Speaker**

**Andy Gardiner
Chairman**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Marco Rubio

Committee on State Affairs

Start Date and Time: Wednesday, February 20, 2008 02:30 pm

End Date and Time: Wednesday, February 20, 2008 04:00 pm

Location: Morris Hall (17 HOB)

Duration: 1.50 hrs

Consideration of the following bill(s):

HB 129 Just Valuation of Property by Lopez-Cantera

HB 177 Proposed Property Tax Notices by Richter

HJR 421 Transfer of Save-Our-Homes Benefits; Additional Homestead Exemption by Simmons

NOTICE FINALIZED on 02/13/2008 14:43 by TUCK.SHIRLEY

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 129 Just Valuation of Property
SPONSOR(S): Lopez-Cantera and others
TIED BILLS: IDEN./SIM. BILLS: SB 626

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Committee on State Affairs, Levin, Williamson. Row 2: Government Efficiency & Accountability Council. Row 3: Policy & Budget Council. Rows 4 and 5 are empty.

SUMMARY ANALYSIS

Article VII, s. 4 of the Florida Constitution requires that all property be assessed at just value (fair market value) for ad valorem tax purposes. Section 193.011, F.S., implements the just valuation requirement. It requires property appraisers to take into consideration eight specific factors in arriving at just valuation.

The bill modifies the factors used to determine the highest and best use of the property, the condition of the property, and the net proceeds of sale of the property. It also limits the factors property appraisers can consider in appraising income-producing residential rental property and certain commercial property.

The bill creates a new section of statute that provides limitations on the assessment of deed-restricted residential rental property, multi-unit commercial rental property, marinas, waterfront property used exclusively for commercial fishing purposes, and property rented for use by mobile homes.

The bill amends chapter 194, F.S., Administrative and Judicial Review of Property Taxes, to revise current review procedures to enhance the ability of taxpayers to challenge the assessed value of their property. It also revises the burden of proof in administrative challenges to an assessment and requires the property appraiser to prove the correctness of the assessment by clear and convincing evidence. The burden of proof in judicial challenges is placed on the party initiating the action.

The bill is expected to have a negative fiscal impact on the General Revenue Fund. The recurring impact to the state funds in Fiscal Year 2008-09 is \$1,997,304, and the non-recurring impact for Fiscal Year 2008-09 is \$149,192.

The fiscal impact on local governments is unknown. In April 2007, the Revenue Estimating Conference estimated that the provisions of a similar bill, HB 261 (2007) would result in lower assessments of property subject to ad valorem taxes. At then current millage rates, the impact of these reductions was estimated to exceed \$500 million. HB 129 (2008) has not been to an impact conference.

By reducing the assessed value of property subject to ad valorem taxation, the bill reduces the authority that cities and counties have to raise revenue. Depending upon the amount of the revenue reduction the Estimating Conference adopts in 2008, pursuant to the provisions of Article VII, s. 18 of the Florida Constitution, the bill may be a mandate requiring a two-thirds vote of the membership of each house for passage.

The bill has an effective date of upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes – By modifying the factors used in determining just valuation and requiring the consideration of certain deed restriction agreements when determining just valuation, the provisions of the bill would have the effect of decreasing the assessment of property for ad valorem taxes.

Safeguard individual liberty – The enhancement of taxpayer rights in chapter 194, F.S., should assist individuals in contesting property appraiser assessments of an individual's real property.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

JUST VALUATION

Article VII, s. 4 of the Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes. Since 1965, it has been well settled that "just valuation" is synonymous with "fair market value" and is defined as what a willing buyer and willing seller would agree upon as a transaction price for the property.¹

The Florida Constitution includes certain exceptions to the just value standard. Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes are exceptions that may be assessed solely based on their character or use.² Tangible personal property held for sale as stock in trade and livestock may be assessed at a specified percentage of its value or totally exempted.³ In addition, the Save-Our-Homes amendment to the Florida Constitution provides a limitation to the amount that assessments for homesteads may be increased annually. Increases in assessment may not exceed the lower of three percent of the assessment for the prior year or the percent change in the Consumer Price Index.⁴ Counties and municipalities also may authorize the assessment of historic properties solely based on character or use.⁵ Counties may provide for a reduction in the assessed value of homestead property improvements made to accommodate parents or grandparents in an existing homestead.⁶

Section 193.011, F.S., implements the just valuation requirement of the Florida Constitution. It requires property appraisers to take into consideration the following factors in arriving at just valuation:

- Present cash value of the property, which is the amount a willing purchaser would pay a willing seller, exclusive of reasonable fees and costs of purchase, in cash or the immediate equivalent thereof in a transaction at arm's length;⁷
- Highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and considering any executive order, ordinance, regulation, resolution, or proclamation or judicial limitation when it prohibits or restricts the development or improvement of property;⁸

¹ *Walter v. Schuler*, 176 So.2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).

² Article VII, §4 (a), Florida Constitution.

³ Article VII, §4 (b), Florida Constitution.

⁴ Article VII, §4 (c), Florida Constitution.

⁵ Article VII, §4 (d), Florida Constitution.

⁶ Article VII, §4 (e), Florida Constitution.

⁷ Fla. Stat. §193.011(1).

⁸ Fla. Stat. §193.011(2).

- Location of the property;⁹
- Quantity or size of the property;¹⁰
- Cost of the property and the present replacement value of any improvements thereon;¹¹
- Condition of the property;¹²
- Income from the property;¹³ and
- Net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of sale.¹⁴

The Florida Supreme Court has held that “the appraisal of real estate is an art, not a science,”¹⁵ and “the tax assessor is, of necessity, provided with great discretion due to the difficulty in fixing property values with certainty.”¹⁶ In *Lanier v. Walt Disney World Company*, the court held that property appraisers are not obliged, under the law, to give each factor equal weight, provided each factor is first carefully considered and such weight is given to a factor as the facts justify.¹⁷

FAIR MARKET VALUE

The constitutional standard of fair market value includes a consideration of (1) the highest and best use of property and (2) the three approaches to value.

A common definition of highest and best use is “[t]he reasonably probable and legal use of property that is physically possible, appropriately supported, and financially feasible, and that results in the highest value.”¹⁸ A highest and best use analysis requires the appraiser to determine the use that the property “can be *expected* to be put in the *immediate* future [emphasis added].”¹⁹ The Legislature has:

... prohibited tax assessors from considering potential uses to which the property is reasonably susceptible and to which it might be put in some future tax year, or even, during the current tax year. To be considered, the use must be *expected*, not merely potential or a ‘reasonably susceptible’ type of use; it must be *expected immediately*, not at some vague uncertain time in the future.²⁰

The explanation for this legislative policy was stated by Judge White in his dissenting opinion in *Lanier v. Tyson*²¹ and quoted in the affirming decision of the Florida Supreme Court in *Lanier v. Overstreet*:

Assessed valuations of land based on estimates of its highest and best potential, as distinguished from present bona fide use, are bound to be largely conjectural; and when an assessor, contrary to legislative intent and direction, determines that land despite its present value has a truly higher present value because of its potential for some other ‘higher’ purpose, he indulges in unwarranted speculation and does violence to the constitutional and statutory objective of just valuation. The assessor, like the courts, should operate within the record and not *de hors* [French for “outside”; translation added] it.²²

⁹ Fla. Stat. §193.011(3).

¹⁰ Fla. Stat. §193.011(4).

¹¹ Fla. Stat. §193.011(5).

¹² Fla. Stat. §193.011(6).

¹³ Fla. Stat. §193.011(7).

¹⁴ Fla. Stat. §193.011(8).

¹⁵ *Powell v. Kelley*, 223 So.2d 305, 309 (Fla. 1969).

¹⁶ *District School Board of Lee County v. Askew*, 278 So.2d 272, 276 (Fla. 1973).

¹⁷ *Lanier v. Walt Disney World Company*, 316 So.2d 59, 62 (Fla. 4 DCA 1975); *certiorari denied* 330 So.2d 19 (Fla. Feb 03, 1976) (TABLE, NO. 47876)

¹⁸ Appraisal Standards Board, *The Uniform Standards of Professional Appraisal Practice*, 2002 Edition (Washington D.C.: The Appraisal Foundation), at 218.

¹⁹ *Lanier v. Overstreet*, 175 So.2d 521 at 524 (Fla. 1965).

²⁰ *Id.*

²¹ *Lanier v. Tyson*, 147 So.2d 365 (Fla. 2DCA 1962)

²² *Lanier v. Overstreet* at 524.

Unless a change in the highest and best use is reasonably probable within the immediate future, the present use²³ frequently represents the highest and best use of the property.²⁴

Once the highest and best use of the property is determined, the appraiser then applies one or more of the three approaches to value the property to arrive at an estimate of the fair market value.

There are three well-accepted approaches to valuing real estate: (1) the sales comparison approach; (2) the cost approach; and (3) the income approach. For any given property type, one of the three approaches to value might give a more accurate estimate of the fair market value of the property than the other two. It is not unusual for appraisers to use a combination of the approaches in order to arrive at the fair market value of the property.

The sales comparison approach estimates the value of real estate by looking at what similar pieces of real estate have sold for during the same timeframe. Sales of properties that are similar in location, size, condition, and highest and best use are used to determine the value of the property in question. Various adjustments are made to take into account the differences between the comparison properties and the subject property.

The cost approach to valuation simply adds together the value of the land (determined by the sales comparison approach) with the cost of the improvements to arrive at the fair market value of the property. For older properties, the appraiser makes adjustments to consider the age and condition of the property or any other appropriate factors. Land values are market-derived and what a buyer is willing to pay for new construction is always influenced by the amount the buyer might otherwise spend to buy an already existing similar property.

The income approach applies to properties where an income typically is derived from the real estate. The just valuation of the property is determined by studying how much revenue the property would generate if it were rented. The appraiser must consider operating expenses, taxes, insurance, maintenance costs, and the return or profit most people would expect for that type of property.²⁵ Purchasers of income-producing property typically base their offer to buy the property on the potential future income of the property, thus the income is the basis of the purchase price agreed upon between the willing buyer and willing seller.

