



Local & Federal Affairs Committee

Meeting Packet

**Wednesday, January 27, 2016
9:00 am – 11:00 am
Webster Hall (212 Knott)**

**Steve Crisafulli
Speaker**

**Dennis K. Baxley
Chair**



The Florida House of Representatives

Local & Federal Affairs Committee

Representative Steve Crisafulli
Speaker

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Chair

Meeting Agenda
Wednesday, January 27, 2016
212 Knott, Webster Hall
9:00 a.m. – 11:00 a.m.

- I. Call to Order
- II. Roll Call
- III. Welcome and Opening Remarks
- IV. Consideration of the following bills:
 - HB 499 Ad Valorem Taxation by Avila
 - HB 709 City of Tallahassee, Leon County by Williams, A.
 - CS/HB 885 Residential Facilities by Health Innovation Subcommittee, Avila, Rodriguez, J.
 - HR 1001 Anti-Israel Boycott, Divestment, & Sanctions Campaigns by Berman
 - HJR 1009 Tax Exemption for Senior, Totally Permanently Disabled First Responders by Metz
 - HM 1225 Preventing Voting by Noncitizens by Metz
 - HM 1319 Declaration of War Against Global Islamic Terrorist Organizations by Ahern
- V. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 499 Ad Valorem Taxation

SPONSOR(S): Avila

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	16 Y, 0 N	Dugan	Langston
2) Local & Federal Affairs Committee		Monroe <i>LSM</i>	Kiner <i>KLK</i>
3) Appropriations Committee			

SUMMARY ANALYSIS

The bill revises the information required to be published in the budget summary ad which is part of the process of levying ad valorem millage. Under this bill the county must specify in the budget summary the proportionate amount of the proposed county tax millage and the proportionate amount of gross ad valorem taxes attributable to the budgets of the sheriff, the property appraiser, the clerk of the circuit court and county comptroller, the tax collector, and the supervisor of elections, respectively.

The bill makes changes to the composition of the Value Adjustment Board (VAB), and amends various provisions addressing the procedures, and oversight of the VAB process. Specifically, the bill:

- Requires the VAB submit the certified assessment roll to the property appraiser by June 1 following the tax year in which the assessments were made, or by December 1 if the number of VAB petitions in that county increased by more than 10 percent from the prior year.
- Requires that a petition to the VAB must be signed by the taxpayer or be accompanied by the taxpayer's written authorization for representation.
- Revises provisions related to the exchange of evidence.
- Provides clarification of the confidentiality of information in the evidence exchange process.
- Changes interest rates for disputed property taxes from 12 percent to the bank prime loan rate; also, the bill proposes to allow property owners to accrue interest at the prime rate when the property appraiser and the property owner reach a settlement prior to the VAB hearing.
- Changes the composition of the VAB by replacing one member from the county commission with a citizen member.
- Restricts the ability of a petitioner to reschedule hearings.
- Restricts the qualifications of those who can represent a taxpayer before the VAB.
- Elaborates on what is required in the VAB's findings of fact.
- Specifies that in the appointment/scheduling of special magistrates no consideration is to be given to assessment reductions recommended by any special magistrate.

Finally, the bill extends by one year, to fiscal year 2016-17, a process that allows a school district to estimate its prior period district required local effort millage in the event that the final tax roll is not certified on a timely basis.

The Revenue Estimating Conference estimated that various provisions of the bill will have non-recurring impacts on local government revenues of \$37.7 million in FY 2016-17, -\$37.7 million in FY 2017-18, and \$49.8 million in FY 2019-20. The bill is also estimated to have recurring impacts on local government revenues of \$5.6 million in FY 2016-17, \$4.4 million in FY 2017-18, and \$4 million annually thereafter. See the FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Brief Background

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.¹ The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.² The Florida Constitution requires all property be assessed at just value for ad valorem tax purposes,³ and provides for specified assessment limitations, property classifications and exemptions.⁴ From the perspective of protecting a taxpayer's rights, the most important parts of the process are the annual Truth in Millage (TRIM) notice and the VAB appeal process.