LANDS SUBJECT TO CONSERVATION EASEMENTS

Section 704.06, F.S., creates "conservation easements." Conservation easements are a right or interest in real property in which it is appropriate to:

- Retain the land or water areas predominantly in their natural, scenic, open, agricultural, or wooded condition because these properties are suitable habitat for fish, plants, or wildlife;
- Retain the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance; or
- Maintain existing land uses.

Conservation easements are perpetual, undivided interests in property that may be acquired only by governmental bodies or agencies or by a charitable corporation or trust whose purposes include: protecting natural, scenic, or open space values of real property; assuring its availability for agricultural, forest, recreational, or open space use; protecting natural resources, maintaining, or enhancing air or water quality; or preserving sites or properties of historical, architectural, archaeological, or cultural significance. Conservation easements result in a reduction of the just valuation of the real property.

²³ Present use means "the existing use of real property as of the date of appraisal." The Florida Real Property Appraisal Guidelines, prepared by the Florida Department of Revenue Property Tax Administration Program (adopted November 16, 2002).

²⁴ *Lanier v. Overstreet*, 175 So.2d 521 (Fla. 1965).

²⁵ The Florida Real Property Appraisal Guidelines, prepared by the Florida Department of Revenue Property Tax Administration Program (adopted November 16, 2002).

CONSTITUTIONAL BASIS FOR REDUCTION IN JUST VALUE FOR CONSERVATION EASEMENTS

The reduction in assessed value experienced by the owner of a property who has conveyed a conservation easement may be derived from two separate constitutional provisions.

The state and its political subdivisions and counties, are immune from taxation, since there is no power to tax them.²⁶ A municipality can be taxed, but its property may be exempt if it meets the statutory criteria for exemption. The Florida Supreme Court held in *Maxcy, Inc. v. Federal Land Bank of Columbia*:

The principle has been more than once affirmed in this state that the Constitution must be construed as a limitation upon the power of the Legislature to provide for the exemption from taxation of any classes of property except those particularly mentioned classes specified in the organic law itself.²⁷

Thus, if a conservation easement is conveyed to an immune government, there can be no ad valorem taxation of the value of the easement so conveyed. The value of the property in the hands of its owner is reduced by the value of the easement conveyed. If a conservation easement is conveyed to a municipality and used by it for public purposes, it is exempt from taxation pursuant to Article VII, s. 3(a) of the Florida Constitution. The value of the property in the hands of the owner is reduced by the value of the easement conveyed.

If the conservation easement is conveyed to a charitable corporation or trust, it is exempt from taxation as property used predominantly for educational, literary, scientific, religious, or charitable purposes pursuant to Article VII, s. 3(a) of the Florida Constitution. The value of the property in the hands of the owner is reduced by the value of the easement conveyed.

Pursuant to Article VII, s. 4(a) of the Florida Constitution, agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be assessed solely based on character or use. Some conservation easements permit the assessment of the underlying property based on character or use, and the assessment of these lands are reduced once the easement assuring use for only these purposes is conveyed.

RIGHTS OF TAXPAYERS IN ADMINISTRATIVE AND JUDICIAL REVIEW OF PROPERTY TAXES

Section 194.011(3), F.S., generally requires taxpayers to file with the value adjustment board their petition contesting valuation within 25 days following the mailing of the notice by the property appraiser. The taxpayer must provide to the property appraiser all documentation related to the valuation no later than 15 days before a hearing.²⁸ The taxpayer must receive a list of evidence from the property appraiser no later than seven days before the hearing, if the taxpayer has provided all the information to the property appraiser and the taxpayer has requested in writing similar information.²⁹

Section 194.013, F.S., requires a filing fee of \$15.00. Waiver of the fee is permitted for persons eligible for temporary assistance pursuant to Chapter 414, F.S.

The value adjustment boards are composed of three members of the county governing board and two members of the school board.³⁰

²⁶ Each of these Florida cases arose under a predecessor Florida Constitution. Nonetheless, they are controlling here since the principle of immunity is not constitutionally dependent. *Orlando Utilities Commission v. Milligan*, 229 So.2d 262 (Fla. 4DCA 1969); *Park-N-Shop, Inc. v. Sparkman*, 99 So.2d 571 (Fla.1957).

²⁷ *Maxcy, Inc. v. Federal Land Bank of Columbia*, 111 Fla. 116, 150 So. 248, and 151 So. 276 (1933).

²⁸ Fla. Stat. §194.011(4)(a).

²⁹ Fla. Stat. §194.011(4)(b).

³⁰ Fla. Stat. §194.015.

Taxpayers are limited to a single rescheduling of the hearing. A taxpayer is required to wait four hours from the scheduled time, and if the taxpayer is not heard at that time, the taxpayer is deemed to have exhausted available administrative remedies.³¹

Section 194.034, F.S., has no provision concerning the reimbursement of the filing fee if the taxpayer prevails; however, s. 194.192, F.S., requires courts to assess all costs and requires taxpayers to pay 12 percent interest on any deficiency determined.

Section 194.301, F.S., provides a presumption of correctness to the assessed value determined by the property appraiser. The presumption of correctness is lost either if the taxpayer can show by a preponderance of the evidence that the appraiser failed to properly consider the criteria provided in s. 193.011, F.S., or if the appraiser's assessment is arbitrary.

EFFECT OF PROPOSED CHANGES

HIGHEST AND BEST USE

Section 193.011(2), F.S., requires the property appraiser to consider the highest and best use to which the property can be expected to be put in the immediate future. The bill requires the property appraiser to consider, in addition to other factors, any zoning changes and permits necessary to achieve highest and best use.

CONDITION OF THE PROPERTY

The bill requires property appraisers to consider physical deterioration, functional obsolescence, and external obsolescence when determining the condition of the property.

PROCEEDS OF SALE OF THE PROPERTY

The bill requires the property appraiser to deduct the costs of removing tangible personal property when considering the net proceeds of the sale of the property.

REQUIREMENT THAT ALL FACTORS BE CONSIDERED IN DETERMINING JUST VALUATION

The bill requires property appraisers to disregard seven of the factors outlined in s. 193.011, F.S., in determining just valuation of income-producing property that is either residential rental property or commercial property leased to more than one legal entity, each of which conducts a separate business activity. In these instances, the property appraiser would be permitted to consider only the "market rent" from these income-producing properties. "Market rent" is defined as the most likely rent that an income-producing property would command if offered for lease in the open market.

EFFECT OF DETERMINATION BY VALUE ADJUSTMENT BOARD

Section 193.016, F.S., currently provides that the property appraiser must consider the reduced value determined by the value adjustment board in the prior year for tangible personal property. The property appraiser is required to assert additional basic and underlying facts not properly considered by the value adjustment board in order to increase the assessment. The bill expands the provisions of this section to apply to all property.

ASSESSMENT OF DEED-RESTRICTED PROPERTY

The bill creates s. 193.018, F.S., which provides that the owner of residential rental property, multiunit commercial rental property, property used as a marina, waterfront property used exclusively for commercial fishing purposes, or property rented for use by mobile homes may enter into a deed-

³¹ Fla. Stat. §194.032(2).

restriction agreement with the county to maintain the property at its current use for a period of at least five years. Should the deed restriction agreement be terminated prior to its expiration, the property owner is required to pay the county the additional taxes that would have been paid in prior years, plus 12 percent interest. The bill mandates that the property appraiser consider the deed-restriction agreement in determining the value of the property.

CHAPTER 194, F.S.

Section 194.013(2), F.S., is amended to require waiver of the filing fee for the petition of a taxpayer who is eligible to receive one or more of the homestead exemptions under s. 6(c), (f), or (g), Article VII of the Florida Constitution.

Section 194.015(2)(a), F.S., is amended to change the makeup of the value adjustment board. Of the three members appointed by the county commission, one member must own a homestead property within the county and one must own a business that occupies commercial space located within the county. Of the two members appointed by the school board, one must own a business that occupies commercial space located within the school district and one member must be eligible to receive one or more of the homestead exemptions under s. 6(c), (f), or (g), Article VII of the Florida Constitution. No appointee may be either a member or an employee of any taxing authority.

Section 194.032(2), F.S., is amended to permit the taxpayer to reschedule the hearing if the property appraiser fails to comply with the requirements of s. 194.011(4)(b), F.S. The hearing cannot be rescheduled for sooner than 15 days after the property appraiser complies with the requirements of s. 194.011(4)(b), F.S. Additional rescheduling of the hearing may be granted to the taxpayer for medical reasons. The waiting time for a taxpayer to be heard is reduced from four hours to two, and the new remedy for failure to hear the taxpayer within that time is for the hearing to be rescheduled for a time reserved exclusively for the petitioner.

Section 194.034(2), F.S., is amended to require a refund of the taxpayer's filing fee if the determination of the property appraiser is overturned.

Section 194.192(3), F.S., is amended to require payment of interest to the taxpayer if the final assessment established by a court is lower than the amount paid by the taxpayer. If the assessed value determined by the property appraiser exceeds the value determined by the court by more than 10 percent, reasonable attorney fees must be awarded to the taxpayer.

Section 194.301, F.S., is amended to revise the burden of proof in administrative proceedings. The property appraiser is required to prove by clear and convincing evidence that the assessment is correct. For judicial actions, the bill places the burden of proof upon the party initiating the action.

C. SECTION DIRECTORY:

Section 1 amends s. 193.011, F.S., to modify factors for consideration in deriving just valuation.

Section 2 amends s. 193.016, F.S., to provide for consideration of decisions made by value adjustment boards.

Section 3 creates s. 193.018, F.S., to require consideration of deed-restricted agreements in determining just value.

Section 4 amends s. 194.011, F.S., to revise provisions relating to provision of evidence by petitioners and property appraisers.

Section 5 amends s. 194.013, F.S., to provide for the waiver of petition filing fees under certain circumstances.

Section 6 amends s. 194.015, F.S., to revise membership criteria for value adjustment boards.

Section 7 amends s. 194.032, F.S., to provide criteria for rescheduling hearings.

Section 8 amends s. 194.034, F.S., to require the refund of filing fees under certain circumstances.

Section 9 amends s. 194.192, F.S., to provide for judgments against property appraisers and for assessment and award of attorney fees, under certain circumstances.