The TRIM notice

Each August, a Truth in Millage (TRIM) notice is sent out to all taxpayers providing specific information about their parcel.⁵ This notice is the key step in the property tax process.

The TRIM notice lists each taxing authority that levies taxes on the property, how much they collected from that parcel in the previous year, how much they propose to collect this year, and how much would be levied on the property if the taxing authority made no budget changes. It also lists the day and time that taxing authority will be holding its preliminary budget hearing, so that the taxpayer can participate in the process and provide input to the taxing authority if they disagree with the proposed taxes.⁶ After this meeting, where a tentative millage (tax) rate and budget are adopted, the taxing authority must then publish the proposed millage rate⁷ and the proposed budget⁸ in a newspaper of general circulation before holding a meeting for the final adoption of the millage rate and budget.⁹ This gives citizens two opportunities to have input into the process of setting the millage rate and budget.

The TRIM notice also provides key information about the valuation of the property. It lists the value the property appraiser has placed on the property, shows any reductions which have been made to that value due to a classification or assessment limitation, and shows what exemptions have been granted on that property and the value of those exemptions.¹⁰ This gives taxpayers notice of the assessment of their property, lets them review any assessment limitations or classifications applied, allows them to check to make sure they are getting all of the exemptions they are entitled to receive, and allows them to dispute any of these matters before the tax bills are sent out.

¹ Art. VII, s. 1(a), Fla. Const.

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

³ Art. VII, s. 4, Fla. Const.

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

⁵ Section 200.069, F.S.

⁶ Section 200.069(4)(g), F.S.

⁷ Section 200.065(3), F.S.

⁸ Section 200.065(3)(l), F.S.

⁹ Section 200.065 (2)(d), F.S.

¹⁰ Section 200.069(6), F.S.

The Appeal Process and the VAB

Taxpayers who disagree with the value placed on their property, no matter if the dispute involves the initial assessment of the property, the application of classified use values or assessment limitations, or the granting or denial of exemptions, have three methods for resolving the dispute:

- A taxpayer may request an informal conference with the property appraiser to resolve the issue.
- A taxpayer may typically file a petition with the Value Adjustment Board (VAB) at any time up to 25 days after the TRIM notice is mailed.¹¹
- A taxpayer may appeal to the Circuit Court within 60 days of the certification for collection of the tax roll or within 60 days of the issuance of a final decision by the VAB.¹²

A taxpayer may pursue any or all of these options. They are non-exclusive and none of these methods is a prerequisite for another.

Part 1 of Chapter 194, F.S., provides for administrative review of ad valorem tax assessments. These VAB hearings are intended to provide taxpayers with a venue in which they can present their case to a neutral party without the need to hire an attorney or go through the formal process of a circuit court case.

The property owner may initiate a review by filing a petition with the clerk of the VAB, typically within 25 days of the mailing of the TRIM notice.¹³ The petition must be accompanied by any required filing fee, which may not exceed \$15 on a single petition.¹⁴ VAB petition forms may be found at the Department of Revenue (DOR) website, the County Property Appraiser's office, and at the office or website of the VAB Clerk.¹⁵ The clerk of the VAB¹⁶ is responsible for receiving completed petitions, acknowledging receipt to the taxpayer, sending a copy of the petition to the property appraiser, and scheduling appearances before the VAB.

A taxpayer receives notice of their hearing at least 25 days before the scheduled hearing.¹⁷ A petitioner is required to provide the property appraiser with a list of evidence, copies of documentation, and summaries of testimony at least 15 days prior to the hearing before the VAB.¹⁸ If the petitioner provides this information, and sends the appraiser a written request for responsive information, the appraiser must provide a list of evidence and copies of documentation to be presented at the hearing, at least 7 days prior to the hearing.¹⁹

In most counties, the value adjustment board hearing takes place in front of a special magistrate instead of the VAB.²⁰ Special Magistrates are experienced appraisers and attorneys who are hired to serve as impartial hearing officers.²¹ After the hearing the special magistrate produces a recommended decision which is given to the VAB which produces the final decision. This step does not occur if the VAB hears the petition directly.