Section 10 amends s. 194.301, F.S., to revise criteria for a presumption of correctness.

Section 11 amends s. 420.507, F.S., to correct a cross-reference.

Section 12 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Since the bill would require the performance of more appraisals and assessments, there would be a negative fiscal impact on the General Revenue Fund. The Department recommends hiring 34 FTE (appraiser positions) in the Property Tax Oversight Program in the Department in order to meet the performance demands required by the bill. The impact is estimated as follows for the next three years:³²

	FY 2008-09	FY 2009-10	FY 2010-11
Recurring	\$1,997,304	\$1,997,304	\$1,997,304
Non-recurring	149,192	0	0
Totals	\$2,146,496	\$1,997,304	\$1,997,304

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

In 2007, the Revenue Estimating Conference estimated that the provisions of a similar bill (HB 261) would result in lower assessments of property subject to ad valorem taxes. The impact of these reductions was estimated to exceed \$500 million.

2. Expenditures:

Counties likely will experience higher expenditures from the changes made by the bill to the value adjustment board process.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A significant number of properties will experience a decrease in assessed value, thus leading to reduced property tax payments by their owners.

D. FISCAL COMMENTS:

Public school funding is statutorily tied to property taxes through the required local effort (RLE). The Legislature sets the RLE that must be raised by school districts from property taxes. The provisions of this bill that lead to lower assessed values may limit the amount of RLE the Legislature may set in the future.

³² Department of Revenue Fiscal Impact Analysis of HB 129 (revised February 13, 2008), September 28, 2007, at 1.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities.

The bill, however, does provide for reduced assessments for deed-restricted properties and mandates the use of market rent to assess certain classes of income-producing property; thus, reducing the authority that cities and counties have to raise revenues. As such, the bill may be a mandate requiring a two-thirds vote of the membership of each house.

2. Other:

Article VII, s. 4 of the Florida Constitution requires that all property, except those explicitly mentioned in the constitution, be assessed at just value (fair market value). If the provisions of this bill mandating that the market rent of income-producing property be the sole method of determining the assessed value of certain properties results in assessed values that are less than fair market value, those provisions may be invalidated by the constitutional provision requiring just value assessments.

Similarly, the provisions of this bill mandating that market rent of income-producing properties is the sole method for determining value and the provisions dealing with certain deed-restricted properties may be considered an unauthorized classification of properties for purposes of taxation.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to just valuation of property; amending s.
 3 193.011, F.S.; providing for consideration of zoning
 4 changes and permits in determining the highest and best
 5 use; revising the just valuation factor relating to the
 6 condition of property; including cost of removal of
 7 tangible personal property as a consideration in the net
 8 sale proceeds factor; requiring property appraisers to use
 9 only market rent in arriving at just value of certain
 10 income-producing properties; providing a definition;
 11 providing applicability; amending s. 193.016, F.S.;
 12 providing for consideration of value adjustment board
 13 decisions for all properties; creating s. 193.018, F.S.;
 14 authorizing owners of certain properties to enter into
 15 deed-restriction agreements with counties for certain
 16 purposes; requiring property appraisers to consider deed-
 17 restriction agreements in determining just value;
 18 providing for payment of back taxes plus interest if the
 19 deed-restriction agreement is terminated early; amending
 20 s. 194.011, F.S.; revising provisions relating to
 21 provision of evidence by petitioners and property
 22 appraisers; amending s. 194.013, F.S.; requiring value
 23 adjustment boards to waive a petition filing fee for
 24 taxpayers eligible for certain constitutional exemptions;
 25 amending s. 194.015, F.S.; revising the membership of
 26 value adjustment boards, appointment criteria, and quorum
 27 requirements; amending s. 194.032, F.S.; providing for
 28 criteria for rescheduling certain hearings under certain

29 circumstances; amending s. 194.034, F.S.; requiring value
 30 adjustment boards to order refund of certain filing fees
 31 if a determination of a property appraiser is overturned;
 32 amending s. 194.192, F.S.; providing for judgments against
 33 property appraisers under certain circumstances; providing
 34 for assessment and award of attorney fees to taxpayers
 35 under certain circumstances; amending s. 194.301, F.S.;
 36 revising criteria for a presumption of correctness of ad
 37 valorem taxation assessments and the burden of proof in
 38 actions challenging such assessments; amending s. 420.507,
 39 F.S.; correcting a cross-reference; providing an effective
 40 date.

41

42 Be It Enacted by the Legislature of the State of Florida:

43

44 Section 1. Effective upon this act becoming a law and
 45 applicable to assessments beginning January 1, 2009, section
 46 193.011, Florida Statutes, is amended to read:

47 193.011 Factors to consider in deriving just valuation.--

48 (1) In arriving at just valuation as required under s. 4,
 49 Art. VII of the State Constitution, the property appraiser shall
 50 take into consideration the following factors:

51 (a)~~(1)~~ The present cash value of the property, which is
 52 the amount a willing purchaser would pay a willing seller,
 53 exclusive of reasonable fees and costs of purchase, in cash or
 54 the immediate equivalent thereof in a transaction at arm's
 55 length;

56 (b)~~(2)~~ The highest and best use to which the property can
 57 be expected to be put in the immediate future and the present
 58 use of the property, taking into consideration any applicable
 59 judicial limitation, local or state land use regulation, or
 60 historic preservation ordinance, and any zoning changes and
 61 permits necessary to achieve the highest and best use, and
 62 considering any moratorium imposed by executive order, law,
 63 ordinance, regulation, resolution, or proclamation adopted by
 64 any governmental body or agency or the Governor when the
 65 moratorium or judicial limitation prohibits or restricts the
 66 development or improvement of property as otherwise authorized
 67 by applicable law. The applicable governmental body or agency or
 68 the Governor shall notify the property appraiser in writing of
 69 any executive order, ordinance, regulation, resolution, or
 70 proclamation it adopts imposing any such limitation, regulation,
 71 or moratorium;

72 (c)~~(3)~~ The location of said property;

73 (d)~~(4)~~ The quantity or size of said property;

74 (e)~~(5)~~ The cost of said property and the present
 75 replacement value of any improvements thereon;

76 (f)~~(6)~~ The condition of said property. When determining
 77 the condition of the property, the property appraiser shall
 78 consider physical deterioration, functional obsolescence, and
 79 external obsolescence;

80 (g)~~(7)~~ The income from said property; and

81 (h)~~(8)~~ The net proceeds of the sale of the property, as
 82 received by the seller, after deduction of all of the usual and
 83 reasonable fees and costs of the sale, including the costs and

84 expenses of financing, and allowance for unconventional or
 85 atypical terms of financing arrangements, and including the
 86 costs of removal of tangible personal property. When the net
 87 proceeds of the sale of any property are utilized, directly or
 88 indirectly, in the determination of just valuation of realty of
 89 the sold parcel or any other parcel under the provisions of this
 90 section, the property appraiser, for the purposes of such
 91 determination, shall exclude any portion of such net proceeds
 92 attributable to payments for household furnishings or other
 93 items of personal property.

94 (2) Notwithstanding the requirement that property
 95 appraisers consider all of the factors enumerated in subsection
 96 (1) in arriving at just valuation, property appraisers shall
 97 consider only the market rent from income-producing property in
 98 the case of all residential rental property and all commercial
 99 property that is leased to more than one legal entity, each of
 100 which conducts a separate business activity on the property. For
 101 purposes of this subsection, the term "market rent" means the
 102 most likely rent that an income-producing property would command
 103 if offered for lease in the open market.

104 Section 2. Section 193.016, Florida Statutes, is amended
 105 to read:

106 193.016 Property appraiser's assessment; effect of
 107 determinations by value adjustment board.--If the property
 108 appraiser's assessment of the same ~~items of tangible personal~~
 109 property in the previous year was adjusted by the value
 110 adjustment board and the decision of the board to reduce the
 111 assessment was not successfully appealed by the property

112 appraiser, the property appraiser shall consider the reduced
 113 value ~~values~~ determined by the value adjustment board in
 114 assessing ~~the these items of tangible personal~~ property. If the
 115 property appraiser adjusts upward the reduced value ~~values~~
 116 previously determined by the value adjustment board, the
 117 property appraiser shall assert additional basic and underlying
 118 facts not properly considered by the value adjustment board as
 119 the basis for the increased valuation notwithstanding the prior
 120 adjustment by the board.

121 Section 3. Section 193.018, Florida Statutes, is created
 122 to read:

123 193.018 Assessment of deed-restricted property.--

124 (1) The owner of residential rental property, multiunit
 125 commercial rental property, property used as a marina,
 126 waterfront property used exclusively for commercial fishing
 127 purposes, or property rented for use by mobile homes may enter
 128 into a deed-restriction agreement with the county to maintain
 129 the property at its current use for a period of at least 5
 130 years.

131 (2) The property appraiser shall consider the deed-
 132 restriction agreement in determining the just value of the
 133 property.

134 (3) If, prior to the expiration of the deed-restriction
 135 agreement, the property is not used for the purposes set forth
 136 in the deed-restriction agreement, the deed-restriction
 137 agreement shall be terminated and the property owner shall pay
 138 to the county an amount equal to the additional taxes that would
 139 have been paid in prior years had the deed-restriction agreement

140 not been in effect, plus 12 percent interest.

141 Section 4. Subsection (4) of section 194.011, Florida
 142 Statutes, is amended to read:

143 194.011 Assessment notice; objections to assessments.--

144 (4) (a) At least 15 days before the hearing, the petitioner
 145 shall provide to the property appraiser a list of evidence to be
 146 presented at the hearing, together with copies of all
 147 documentation to be considered by the value adjustment board and
 148 a summary of evidence to be presented by witnesses.

149 (b) At least 15 ~~No later than 7~~ days before the hearing,
 150 ~~if the petitioner has provided the information required under~~
 151 ~~paragraph (a), and if requested in writing by the petitioner,~~
 152 the property appraiser shall provide to the petitioner a list of
 153 evidence to be presented at the hearing, together with copies of
 154 all documentation to be considered by the value adjustment board
 155 and a summary of evidence to be presented by witnesses. The
 156 evidence list must contain the property record card if provided
 157 by the clerk. Failure of the property appraiser to timely comply
 158 with the requirements of this paragraph shall result in a
 159 rescheduling of the hearing.