¹¹ There are other windows and deadlines for filing petitions with the VAB. For example, a taxpayer must file with the VAB within 30 days of the mailing of the denied of certain exemptions. However, with rare exceptions such as a petition concerning the denial of a tax deferral, a petition filed within 25 days of the TRIM notice will be accepted by the VAB as timely filed. Examples of other deadlines can be found in Sections 194.011(3)(d), and 197.2425, F.S.

¹² Section 194.171(2), F.S.

¹³ Section 194.011(3), F.S.

¹⁴ Section 194.013, F.S.

¹⁵ Section 194.011(3)(a), F.S.

¹⁶ The county clerk usually serves as the clerk of the VAB. Section 194.015, F.S.

¹⁷ Section 194.032(2)(a), F.S.

¹⁸ Section 194.011(4)(a), F.S.

¹⁹ Section 194.011(4)(a), F.S.

²⁰ Section 194.035(1), F.S., requires the use of special magistrates in counties with a population over 75,000. Smaller counties may opt to use special magistrates.

²¹ Section 194.035(1), F.S.

Once the final written decision is issued by the VAB, if the petitioner disagrees with the decision, he or she then has 60 days to file an action in circuit court contesting that decision.²²

In May 2014, the Florida Auditor General issued a report on county VABs and DOR's oversight of the VAB process.²³ The report made the following findings (footnotes are provided to indicate findings that are being addressed by provisions in this bill):

- Independence in the appeal process at the local level may have been compromised due to local officials involved in the process who may not have been impartial and whose operations are funded with the same property tax revenue at stake in the appeal process.²⁴ Additionally, enhanced uniformity in the way VABs document compliance with appeal process requirements, and the establishment of general information on Florida's property tax system for use statewide by all VABs in complying with the DOR rule requiring the VABs to discuss general information on Florida's property tax system and how taxpayers can participate,²⁵ could promote fairness and consistency in the appeal process.
- Noncompliance with the DOR rules for one VAB that gave the appearance of bias and undue influence in the appeal process in at least one instance.
- Special magistrates served on multiple VABs during the same tax year, which appears to be inconsistent with the State Constitution dual office holding prohibition.²⁶
- Selection of special magistrates may not have been based solely on experience and qualifications,²⁷ contrary to law and the DOR rules, and verification of such information was not always documented.
- Special magistrate training was not verified by DOR prior to issuing statements acknowledging receipt of training, and one VAB did not document special magistrate training in its records.
- Verification of compliance with law and the DOR rules relating to VAB prehearing requirements was not always documented.
- VAB organizational meetings were not always held in accordance with the requirements prescribed by the DOR rules.
- Prescribed procedures for commencing VAB hearings were not always followed by the VABs, contrary to the DOR rules.
- Some VAB records did not evidence consideration of the property appraiser's presumption of correctness issue, and one VAB did not consider this issue first at hearings, contrary to the DOR rules.
- VAB written decisions were not always sufficiently detailed contrary to law and the DOR rules.^{28,29}
- Public notice of VAB organizational meetings and hearings were not always in accordance with the DOR rules.
- VABs did not always allocate expenses between the board of county commissioners and the school board, contrary to law.
- VAB citizen members did not always meet the specific requirements provided in law and the DOR rules to serve on the VABs, and verification of such requirements was not always documented.
- Documentation of taxpayer representation for a hearing was not evident for some petitions, contrary to the DOR rules.³⁰

²² Section 194.171(2), F.S.

²³ STATE OF FLORIDA AUDITOR GENERAL, COUNTY VALUE ADJUSTMENT BOARDS AND DEPARTMENT OF REVENUE'S OVERSIGHT THEREOF: PERFORMANCE AUDIT (May 2014).

²⁴ Changes made to address this finding are discussed under the heading "Composition of the VAB."