160 Section 5. Subsection (2) of section 194.013, Florida
 161 Statutes, is amended to read:

162 194.013 Filing fees for petitions; disposition; waiver.--

163 (2) The value adjustment board shall waive the filing fee
 164 with respect to a petition filed by a taxpayer who is eligible
 165 to receive one or more of the exemptions under s. 6(c), (f), or
 166 (g), Art. VII of the State Constitution, regardless of whether
 167 the taxpayer's local government grants the additional local

168 homestead exemptions. The filing fee also shall be waived for a
 169 taxpayer who demonstrates at the time of filing, by an
 170 appropriate certificate or other documentation issued by the
 171 Department of Children and Family Services and submitted with
 172 the petition, that the petitioner is then an eligible recipient
 173 of temporary assistance under chapter 414.

174 Section 6. Section 194.015, Florida Statutes, is amended
 175 to read:

176 194.015 Value adjustment board.--

177 (1) There is hereby created a value adjustment board for
 178 each county, which shall consist of five members.

179 (2)(a)1. Three members shall be appointed by ~~of~~ the
 180 governing body of the county, as follows:

181 a. One member must own a homestead property within the
 182 county.

183 b. One member must own a business that occupies commercial
 184 space located within the county.

185 c. An appointee may not be a member or an employee of any
 186 taxing authority.

187 ~~2. as elected from the membership of the board of said~~
 188 ~~governing body,~~ One of such appointees ~~whom~~ shall be elected
 189 chairperson.

190 (b) ~~and~~ Two members shall be appointed by ~~of~~ the school
 191 board, as follows:

192 1. One member must own a business that occupies commercial
 193 space located within the school district.

194 2. One member must be eligible to receive one or more of
 195 the exemptions under s. 6(c), (f), or (g), Art. VII of the State

196 Constitution, regardless of whether the taxpayer's local
 197 government grants the additional local homestead exemptions.

198 3. An appointee may not be a member or an employee of any
 199 taxing authority as elected from the membership of the school
 200 board. The members of the board may be temporarily replaced by
 201 other members of the respective boards on appointment by their
 202 respective chairpersons.

203 (3) Any three members shall constitute a quorum of the
 204 board, except that each quorum must include at least one member
 205 of said governing board and at least one member of the school
 206 board, and no meeting of the board shall take place unless a
 207 quorum is present.

208 (4) Members of the board may receive such per diem
 209 compensation as is allowed by law for state employees if both
 210 bodies elect to allow such compensation.

211 (5) The clerk of the governing body of the county shall be
 212 the clerk of the value adjustment board.

213 (6) (a) The office of the county attorney may be counsel to
 214 the board unless the county attorney represents the property
 215 appraiser, in which instance the board shall appoint private
 216 counsel who has practiced law for over 5 years and who shall
 217 receive such compensation as may be established by the board.

218 (b) Meetings ~~No meeting~~ of the board may not shall take
 219 place unless counsel to the board is present. However, counsel
 220 for the property appraiser shall not be required when the county
 221 attorney represents only the board at the board hearings, even
 222 though the county attorney may represent the property appraiser
 223 in other matters or at a different time.

224 (7) Two-fifths of the expenses of the board shall be borne
 225 by the district school board and three-fifths by the district
 226 county commission.

227 Section 7. Subsection (2) of section 194.032, Florida
 228 Statutes, is amended to read:

229 194.032 Hearing purposes; timetable.--

230 (2) The clerk of the governing body of the county shall
 231 prepare a schedule of appearances before the board based on
 232 petitions timely filed with him or her. The clerk shall notify
 233 each petitioner of the scheduled time of his or her appearance
 234 no less than 25 calendar days prior to the day of such scheduled
 235 appearance. Upon receipt of this notification, the petitioner
 236 shall have the right to reschedule the hearing for the failure
 237 of the property appraiser to comply with the requirements of s.
 238 194.011(4)(b). The hearing shall be rescheduled no sooner than
 239 15 days after the property appraiser complies with the
 240 requirements of s. 194.011(4)(b). The petitioner shall also have
 241 the right to reschedule the hearing a single time by submitting
 242 to the clerk of the governing body of the county a written
 243 request to reschedule, no less than 5 calendar days before the
 244 day of the originally scheduled hearing. Additional rescheduling
 245 of the hearing may be granted to the taxpayer upon receipt of an
 246 affidavit from a physician that states a medical reason as to
 247 why the petitioner needs to reschedule the hearing. A copy of
 248 the property record card containing relevant information used in
 249 computing the taxpayer's current assessment shall be included
 250 with such notice, if said card was requested by the taxpayer.
 251 Such request shall be made by checking an appropriate box on the

252 petition form. No petitioner shall be required to wait for more
 253 than 2 4 hours from the scheduled time; and, if his or her
 254 petition is not heard in that time, the petitioner may, at his
 255 or her option, report to the chairperson of the meeting that he
 256 or she intends to leave; and, if he or she is not heard
 257 immediately, the petitioner's hearing shall be rescheduled for a
 258 time reserved exclusively for the petitioner ~~administrative~~
 259 ~~remedies will be deemed to be exhausted, and he or she may seek~~
 260 ~~further relief as he or she deems appropriate.~~ Failure on three
 261 occasions with respect to any single tax year to convene at the
 262 scheduled time of meetings of the board shall constitute grounds
 263 for removal from office by the Governor for neglect of duties.

264 Section 8. Subsection (2) of section 194.034, Florida
 265 Statutes, is amended to read:

266 194.034 Hearing procedures; rules.--

267 (2) In each case, except when a complaint is withdrawn by
 268 the petitioner or is acknowledged as correct by the property
 269 appraiser, the value adjustment board shall render a written
 270 decision. All such decisions shall be issued within 20 calendar
 271 days of the last day the board is in session under s. 194.032.
 272 The decision of the board shall contain findings of fact and
 273 conclusions of law and shall include reasons for upholding or
 274 overturning the determination of the property appraiser. If the
 275 determination of the property appraiser is overturned, the board
 276 shall order the refunding of the filing fee required by s.

277 194.013. When a special magistrate has been appointed, the
 278 recommendations of the special magistrate shall be considered by
 279 the board. The clerk, upon issuance of the decisions, shall, on

280 a form provided by the Department of Revenue, notify by first-
 281 class mail each taxpayer, the property appraiser, and the
 282 department of the decision of the board.

283 Section 9. Subsection (3) is added to section 194.192,
 284 Florida Statutes, to read:

285 194.192 Costs; interest on unpaid taxes; penalty; attorney
 286 fees.--

287 (3) If the court finds that the amount owed by the
 288 taxpayer is less than the amount of tax paid, the court shall
 289 enter judgment against the appraiser for the difference and for
 290 interest on the difference at the rate of 12 percent per year
 291 from the date of payment. If the final assessment established by
 292 the court is lower than the value assessed by the property
 293 appraiser by more than 10 percent, the court shall assess and
 294 award reasonable attorney fees to the taxpayer.

295 Section 10. Section 194.301, Florida Statutes, is amended
 296 to read:

297 194.301 Presumption of correctness and burden of proof in
 298 ad valorem tax assessment challenges.--In any administrative or
 299 judicial proceeding ~~action~~ in which a ~~taxpayer~~ ~~challenges~~ an ad
 300 valorem tax assessment of value is challenged, the burden of
 301 proof shall be upon the party initiating the proceeding and such
 302 party shall have the burden of proving by a preponderance of the
 303 evidence that the assessment, as established by the property
 304 appraiser or the Value Adjustment Board, is incorrect. The
 305 property appraiser's assessment shall be presumed correct,
 306 except that if the Value Adjustment Board has established a
 307 different assessment, the assessment of the Value Adjustment

308 Board shall be presumed correct. This presumption of correctness
 309 is lost if the taxpayer shows by a preponderance of the evidence
 310 that either the property appraiser has failed to comply with
 311 uniform standards of professional appraisal practice in his or
 312 her consideration of ~~consider properly~~ the criteria in s.
 313 193.011 or if the property appraiser's assessment is arbitrarily
 314 based on appraisal practices which are different from the
 315 appraisal practices generally applied by the property appraiser
 316 to comparable property within the same class and within the same
 317 county. ~~If the presumption of correctness is lost, the taxpayer~~
 318 ~~shall have the burden of proving by a preponderance of the~~
 319 ~~evidence that the appraiser's assessment is in excess of just~~
 320 ~~value. If the presumption of correctness is retained, the~~
 321 ~~taxpayer shall have the burden of proving by clear and~~
 322 ~~convincing evidence that the appraiser's assessment is in excess~~
 323 ~~of just value.~~ In no case shall the taxpayer have the burden of
 324 proving that the property appraiser's assessment is not
 325 supported by any reasonable hypothesis of a legal assessment. If
 326 the property appraiser's assessment is determined to be
 327 erroneous, the Value Adjustment Board or the court can establish
 328 the assessment if there exists competent, substantial evidence
 329 in the record, which cumulatively meets the requirements of s.
 330 193.011. If the record lacks competent, substantial evidence
 331 meeting the just value criteria of s. 193.011, the matter shall
 332 be remanded to the property appraiser with appropriate
 333 directions from the Value Adjustment Board or the court.

334 Section 11. Subsection (46) of section 420.507, Florida
 335 Statutes, is amended to read:

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336 420.507 Powers of the corporation.--The corporation shall
 337 have all the powers necessary or convenient to carry out and
 338 effectuate the purposes and provisions of this part, including
 339 the following powers which are in addition to all other powers
 340 granted by other provisions of this part:

341 (46) To require, as a condition of financing a multifamily
 342 rental project, that an agreement be recorded in the official
 343 records of the county where the real property is located, which
 344 requires that the project be used for housing defined as
 345 affordable in s. 420.0004(3) by persons defined in s.
 346 420.0004(8), (10), (11), and (15). Such an agreement is a state
 347 land use regulation that limits the highest and best use of the
 348 property within the meaning of s. 193.011(1)(b)~~(2)~~.