²⁵ Rule 12D-9.013(1)(i), F.A.C.

²⁶ See also 2012-17 Fla. Op. Att'y Gen. (May 17, 2012) (citing Art. II, s. 5(a), Fla. Const).

²⁷ Changes made to address this finding are discussed under the heading "Special Magistrates"

²⁸ See Rule 12D-9.030, F.A.C. (relating to recommended decisions) and Rule 12D-9.032, F.A.C. (relating to final decisions).

²⁹ Changes made to address this finding are discussed under the heading "Determinations of VAB."

³⁰ Changes made to address this finding are discussed under the heading "Signature Requirements for VAB Petitions."

Publication of Proposed Budget

Current Situation

After a county has adopted its proposed millage rate and budget, it is required to publish a budget summary in a newspaper of general circulation 2 to 5 days before the final budget hearing is held³¹. This summary must include “for each budget and the total of all budgets, the proposed tax millages, balances, reserves, and the total of each major classification of receipts and expenditures.”³² Currently, the budgets of the constitutional officers are usually included as part of the county’s operating expenses and are not separately listed in the budget summary.³³

Proposed Changes

The bill amends s. 129.03, F.S., to require the board of county commissioners to specify in the budget summary the proportionate amount of the proposed county tax millage and the proportionate amount of gross ad valorem taxes attributable to the budgets of the sheriff, the property appraiser, the clerk of the circuit court and county comptroller, the tax collector, and the supervisor of elections, respectively.

Conclusion of VAB Proceedings

Current Situation

Section 194.032(3), F.S., requires that “The board shall remain in session from day to day until all petitions, complaints, appeals, and disputes are heard.” Given the large number of petitions that are heard in some counties, it can take years before the VAB finishes hearing all petitions for a given tax year. For example, as of the writing of this analysis, Broward, Miami-Dade, and Jefferson Counties have not certified the final numbers from their 2014 VABs to the Department of Revenue.³⁴

This has caused issues with the Florida Education Financing Program (FEFP). Each school district’s required local effort (RLE) millage rate is determined by a statutory procedure.³⁵ Because the decisions of the VAB typically reduce the school board’s tax base, the RLE rate does not produce the amount of revenue projected. Accordingly, school districts are allowed to levy an additional millage to make up for this deficit. This additional millage rate is referred to as the prior period funding adjustment millage (PPFAM). The PPFAM is calculated in July of each year. However, the calculation only includes changes in taxable value if the change has been finally adjudicated. If final adjudication does not occur prior to the PPFAM calculation in July, the school district cannot collect the unrealized school funds until that final adjudication occurs, which may be years later.³⁶

In 2015, the Legislature passed a temporary solution for school districts where the local VAB process delays completion of the certification of the final tax roll for longer than one year. For the 2015-16 fiscal year only, such districts can “speed-up” the levy of 2014 unrealized RLE funds by levying a PPFAM equal to 75 percent of the district’s most recent unrealized RLE for which a PPFAM was determined.³⁷

³¹ Section 200.065(2)(d), F.S.

³² Section 129.03(3)(b), F.S.

³³ Section 129.03(3), F.S.

³⁴ For spreadsheets containing the VAB petition summaries as reported to the DOR, see FLORIDA DEPARTMENT OF REVENUE, PROPERTY TAX DATA PORTAL: VAB SUMMARY available at <http://dor.myflorida.com/dor/property/resources/data.html> (last visited on January 11, 2016).

³⁵ 1011.62(4), F.S.

³⁶ For more detailed information on this calculation, please see the expanded background provided at the end of this section.

³⁷ Section 1011.62(4)(e)1.c., F.S.

Proposed Changes

The bill requires the VAB to hear all petitions, complaints, appeals, and disputes and submit the certified assessment roll to the property appraiser by June 1 following the tax year in which the assessments were made, beginning with the 2018 tax roll. The June 1 deadline is extended to December 1 in any county where the VAB petitions increase by more than 10 percent from the prior year.

Similar to legislation passed in 2015, the bill provides school districts with a temporary funding solution when the local VAB process delays completion of the certification of the final tax roll for longer than one year. For the 2016-17 fiscal year only, such districts can “speed-up” the levy of 2015 unrealized RLE funds by levying a PPFAM equal to 75 percent of the district’s most recent unrealized RLE for which a PPFAM was determined.

Signature Requirements for VAB Petitions

Current Situation

The property owner or their agent may initiate proceedings before the VAB by filing a petition with the clerk of the VAB.³⁸ There is no statutory requirement that the petitioner sign the VAB petition. However, DOR rules state, “A petition filed by an unlicensed agent must also be signed by the taxpayer or accompanied by a written authorization from the taxpayer.”³⁹ DOR does not require any evidence that the taxpayer has authorized the filing of the petition, or that the taxpayer is aware of the proceedings, if the petition is filed by a licensed agent. DOR defines a licensed agent as a licensed real estate broker, sales associate, appraiser, or certified public accountant, or a member of the Florida Bar.⁴⁰

Proposed Changes

The bill amends s. 194.011, F.S., to require that a petition to the VAB must be signed by the taxpayer or be accompanied at the time of filing by the taxpayer's written authorization of the representation. A written authorization is valid for one tax year, and a new written authorization by the taxpayer shall be required for each subsequent tax year.

Property Record Cards

Current Situation

A petitioner is required to provide the property appraiser with a list of evidence, copies of documentation, and summaries of testimony on which the taxpayer intends to rely at least 15 days prior to the hearing before the VAB.⁴¹ If the petitioner provides this information, and sends the appraiser a written request for responsive information, the appraiser must provide a list of evidence and copies of documentation to be presented at the hearing, including the “property record card,”⁴² but only if the petitioner checks the appropriate box on the form.⁴³ The property appraiser is not required to provide a copy of the property record card if it is available online.

The term “property record card” is undefined in statute. The term previously referred to the paper card maintained in the office of the property appraiser where all information specific to a property was written

³⁸ Section 194.011(3)

³⁹ Rule 12D-9.018(4), F.A.C.

⁴⁰ Rule 12D-9.018(5), F.A.C.

⁴¹ Section 194.011(4)(a), F.S.

⁴² Section 194.011(4)(b), F.S.

⁴³ Section 194.032(2)(a), F.S.

down.⁴⁴ Now that property appraiser's offices are computerized, what constitutes a "property record card" is not as precisely understood, but it is generally presumed to be a record maintained by the property appraiser containing information needed to assess properties in his or her jurisdiction. Section 194.032(2)(a), F.S., does provide some guidance by referring to "the property record card containing relevant information used in computing the current assessment."

Proposed Changes

The bill modifies the procedures for the exchange of evidence. When the property appraiser responds to the petitioner's request for evidence, the property appraiser must include the petitioner's property record card and the property record cards for any comparable property listed as evidence, except those cards that are available online. The bill specifically requires that any confidential information on the property record cards be redacted before they are provided.

Admission of Evidence Previously Requested by Property Appraiser and the Exchange of Evidence

Current Situation

The early 1980's was a period of great reform in the property tax system. Legislation was passed to bring assessments up to full market or just value in order to enhance school funding and the homestead exemption was increased.⁴⁵ One of the critical pieces of legislation on this subject was HB 4-D in 1980, which was enacted as Chapter 80-274, Laws of Florida. This legislation created the TRIM notice and provided the basics of the current method of levying millage.