349 Section 12. This act shall take effect upon becoming a
 350 law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. #1 (for drafter's use only)

Bill No. **HB 129**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Council/Committee hearing bill: Committee on State Affairs
2 Representative(s) Lopez-Cantera offered the following:

3
4 **Amendment**

5 Remove line(s) 96 and insert:

6 (1) in arriving at just valuation, property appraisers, upon
7 request of the property owner, shall
8

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.#2 (for drafter's use only)

Bill No. **HB 129**

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER ___

1 Council/Committee hearing bill: Committee on State Affairs
2 Representative(s) Lopez-Cantera offered the following:

3
4 **Amendment (with title amendments)**

5 Remove line(s) 295-333:

6
7 -----

8 **T I T L E A M E N D M E N T**

9 Remove line(s) 35-38 and insert:

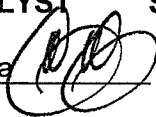
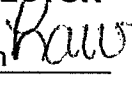
10 under certain circumstances; amending s. 420.507,

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 177 Proposed Property Tax Notices

SPONSOR(S): Richter and others

TIED BILLS: IDEN./SIM. BILLS: SB 664

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on State Affairs		Camara 	Williamson 
2) Government Efficiency & Accountability Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

Property appraisers are responsible for preparing and delivering to each taxpayer on the current year's assessment roll a notice of proposed property taxes and non-ad valorem assessments on behalf of taxing authorities and local governing boards levying both ad valorem taxes and non-ad valorem assessments. This notice is called the Truth in Millage notice (TRIM).

This bill revises the TRIM notice to include millage rates by adding three additional columns for the following factors used to calculate a taxpayer's actual tax:

- Last year's millage rate;
- Current year's millage rate if the proposed budget change is made; and
- Current year's millage rate if no budget change is made.

This bill does not appear to have a fiscal impact on state government; however, it could have a fiscal impact on certain local governments.

This bill has an effective date of January 1, 2009.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill creates additional requirements for the Truth in Millage notice.

Ensure lower taxes – The bill increases the information given to taxpayers in the Truth in Millage notice, which will assist them in evaluating the fees and taxes local governments propose for the next fiscal year.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Property appraisers are responsible for preparing notices of proposed property taxes and non-ad valorem assessments on behalf of all taxing authorities and local governing boards levying ad valorem taxation and non-ad valorem assessments. Property appraisers must prepare and deliver these notices to each taxpayer listed on the current year's assessment roll.¹ This notice is called the Truth in Millage Notice (TRIM).

Section 200.069, F.S., provides the elements and format of the TRIM notice, which generally is the only acceptable means of providing notice to taxpayers. The Department of Revenue (Department) produces the forms. A county officer may use a different form provided that it is substantively similar to the one produced by the Department, his or her office pays the related expenses, and he or she obtains prior written permission from the executive director of the Department.

For counties with populations of 100,000 or fewer, the Department provides the forms. For counties with a higher population, the responsible county officer reproduces the forms for distribution at the expense of their office.²

Section 200.069, F.S., specifies that the information on the TRIM notice must appear in columnar form:

TAXING AUTHORITY	Your Property Taxes Last Year	Your Taxes This Year IF PROPOSED BUDGET CHANGE IS MADE	A Public Hearing on the Proposed Taxes and Budget Will be Held:	Your Taxes This Year IF NO Budget Change is Made
------------------	-------------------------------	--	---	--

The following information must be listed underneath each of the headings:

- Taxing Authority – A brief commonly used name for the taxing authority or local governing body.
- Your Property Taxes Last Year – The gross amount of ad valorem taxes levied against the parcel in the previous year. If the parcel did not exist in the previous year, this column shall be blank.
- Your Taxes This Year IF PROPOSED BUDGET CHANGE IS MADE – The gross amount of ad valorem taxes proposed to be levied in the current year, which amount shall be based on the proposed millage rates provided to the property appraiser, or in the case of voted levies for debt service, the millage rate previously authorized by referendum, and the taxable value of the parcel as shown on the current year's assessment roll.
- A Public Hearing on the Proposed Taxes and Budget Will be Held – The date, time, and a brief description of the location of the required public hearing.

¹ Section 200.065(2)(b), F.S.

² Section 195.022, F.S.

- Your Taxes This Year IF NO Budget Change is Made – The gross amount of ad valorem taxes which would apply to the parcel in the current year if each taxing authority were to levy the rolled-back rate.³

EFFECT OF PROPOSED CHANGES

This bill amends s. 200.069, F.S., to include three additional columns in the TRIM notice, bringing the total to eight. The new factors included on the notice are:

- Millage Rate Last Year – The millage rate for ad valorem taxes levied against the parcel in the previous year. If the parcel did not exist in the previous year, this column shall be blank.
- Millage Rate This Year IF PROPOSED Budget Change is Made – The proposed millage rate for ad valorem taxes to be levied against the parcel in the current year.
- Millage Rate IF NO Budget Change is Made – The millage rate for ad valorem taxes to be levied against the parcel if no budget change is made.

The changes would result in the following format:

TAXING AUTHORITY	Your Property Taxes Last Year	Millage Rate Last Year	Your Taxes This Year IF PROPOSED BUDGET CHANGE IS MADE	Millage Rate This Year IF PROPOSED BUDGET CHANGE IS MADE	A Public Hearing on the Proposed Taxes and Budget Will be Held:	Your Taxes This Year IF NO Budget Change is Made	Millage Rate IF NOT Budget Change is Made
------------------	-------------------------------	------------------------	--	--	---	--	---

With columns specifically enumerating changes in the millage rate from year to year, the TRIM notice may provide citizens with a better tool to use in scrutinizing rises in ad valorem taxation. As such, this change could encourage more taxpayers to participate in the budget process.

C. SECTION DIRECTORY:

Section 1 amends s. 200.069, F.S., to include historic and proposed millage rates in the TRIM notice.

Section 2 amends s. 200.065, F.S., to conform a cross-reference.

Section 3 provides an effective date of January 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.⁴

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

³ Section 200.065(1), F.S., describes the “rolled-back rate” as the millage rate which, exclusive of new construction, additions to structures, deletions, increase in the value of improvements that have undergone substantial rehabilitation which increased the assessed value by at least 100 percent, and property added due to geographic boundary changes, will yield the same ad valorem tax revenue for each taxing authority as was levied during the prior year.

⁴ Email from the Department of Revenue, January 28, 2008.

1. Revenues:

None.

2. Expenditures:

County officers who use a form other than the form provided by the Department of Revenue, after receiving the written permission of the Department, may incur additional expenses to redesign the form. In addition, counties with a population of 100,000 or more are required to print their own TRIM notices. As such, these counties may incur additional expenditures in the change from one form to another.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

HB 177 amends the current requirements of 200.065 F.S. This statute requires the property appraisers pursuant to s. 206.065(2)(b) to prepare and deliver each taxpayer a notice of proposed taxes. This notice is commonly called the Truth in Millage Notice (TRIM). Presently the TRIM notice does not include the millage each taxing authority and local governing boards levy within their jurisdiction. This bill requires the Truth in Millage Notice to disclose the actual millage used to determine the actual tax.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to proposed property tax notices; amending
 3 s. 200.069, F.S.; revising the form of the notice of
 4 proposed property taxes to include certain millage rates;
 5 amending s. 200.065, F.S.; conforming a cross-reference;
 6 providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Subsections (2), (4), and (6) of section
 11 200.069, Florida Statutes, are amended to read:

12 200.069 Notice of proposed property taxes and non-ad
 13 valorem assessments.--Pursuant to s. 200.065(2)(b), the property
 14 appraiser, in the name of the taxing authorities and local
 15 governing boards levying non-ad valorem assessments within his
 16 or her jurisdiction and at the expense of the county, shall
 17 prepare and deliver by first-class mail to each taxpayer to be
 18 listed on the current year's assessment roll a notice of
 19 proposed property taxes, which notice shall contain the elements
 20 and use the format provided in the following form.

21 Notwithstanding the provisions of s. 195.022, no county officer
 22 shall use a form other than that provided herein. The Department
 23 of Revenue may adjust the spacing and placement on the form of
 24 the elements listed in this section as it considers necessary
 25 based on changes in conditions necessitated by various taxing
 26 authorities. If the elements are in the order listed, the
 27 placement of the listed columns may be varied at the discretion
 28 and expense of the property appraiser, and the property

29 appraiser may use printing technology and devices to complete
 30 the form, the spacing, and the placement of the information in
 31 the columns. A county officer may use a form other than that
 32 provided by the department for purposes of this part, but only
 33 if his or her office pays the related expenses and he or she
 34 obtains prior written permission from the executive director of
 35 the department; however, a county officer may not use a form the
 36 substantive content of which is at variance with the form
 37 prescribed by the department. The county officer may continue to
 38 use such an approved form until the law that specifies the form
 39 is amended or repealed or until the officer receives written
 40 disapproval from the executive director.

41 (2) The notice shall further contain information
 42 applicable to the specific parcel in question. The information
 43 shall be in columnar form. There shall be eight ~~five~~ column
 44 headings which shall read: "Taxing Authority," "Your Property
 45 Taxes Last Year," "Millage Rate Last Year," "Your Taxes This
 46 Year IF PROPOSED Budget Change is Made," "Millage Rate This Year
 47 IF PROPOSED Budget Change is Made," "A Public Hearing on the
 48 Proposed Taxes and Budget Will be Held:", ~~and~~ "Your Taxes This
 49 Year IF NO Budget Change is Made," and "Millage Rate IF NO
 50 Budget Change is Made."

51 (4) For each entry listed in subsection (3), there shall
 52 appear on the notice the following:

53 (a) In the first column, a brief, commonly used name for
 54 the taxing authority or its governing body. The entry in the
 55 first column for the levy required pursuant to s. 1011.60(6)
 56 shall be "By State Law." The entry for other operating school

57 district levies shall be "By Local Board." Both school levy
 58 entries shall be indented and preceded by the notation "Public
 59 Schools:". For each voted levy for debt service, the entry shall
 60 be "Voter Approved Debt Payments."

61 (b) In the second column, the gross amount of ad valorem
 62 taxes levied against the parcel in the previous year. If the
 63 parcel did not exist in the previous year, the second column
 64 shall be blank.