One issue the Legislature considered when discussing this bill, and the need to have property assessed at full market value, was how to ensure that property appraisers got the information they needed from taxpayers to make accurate assessments. Property appraisers routinely request information, particularly from owners of commercial property, during the assessment process at the beginning of the tax year. The statutes specifically make this information confidential.⁴⁶ The Legislature's solution to making sure property appraisers would receive needed data such as income information from taxpayers was to amend s. 194.032(3), F.S., by adding language which said:

Notwithstanding the provisions of this subsection, no petitioner shall present nor shall the board or special master accept testimony or other evidentiary materials for consideration that were requested of the petitioner in writing by the property appraiser of which the petitioner had knowledge and deliberately denied to the property appraiser.⁴⁷

Thus, a taxpayer could not withhold information from a property appraiser, forcing the property appraiser to produce an assessment without the benefit of that data, and then use the withheld information to dispute the assessment.⁴⁸

In 2002 the Legislature passed Chapter 2002-18, L.O.F., creating s. 194.011(4), F.S., which provided for an exchange of evidence between the petitioner and the property appraiser before a VAB hearing.⁴⁹

⁴⁴ Before computerization, property appraiser's office contained large cabinets full of papers cards. Each one contained information about a specific property and as information was gathered about the property, notes were handwritten on those cards. For example, each time the property was sold, the selling price and location of the deed in the clerk's records would be written down.

⁴⁵ Chapter 80-174, L.O.F.

⁴⁶ Section 195.027(3), F.S.

⁴⁷ Language above is from 1981, Florida Statutes. With minor wording changes this provision is now Section 194.034(1)(d), F.S.

⁴⁸ This is analogous to the provisions of s. 194.034(1)(f), F.S., which states that a person who has not provided a tangible personal property return to the property appraiser cannot appeal the tangible personal property assessment.

The new statute showed no evidence of any legislative intent to amend the provisions of s. 194.034(1)(d), F.S., or change how it was being applied by VABs. Likewise, there is no evidence of legislative intent to invalidate the then recent decision of Higgs v. Good⁵⁰ which applied the same principal to judicial cases, stating, "it was error for the trial court to allow Good to defer the submission of the income data until it pleased him to submit it (tardily), then use the data to demand either administrative or judicial reduction of his property's tax assessment valuation. It is inappropriate for a taxpayer to conceal an ace-in-the-hole for subsequent play against an official who is attempting to carry out his duties.... If all taxpayers followed Good's example the Appraiser's office could be hamstrung."

When DOR began writing rules to implement Chapter 2002-18, L.O.F., it perceived a relationship between these two statutory provisions, and promulgated Rule 12D-9.020(8), F.A.C., which states:

No petitioner may present for consideration, nor may a board or special magistrate accept for consideration, testimony or other evidentiary materials that were specifically requested of the petitioner in writing by the property appraiser **in connection with a filed petition**, of which the petitioner had knowledge and denied to the property appraiser (emphasis added to show difference from statute).⁵¹

In practice, this rule allows the following set of events to occur:

- The property appraiser requests data, in writing, at the beginning of the tax year for use in assessing the taxpayer's property.
- The taxpayer, knowingly, does not provide that information while the assessment was being developed (before July 1 of the tax year).
- The property appraiser must assess the property without the requested data.
- The taxpayer protests the assessment to the VAB.
- During the evidence exchange, the taxpayer may provide all or part of the information he or she withheld from the property appraiser before the assessment was made, for the purpose of making that information admissible during the VAB hearing.
- The taxpayer may then use the information withheld from the property appraiser when making the assessment to prove the property appraiser's assessment incorrect.

Proposed Change

The bill creates s. 194.011(4)(c), F.S., stating that "Notwithstanding a prior request by a property appraiser for information pursuant to s. 193.011, provisions related to evidence exchange contained in this section only apply to value adjustment board proceedings after the petitioner has served notice of intention to challenge the property appraiser's assessment of value or classification of property pursuant to this section."

⁴⁹ The Senate Bill Analysis can be found at:

http://archive.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2002&billnum=1360

⁵⁰ Higgs v. Good, 813 So.2d 178 (Fla, 3rd DCA 2002)

⁵¹ Whether the rule adds a condition not created or authorized in the statute is significant. To adopt a rule an agency must have an express grant of authority to implement a specific law by rulemaking. Section 120.536(1), F.S. The particular statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law. *Sloban v. Florida Bd. of Pharmacy*, 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Ass'n*, 794 So. 2d 696, 704 (Fla. 1st DCA 2001). A rule may be an invalid exercise of delegated legislative authority if the rule enlarges, modifies, or contravenes the specific provisions of the law being implemented. Section 120.52(8)(c), F.S.