65 (c) In the third column, the millage rate for ad valorem
 66 taxes levied against the parcel in the previous year. If the
 67 parcel did not exist in the previous year, the third column
 68 shall be blank.

69 (d)~~(e)~~ In the fourth ~~third~~ column, the gross amount of ad
 70 valorem taxes proposed to be levied in the current year, which
 71 amount shall be based on the proposed millage rates provided to
 72 the property appraiser pursuant to s. 200.065(2)(b) or, in the
 73 case of voted levies for debt service, the millage rate
 74 previously authorized by referendum, and the taxable value of
 75 the parcel as shown on the current year's assessment roll.

76 (e) In the fifth column, the proposed millage rate for ad
 77 valorem taxes to be levied against the parcel in the current
 78 year as provided in paragraph (d).

79 (f)~~(d)~~ In the sixth ~~fourth~~ column, the date, the time, and
 80 a brief description of the location of the public hearing
 81 required pursuant to s. 200.065(2)(c).

82 (g)~~(e)~~ In the seventh ~~fifth~~ column, the gross amount of ad
 83 valorem taxes which would apply to the parcel in the current
 84 year if each taxing authority were to levy the rolled-back rate

85 computed pursuant to s. 200.065(1) or, in the case of voted
 86 levies for debt service, the amount previously authorized by
 87 referendum.

88 (h) In the eighth column, the millage rate for ad valorem
 89 taxes to be levied against the parcel if no budget change is
 90 made.

91 (i)~~(f)~~ For special assessments collected utilizing the ad
 92 valorem method pursuant to s. 197.363, the previous year's
 93 assessment amount shall be added to the ad valorem taxes shown
 94 in the second and seventh ~~fifth~~ columns, and the amount proposed
 95 to be imposed for the current year shall be added to the ad
 96 valorem taxes shown in the fourth ~~third~~ column.

97 (6) Following the entries for each taxing authority, a
 98 final entry shall show: in the first column, the words "Total
 99 Property Taxes:" and in the second, fourth ~~third~~, and seventh
 100 ~~fifth~~ columns, the sum of the entries for each of the individual
 101 taxing authorities. The second, fourth ~~third~~, and seventh ~~fifth~~
 102 columns shall, immediately below said entries, be labeled Column
 103 1, Column 2, and Column 3, respectively. Below these labels
 104 shall appear, in boldfaced type, the statement: SEE REVERSE SIDE
 105 FOR EXPLANATION.

106 Section 2. Subsection (11) of section 200.065, Florida
 107 Statutes, is amended to read:

108 200.065 Method of fixing millage.--

109 (11) Notwithstanding the provisions of paragraph (2) (b)
 110 and s. 200.069(4) (d) ~~(e)~~ to the contrary, the proposed millage
 111 rates provided to the property appraiser by the taxing
 112 authority, except for millage rates adopted by referendum, for

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113 rates authorized by s. 1011.71, and for rates required by law to
114 be in a specified millage amount, shall be adjusted in the event
115 that a review notice is issued pursuant to s. 193.1142(4) and
116 the taxable value on the approved roll is at variance with the
117 taxable value certified pursuant to subsection (1). The
118 adjustment shall be made by the property appraiser, who shall
119 notify the taxing authorities affected by the adjustment within
120 5 days of the date the roll is approved pursuant to s.
121 193.1142(4). The adjustment shall be such as to provide for no
122 change in the dollar amount of taxes levied from that initially
123 proposed by the taxing authority.

124 Section 3. This act shall take effect January 1, 2009.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 421 Transfer of Save-Our-Homes Benefits; Additional Homestead Exemption
SPONSOR(S): Simmons and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on State Affairs		Levin <i>JSS</i>	Williamson <i>Law</i>
2) Government Efficiency & Accountability Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

HJR 421 was drafted prior to the Florida electors approving Constitutional Amendment 1 on January 29, 2008. Some of the changes resulting from the passage of that Constitutional Amendment include:

- Providing an additional \$25,000 homestead exemption for all tax levies, except school district tax levies, on the assessed valuation greater than \$50,000 up to \$75,000;
- Providing portability of the Save Our Homes differential for all tax levies, except school district tax levies;
- Limiting the assessment increases for certain specified non-homestead property to 10 percent each year; and
- Providing a \$25,000 exemption for tangible personal property.

In addition to these voter approved constitutional changes, HJR 421 would:

- Amend Article VII, s. 4 of the Florida Constitution to provide alternative methods by which to compute the portability amount: (1) the enacted \$1 million maximum limitation; or (2) 40 percent of just value up to \$1 million, and 100 percent of the portion of just value in excess of \$1 million.
- Amend Article VII, s. 6 of the Florida Constitution to provide a homestead exemption for first time homebuyers of 40 percent of just valuation greater than \$25,000 up to \$500,000.

The differentials do not apply to school district tax levies.

If approved by the electorate in the November 2008 general election, the House Joint Resolution would take effect January 1, 2009.

The joint resolution appears to have a fiscal impact on state government. It is estimated that it will create a non-recurring cost of approximately \$60,000 for FY 2008-09. The cost is a result of placing the joint resolution on the ballot and publishing required notices.

HJR 421 has not been to a Revenue Estimating Impact Conference. As such, neither the total cost to local government nor the savings to taxpayers are known.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes – HJR 421 would reduce the tax assessments against certain homesteads.

B. EFFECT OF PROPOSED CHANGES:

HJR 421 was drafted before the electors of Florida approved Constitutional Amendment 1 on January 29, 2008. Some of the changes resulting from the passage of that Constitutional Amendment include:

- Providing an additional \$25,000 homestead exemption for all tax levies, except school district tax levies, on the assessed valuation greater than \$50,000 up to \$75,000;
- Providing portability of the Save Our Homes differential for all tax levies, except school district tax levies;
- Limiting the assessment increases for certain specified non-homestead property to 10 percent each year; and
- Providing a \$25,000 exemption for tangible personal property.

In addition to these voter approved constitutional changes, HJR 421 would:

- Amend Article VII, s. 4 of the Florida Constitution to provide alternative methods by which to compute the portability amount: (1) the enacted \$1 million maximum limitation; or (2) 40 percent of just value up to \$1 million, and 100 percent of the portion of just value in excess of \$1 million.¹
- Amend Article VII, s. 6 of the Florida Constitution to provide a homestead exemption for first time homebuyers of 40 percent of just valuation greater than \$25,000 up to \$500,000.²

If approved by the electorate in the November 2008 general election, the House Joint Resolution would take effect January 1, 2009.

C. SECTION DIRECTORY:

Not applicable to a joint resolution.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Non-Recurring FY 2008-09

Department Of State, Division of Elections
Publication Costs \$60,000 (General Revenue)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

¹ The differential does not apply to school district tax levies.

² *Ibid.*

1. Revenues:

The ad valorem tax base would reduce if the constitutional changes proposed by the House Joint Resolution are approved by the voters. The Revenue Estimating Impact Conference has not considered these issues.

2. Expenditures:

Property Appraisers may incur additional costs in order to implement the provisions of the House Joint Resolution.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Taxpayers who pay taxes on their homesteads may experience lower taxes.

D. FISCAL COMMENTS:

The Florida Constitution requires publication of a proposed amendment or revision to the constitution in one newspaper of general circulation in each county in which a newspaper is published, once in the tenth week and once in the sixth week immediately preceding the week in which the election is held. The estimated non-recurring cost of compliance would be approximately \$60,000.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision is not applicable to joint resolutions.

2. Other:

In 2006, the Office of Economic and Demographic Research (EDR) contracted with Walter Hellerstein, W. Scott Wright, and Charles C. Kearns of Sutherland Asbill & Brennan LLP for a legal analysis of the most commonly referenced legislative proposals regarding property taxes. The report focused primarily on the federal constitutional issues raised by the proposed alternatives to the Save Our Homes amendment, which limits property tax assessment increases on homestead property. The study did not examine specifically the portability proposal included in this House Joint Resolution.

The key findings of the report were that portability might provide opportunities for legal challenge based on the Commerce Clause, the "Interstate" Privileges and Immunities Clause, and the Right to Travel. If portability is adopted and later held unconstitutional, the discrimination or burden it created would have to be eliminated on a prospective basis and remedied through meaningful backward-looking relief on a retrospective basis, which could entail either a refund or any other remedy that cures the discrimination.³

The alternative assessment for the first-time Florida homeowner created by this House Joint Resolution may mitigate some or all of the issues identified in the legal analysis of portability.

B. RULE-MAKING AUTHORITY:

None.

³ For example, one remedy could include taxing the previously favored class on a retroactive basis.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Due to the passage of Constitutional Amendment 1 on January 29, 2008, the Sponsor will offer a strike-all amendment that provides for alternative homestead assessments under Article VII, s. 6 of the Florida Constitution.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

Not applicable.

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House Joint Resolution

A joint resolution proposing amendments to Section 4 and 6 of Article VII and the creation of Section 27 of Article XII of the State Constitution to provide for the transfer of the accrued benefit from the limitation on the assessed value of homestead property, to provide for an additional homestead exemption, and to provide an effective date if such amendments are adopted.

Be It Resolved by the Legislature of the State of Florida:

That the following amendments to Section 4 and 6 of Article VII and the creation of Section 27 of Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election:

ARTICLE VII

FINANCE AND TAXATION

SECTION 4. Taxation; assessments.--By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for

28 taxation at a specified percentage of its value, may be
 29 classified for tax purposes, or may be exempted from taxation.

30 (c) All persons entitled to a homestead exemption under
 31 Section 6 of this Article shall have their homestead assessed at
 32 just value as of January 1 of the year following the effective
 33 date of this amendment. This assessment shall change only as
 34 provided herein.

35 (1) Assessments subject to this provision shall be changed
 36 annually on January 1st of each year; but those changes in
 37 assessments shall not exceed the lower of the following:

38 a. Three percent (3%) of the assessment for the prior
 39 year.

40 b. The percent change in the Consumer Price Index for all
 41 urban consumers, U.S. City Average, all items 1967=100, or
 42 successor reports for the preceding calendar year as initially
 43 reported by the United States Department of Labor, Bureau of
 44 Labor Statistics.