Confidential Information

Current Situation

Section 193.074, F.S. provides that "All returns of property... submitted by the taxpayer pursuant to law shall be deemed confidential." Similar provisions in other statutes ensure that social security numbers, federal income tax returns, medical records, and proprietary business information are also considered confidential.⁵² However, information submitted to the VAB as evidence generally becomes public record and is subject to Florida's public records laws.⁵³ Since evidence must be submitted under the evidence exchange rules at least 15 days prior to the VAB hearing, it is unclear at what point in time the previously confidential information becomes public record.

Proposed Change

The bill specifies that evidence which is confidential under current law shall remain confidential until it is submitted to the VAB for consideration and admission into the record.

Interest Rate on Partial Payments

Current Situation

Since the VAB process can take years to complete, a problem emerged because petitioners were withholding payment of their entire assessment until their VAB petitions were resolved and new tax bills issued. This could delay the collection of revenue for years and was causing a problem with revenue flow to certain taxing authorities. To address this issue, in 2011 the Legislature created s. 194.014, F.S., requiring petitioners to pay a portion of their ad valorem taxes and all of their non-ad valorem assessments before those taxes and assessments become delinquent on April 1.

Taxpayers challenging their assessments must pay at least 75 percent of the ad valorem taxes.⁵⁴ Petitioners challenging the denial of an exemption or classification, or petitioners contending that their property was not substantially complete, must pay those taxes they admit in good faith are due.⁵⁵ If these payments are not made before April 1, and a petition is pending, the VAB is required to issue a written decision by April 20 denying the petition.⁵⁶

If the VAB subsequently determines that the petitioner owes ad valorem taxes in excess of the amount paid, the unpaid amount accrues interest at the rate of 12 percent per year from the date the taxes became delinquent until the unpaid amount is paid.⁵⁷ If the VAB determines that a refund is due, the overpaid amount accrues interest at the rate of 12 percent per year from the date the taxes became delinquent until a refund is paid.⁵⁸ Interest does not accrue on amounts paid in excess of 100 percent of the current taxes due as provided on the tax notice.

Similarly, taxpayers who file a petition in circuit court must pay the tax collector an amount not less than the amount of tax which the taxpayer admits in good faith to owe.⁵⁹ If the court finds that the amount of tax owed by the taxpayer is greater than the amount the taxpayer has in good faith admitted and paid, a

⁵² See as examples Sections 192.105, 193.114(5), 195.027(3)&(6), and 196.101(4)(c), F.S.

⁵³ Informal, Fla. Op. Att'y Gen. (April 30, 2010) available at

<http://www.myfloridalegal.com/ago.nsf/Opinions/946D6B5DA86200268525771B00485776>; FLORIDA DEPARTMENT OF REVENUE PROPERTY TAX INFORMATIONAL BULLETIN, PTO 10-07 – VALUE ADJUSTMENT BOARD HEARINGS AND CONFIDENTIALITY (May 27, 2010).

⁵⁴ Section 194.014(1)(a), F.S.

⁵⁵ Section 194.014(1)(b), F.S.

⁵⁶ Section 194.014(1)(c), F.S.

⁵⁷ Section 194.014(2), F.S.

⁵⁸ Section 194.014(2), F.S.

⁵⁹ Section 194.171(3), F.S.

judgment is entered against the taxpayer for the deficiency and for interest on the deficiency at a rate of 12 percent.⁶⁰

Proposed Changes

The bill changes the amount of interest that accrues on partial payments of ad valorem taxes from 12 percent to the bank prime loan rate as determined by the Federal Reserve on July 1 or the first business day thereafter. Further, the bill allows for interest accrual, at the prime rate, when the property appraiser and the property owner reach a settlement prior to the VAB hearing. Currently, the bank prime rate is published on a website titled "H.15 Selected Interest Rates" and is 3.25 percent.⁶¹ The bill does not change the interest rate for amounts in dispute for court proceedings.