45 (2) No assessment shall exceed just value.

46 (3) After any change of ownership, as provided by general
 47 law, homestead property shall be assessed at just value as of
 48 January 1 of the following year, unless the provisions of
 49 paragraph (8) apply. Thereafter, the homestead shall be assessed
 50 as provided herein.

51 (4) New homestead property shall be assessed at just value
 52 as of January 1st of the year following the establishment of the
 53 homestead, unless the provisions of paragraph (8) apply. That
 54 assessment shall only change as provided herein.

55 (5) Changes, additions, reductions, or improvements to
 56 homestead property shall be assessed as provided for by general
 57 law; provided, however, after the adjustment for any change,
 58 addition, reduction, or improvement, the property shall be
 59 assessed as provided herein.

60 (6) In the event of a termination of homestead status, the
 61 property shall be assessed as provided by general law.

62 (7) The provisions of this amendment are severable. If any
 63 of the provisions of this amendment shall be held
 64 unconstitutional by any court of competent jurisdiction, the
 65 decision of such court shall not affect or impair any remaining
 66 provisions of this amendment.

67 (8)a. For all levies other than school district levies, a
 68 person who establishes a new homestead as of January 1, 2009, or
 69 January 1 of any subsequent year and who has received a
 70 homestead exemption pursuant to Section 6 of this Article as of
 71 January 1 of either of the two years immediately preceding the
 72 establishment of the new homestead is entitled to have the new
 73 homestead assessed at less than just value. A person who
 74 establishes a new homestead as of January 1, 2009, is entitled
 75 to have the new homestead assessed at less than just value only
 76 if that person received a homestead exemption on January 1,
 77 2008. The assessed value of the newly established homestead
 78 shall be determined as follows:

79 1. If the just value of the new homestead is greater than
 80 or equal to the just value of the prior homestead of the person
 81 establishing the new homestead as of January 1 of the year in
 82 which the prior homestead was abandoned, the assessed value of

83 the new homestead shall be the lesser of:

84 (A) The just value of the new homestead minus an amount
 85 equal to the difference between the just value and the assessed
 86 value of the prior homestead as of January 1 of the year in
 87 which the prior homestead was abandoned, not to exceed one
 88 million dollars; or

89 (B) Sixty percent (60%) of the just value of the new
 90 homestead up to one million dollars and one hundred percent
 91 (100%) of that portion of just value exceeding one million
 92 dollars.

93
 94 Thereafter, the homestead shall be assessed as provided herein.

95 2. If the just value of the new homestead is less than the
 96 just value of the prior homestead of the person establishing the
 97 new homestead as of January 1 of the year in which the prior
 98 homestead was abandoned, the assessed value of the new homestead
 99 shall be equal to the lesser of:

100 (A) The just value of the new homestead divided by the
 101 just value of the prior homestead and multiplied by the assessed
 102 value of the prior homestead; or

103 (B) Sixty percent (60%) of the just value of the new
 104 homestead up to \$1 million and one hundred percent (100%) of
 105 that portion of the just value exceeding one million dollars.

106
 107 However, if the difference between the just value of the new
 108 homestead and the assessed value of the new homestead calculated
 109 pursuant to this sub-subparagraph is greater than one million
 110 dollars, the assessed value of the new homestead shall be

111 | increased so that the difference between the just value and the
 112 | assessed value equals one million dollars. Thereafter, the
 113 | homestead shall be assessed as provided herein.

114 | b. By general law and subject to conditions specified
 115 | therein, the legislature shall provide for application of this
 116 | paragraph to property owned by more than one person.

117 | (9) By general law, the legislature may decrease the
 118 | percentages specified in sub-sub-subparagraphs (8)a.1.(B) and
 119 | 2.(B).

120 | (d) The legislature may, by general law, for assessment
 121 | purposes and subject to the provisions of this subsection, allow
 122 | counties and municipalities to authorize by ordinance that
 123 | historic property may be assessed solely on the basis of
 124 | character or use. Such character or use assessment shall apply
 125 | only to the jurisdiction adopting the ordinance. The
 126 | requirements for eligible properties must be specified by
 127 | general law.

128 | (e) A county may, in the manner prescribed by general law,
 129 | provide for a reduction in the assessed value of homestead
 130 | property to the extent of any increase in the assessed value of
 131 | that property which results from the construction or
 132 | reconstruction of the property for the purpose of providing
 133 | living quarters for one or more natural or adoptive grandparents
 134 | or parents of the owner of the property or of the owner's spouse
 135 | if at least one of the grandparents or parents for whom the
 136 | living quarters are provided is 62 years of age or older. Such a
 137 | reduction may not exceed the lesser of the following:

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138 (1) The increase in assessed value resulting from
 139 construction or reconstruction of the property.

140 (2) Twenty percent of the total assessed value of the
 141 property as improved.

142 SECTION 6. Homestead exemptions.--

143 (a) (1) Every person who has the legal or equitable title
 144 to real estate and maintains thereon the permanent residence of
 145 the owner, or another legally or naturally dependent upon the
 146 owner, shall be exempt from taxation thereon, upon establishment
 147 of right thereto in the manner prescribed by law, except
 148 assessments for special benefits, up to the assessed valuation
 149 of twenty-five ~~five~~ thousand dollars plus an amount equal to the
 150 greater of:

151 a. Forty percent (40%) of the just valuation of such
 152 property greater than twenty-five thousand dollars up to five
 153 hundred thousand dollars of just valuation; or

154 b. The accumulated benefit provided under subsection (c)
 155 of Section 4 of this Article, ~~upon establishment of right~~
 156 ~~thereto in the manner prescribed by law.~~

157 (2) The real estate may be held by legal or equitable
 158 title, by the entireties, jointly, in common, as a condominium,
 159 or indirectly by stock ownership or membership representing the
 160 owner's or member's proprietary interest in a corporation owning
 161 a fee or a leasehold initially in excess of ninety-eight years.
 162 The exemption shall not apply with respect to any assessment
 163 roll until such roll is first determined to be in compliance
 164 with the provisions of Section 4 of this Article by a state
 165 agency designated by general law. This exemption is repealed on

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166 | the effective date of any amendment to Section 4 of this Article
 167 | that provides for the assessment of homestead property at less
 168 | than just value.

169 | (b) Not more than one exemption shall be allowed any
 170 | individual or family unit or with respect to any residential
 171 | unit. No exemption shall exceed the value of the real estate
 172 | assessable to the owner or, in case of ownership through stock
 173 | or membership in a corporation, the value of the proportion
 174 | which the interest in the corporation bears to the assessed
 175 | value of the property.

176 | ~~(c) By general law and subject to conditions specified~~
 177 | ~~therein, the exemption shall be increased to a total of twenty-~~
 178 | ~~five thousand dollars of the assessed value of the real estate~~
 179 | ~~for each school district levy. By general law and subject to~~
 180 | ~~conditions specified therein, the exemption for all other levies~~
 181 | ~~may be increased up to an amount not exceeding ten thousand~~
 182 | ~~dollars of the assessed value of the real estate if the owner~~
 183 | ~~has attained age sixty five or is totally and permanently~~
 184 | ~~disabled and if the owner is not entitled to the exemption~~
 185 | ~~provided in subsection (d).~~

186 | ~~(d) By general law and subject to conditions specified~~
 187 | ~~therein, the exemption shall be increased to a total of the~~
 188 | ~~following amounts of assessed value of real estate for each levy~~
 189 | ~~other than those of school districts: fifteen thousand dollars~~
 190 | ~~with respect to 1980 assessments; twenty thousand dollars with~~
 191 | ~~respect to 1981 assessments; twenty five thousand dollars with~~
 192 | ~~respect to assessments for 1982 and each year thereafter.~~
 193 | ~~However, such increase shall not apply with respect to any~~

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194 ~~assessment roll until such roll is first determined to be in~~
 195 ~~compliance with the provisions of section 4 by a state agency~~
 196 ~~designated by general law. This subsection shall stand repealed~~
 197 ~~on the effective date of any amendment to section 4 which~~
 198 ~~provides for the assessment of homestead property at a specified~~
 199 ~~percentage of its just value.~~

200 (c)~~(e)~~ By general law and subject to conditions specified
 201 therein, the Legislature may provide to renters, who are
 202 permanent residents, ad valorem tax relief on all ad valorem tax
 203 levies. Such ad valorem tax relief shall be in the form and
 204 amount established by general law.

205 (d)~~(f)~~ The legislature may, by general law, allow counties
 206 or municipalities, for the purpose of their respective tax
 207 levies and subject to the provisions of general law, to grant an
 208 additional homestead tax exemption not exceeding fifty thousand
 209 dollars to any person who has the legal or equitable title to
 210 real estate and maintains thereon the permanent residence of the
 211 owner and who has attained age sixty-five and whose household
 212 income, as defined by general law, does not exceed twenty
 213 thousand dollars. The general law must allow counties and
 214 municipalities to grant this additional exemption, within the
 215 limits prescribed in this subsection, by ordinance adopted in
 216 the manner prescribed by general law, and must provide for the
 217 periodic adjustment of the income limitation prescribed in this
 218 subsection for changes in the cost of living.

219 (e)~~(g)~~ Each veteran who is age 65 or older who is
 220 partially or totally permanently disabled shall receive a
 221 discount from the amount of the ad valorem tax otherwise owed on

222 homestead property the veteran owns and resides in if the
 223 disability was combat related, the veteran was a resident of
 224 this state at the time of entering the military service of the
 225 United States, and the veteran was honorably discharged upon
 226 separation from military service. The discount shall be in a
 227 percentage equal to the percentage of the veteran's permanent,
 228 service-connected disability as determined by the United States
 229 Department of Veterans Affairs. To qualify for the discount
 230 granted by this subsection, an applicant must submit to the
 231 county property appraiser, by March 1, proof of residency at the
 232 time of entering military service, an official letter from the
 233 United States Department of Veterans Affairs stating the
 234 percentage of the veteran's service-connected disability and
 235 such evidence that reasonably identifies the disability as
 236 combat related, and a copy of the veteran's honorable discharge.
 237 If the property appraiser denies the request for a discount, the
 238 appraiser must notify the applicant in writing of the reasons
 239 for the denial, and the veteran may reapply. The Legislature
 240 may, by general law, waive the annual application requirement in
 241 subsequent years. This subsection shall take effect December 7,
 242 2006, is self-executing, and does not require implementing
 243 legislation.

244 ARTICLE XII

245 SCHEDULE

246 SECTION 27. Property tax exemptions and ad valorem tax
 247 limitations.--The amendments to Sections 4 and 6 of Article VII,
 248 authorizing the transfer of the accrued benefit from the
 249 limitation on annual increases in assessments of homestead

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250 | property and providing an additional homestead exemption equal
 251 | to the greater of forty percent of the homestead's just
 252 | valuation from twenty-five thousand dollars up to five hundred
 253 | thousand dollars or the accumulated benefit from the limitation
 254 | on annual increases in assessments of homestead property and
 255 | this section, if submitted to the electors of this state for
 256 | approval or rejection at the next general election, shall take
 257 | effect January 1 of the year following such general election.

258 | BE IT FURTHER RESOLVED that the following statement be
 259 | placed on the ballot:

260 | CONSTITUTIONAL AMENDMENT

261 | ARTICLE VII, SECTIONS 4 AND 6

262 | ARTICLE XII, SECTION 27

263 | TRANSFER OF ACCUMULATED BENEFIT OF LIMITATIONS ON INCREASES
 264 | IN HOMESTEAD PROPERTY ASSESSMENTS; ADDITIONAL HOMESTEAD
 265 | EXEMPTION.--Proposing amendments to the State Constitution to:

266 | (1) Provide for the transfer of accumulated Save-Our-Homes
 267 | benefits. Homestead property owners will be able to transfer
 268 | their Save-Our-Homes benefit to a new homestead within two years
 269 | of relinquishing their previous homestead exemption; except, if
 270 | the new homestead is established on January 1, 2008, the
 271 | previous homestead must have been relinquished in 2007. If the
 272 | new homestead has a higher just value than the old one, the
 273 | benefit transferred shall be the lesser of (a) the just value of
 274 | the new homestead minus an amount equal to the difference
 275 | between the just value and the assessed value of the prior
 276 | homestead as of January 1 of the year in which the prior
 277 | homestead was abandoned, not to exceed \$1 million, or (b) 60

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278 | percent of the just value up to \$1 million in just value, and
 279 | 100 percent of that portion of just value over \$1 million, of
 280 | the new homestead; if the new homestead has a lower just value,
 281 | the amount of benefit transferred will be equal to the lesser of
 282 | (c) the just value of the new homestead divided by the just
 283 | value of the prior homestead and multiplied by the assessed
 284 | value of the prior homestead, or (d) 60 percent of the just
 285 | value up to \$1 million in just value, and 100 percent of that
 286 | portion of the just value over \$1 million, of the new homestead.
 287 | The transferred benefit may not exceed \$1 million. Authorizes
 288 | the Legislature to decrease the percentages of the just value of
 289 | the new homestead used in the calculations. This provision does
 290 | not apply to school taxes.

291 | (2) Provide for an additional homestead exemption equal to
 292 | the greater of 40 percent of the just value of the homestead
 293 | property from \$25,000 up to \$500,000 or the accumulated benefit
 294 | provided under Save Our Homes.

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Council/Committee hearing bill: Committee on State Affairs
2 Representative(s) Simmons offered the following:

3
4 **Amendment (with directory, schedule, ballot, and title**
5 **amendments)**

6 Remove line(s) 17-243 and insert:

7 ARTICLE VII

8 FINANCE AND TAXATION

9 SECTION 6 Homestead exemptions.--

10 (a) (1) Every person who has the legal or equitable title
11 to real estate and maintains thereon the permanent residence of
12 the owner, or another legally or naturally dependent upon the
13 owner, shall be exempt from taxation thereon, except assessments
14 for special benefits, up to the assessed valuation of twenty-
15 five thousand dollars. And, for all levies other than school
16 district levies on the assessed valuation greater than fifty
17 thousand dollars and up to seventy-five thousand dollars, upon
18 establishment of right thereto in the manner prescribed by law.

19 (2) The real estate may be held by legal or equitable
20 title, by the entirety, jointly, in common, as a condominium,
21 or indirectly by stock ownership or membership representing the
22 owner's or member's proprietary interest in a corporation owning

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

23 a fee or a leasehold initially in excess of ninety-eight years.
24 ~~The exemption shall not apply with respect to any assessment~~
25 ~~roll until such roll is first determined to be in compliance~~
26 ~~with the provisions of Section 4 of this Article by a state~~
27 ~~agency designated by general law. This exemption is repealed on~~
28 ~~the effective date of any amendment to Section 4 of this Article~~
29 ~~that provides for the assessment of homestead property at less~~
30 ~~than just value.~~

31 (b) Not more than one exemption shall be allowed any
32 individual or family unit or with respect to any residential
33 unit. No exemption shall exceed the value of the real estate
34 assessable to the owner or, in case of ownership through stock
35 or membership in a corporation, the value of the proportion
36 which the interest in the corporation bears to the assessed
37 value of the property.

38 (c) By general law and subject to conditions specified
39 therein, each person who is entitled to receive the homestead
40 exemption provided in subsection (a) is also entitled to an
41 additional homestead exemption for 2009 in the amount equal to
42 forty percent (40%) of the just value of the homestead and for
43 2010 and each year thereafter in an amount equal to forty
44 percent (40%) of the just value of the homestead. The additional
45 exemption shall apply only after the first seventy five thousand
46 dollars up to five hundred thousand dollars of just value of the
47 homestead property. However, in any year, such person shall
48 receive only the exemption provided in this subsection or the
49 application of the cumulative assessment limitation calculated
50 pursuant to subsection (c) of Section 4, whichever provides the
51 lower taxable value. The exemption shall not apply with respect
52 to any assesement roll until such roll is first determined to
53 be in compliance with the provisions of Section 4 by the state

Amendment No. 1 (for drafter's use only)

54 agency designated by general law. This exemption is repealed on
55 the effective date of any future amendment to this constitution
56 which provides for the assessment of homestead property at less
57 than just value.

58 ~~(d)~~ By general law and subject to conditions specified
59 therein, the Legislature may provide to renters, who are
60 permanent residents, ad valorem tax relief on all ad valorem tax
61 levies. Such ad valorem tax relief shall be in the form and
62 amount established by general law.

63 ~~(e)~~ The legislature may, by general law, allow counties
64 or municipalities, for the purpose of their respective tax
65 levies and subject to the provisions of general law, to grant an
66 additional homestead tax exemption not exceeding fifty thousand
67 dollars to any person who has the legal or equitable title to
68 real estate and maintains thereon the permanent residence of the
69 owner and who has attained age sixty-five and whose household
70 income, as defined by general law, does not exceed twenty
71 thousand dollars. The general law must allow counties and
72 municipalities to grant this additional exemption, within the
73 limits prescribed in this subsection, by ordinance adopted in
74 the manner prescribed by general law, and must provide for the
75 periodic adjustment of the income limitation prescribed in this
76 subsection for changes in the cost of living.

77 ~~(f)~~ Each veteran who is age 65 or older who is
78 partially or totally permanently disabled shall receive a
79 discount from the amount of the ad valorem tax otherwise owed on
80 homestead property the veteran owns and resides in if the
81 disability was combat related, the veteran was a resident of
82 this state at the time of entering the military service of the
83 United States, and the veteran was honorably discharged upon
84 separation from military service. The discount shall be in a

Amendment No. 1 (for drafter's use only)

85 percentage equal to the percentage of the veteran's permanent,
86 service-connected disability as determined by the United States
87 Department of Veterans Affairs. To qualify for the discount
88 granted by this subsection, an applicant must submit to the
89 county property appraiser, by March 1, proof of residency at the
90 time of entering military service, an official letter from the
91 United States Department of Veterans Affairs stating the
92 percentage of the veteran's service-connected disability and
93 such evidence that reasonably identifies the disability as
94 combat related, and a copy of the veteran's honorable discharge.
95 If the property appraiser denies the request for a discount, the
96 appraiser must notify the applicant in writing of the reasons
97 for the denial, and the veteran may reapply. The Legislature
98 may, by general law, waive the annual application requirement in
99 subsequent years. This subsection shall take effect December 7,
100 2006, is self-executing, and does not require implementing
101 legislation.

D I R E C T O R Y A M E N D M E N T

104 Remove line(s) 12-16 and insert:

105 That the following amendment to Section 6 of Article VII
106 and the creation of Section 28 of Article XII of the State
107 Constitution are agreed to and shall be submitted to the
108 electors of this state for approval or rejection at the next
109 general election:

S C H E D U L E A M E N D M E N T

113 Remove line(s) 244-257 and insert:

114 ARTICLE XII
115 SCHEDULE

Amendment No. 1 (for drafter's use only)

116 SECTION 28. Property tax exemptions and ad valorem tax
117 limitations.--The amendment to Section 6 of Article VII,
118 providing an additional homestead exemption equal to the greater
119 of forty percent of the homestead's just valuation from seventy-
120 five thousand dollars up to five hundred thousand dollars or the
121 accumulated benefit from the limitation on annual increases in
122 assessments of homestead property and this section, if submitted
123 to the electors of this state for approval or rejection at the
124 next general election, shall take effect January 1 of the year
125 following such general election.

B A L L O T A M E N D M E N T

Remove line(s) 260-294 and insert:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 6

ARTICLE XII, SECTION 28

133 IN HOMESTEAD PROPERTY ASSESSMENTS; ADDITIONAL HOMESTEAD
134 EXEMPTION.--Proposing amendments to the State Constitution to
135 provide for an additional homestead exemption equal to the
136 greater of 40 percent of the just value of the homestead
137 property from \$75,000 up to \$500,000 or the accumulated benefit
138 provided under Save Our Homes.

T I T L E A M E N D M E N T

Remove line(s) 1-8 and insert:

House Joint Resolution

144 A joint resolution proposing an amendment to Section 6 of
145 Article VII and the creation of Section 28 of Article XII
146 of the State Constitution to provide for an additional

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

147 homestead exemption, and to provide an effective date if
148 such amendments are adopted.

149