Composition of the VAB

Current Situation

In 1895, the Legislature provided county commissions with exclusive responsibility for hearing taxpayer appeals from assessments.⁶² In 1969, the Legislature changed the membership to include school board members.⁶³ In 2008, the Legislature again changed the membership to include two citizen members.⁶⁴ Currently, the VAB consists of two members of the governing body of the county as elected from the membership of the board of said governing body (one of whom shall be elected chairperson), one member of the school board as elected from the membership of the school board, and two citizen members.⁶⁵ Members of the VAB may be temporarily replaced by other members of the respective boards.

A quorum of three members of the board must include at least:

- One member of the governing body of the county.
- One member of the school board.
- One citizen member.

Per diem compensation is permitted if both governing board of the county and the school board agree.

Proposed Changes

The bill changes the composition of the VAB by replacing one member from the governing body of the county with one citizen member. The membership would be comprised as follows:

- One member of the governing body of the county as elected from the membership of the board of said governing body.
- One member of the school board as elected from the membership of the school board.
- One citizen member, appointed by the governing body of the county, who owns homestead property in the county.
- One citizen member, appointed by the school board of the county, who owns commercial property in the school district.
- One citizen member, appointed by the governing body of the county, who is a licensed real estate appraiser and a resident of the county (if no resident real estate appraiser available, the member can be a homestead or commercial property owner who is a resident).

⁶⁰ Section 194.192, F.S.

⁶¹ FEDERAL RESERVE, H.15 SELECTED INTEREST RATES (March 9, 2015) *available at* <http://www.federalreserve.gov/releases/h15/current/> (last visited December 18, 2015).

⁶² Ch. 4322, Laws of Fla. (1895).

⁶³ Ch. 69-140, Laws of Fla.

⁶⁴ Ch. 2008-197, Laws of Fla.

⁶⁵ Section 194.015, F.S.

A quorum of the board is defined as three members, which must include both the member of the county governing board and the member of the school board, as well as one citizen member. No meeting shall take place unless a quorum is present. Boards are not permitted to temporarily replace members. One member shall be elected to serve as chair. The Department of Business and Professional Regulation must provide continuing education credits to appraiser members of VABs. The bill makes per diem payments for members of the board mandatory.

Rescheduling VAB Hearings

Current Situation

Prior to 2002, petitioners had no right to reschedule a VAB hearing under any circumstances. Some VABs did allow petitioners to reschedule for “good cause” but there was no consensus as to procedures or what constituted good cause. In 2002 the Legislature provided a right to reschedule,⁶⁶ adding a provision to Section 194.032(2), F.S., which states:

Upon receipt of this notification, the petitioner shall have the right to reschedule the hearing a single time by submitting to the clerk of the governing body of the county a written request to reschedule, no less than 5 calendar days before the day of the originally scheduled hearing

When the Department of Revenue implemented this statute, it wrote a rule stating that a petitioner had the right to reschedule one time without showing good cause⁶⁷ and an unlimited number of times if good cause is shown⁶⁸. As part of this rule, the Department created a list of circumstances that constituted good cause.⁶⁹

Proposed Changes

Under this bill, the petitioner or the property appraiser can reschedule a VAB hearing a single time for good cause. The bill defines good cause as “circumstances beyond the control of the person seeking to reschedule the hearing that reasonably prevent the party from having adequate representation at the hearing.” Good cause specifically includes the failure of the property appraiser to comply with statutory evidence exchange guidelines. Finally, the bill provides that if the hearing is rescheduled, the petitioner must be notified by the clerk of the rescheduled hearing 15 days before the rescheduled hearing is held.

Taxpayer Representation

Current Situation

Section 194.034(1)(a), F.S., allows a taxpayer to be represented at the VAB by “an attorney or agent.” DOR rules state, “The agent need not be a licensed individual or person with specific qualifications and may be any person, including a family member, authorized by the taxpayer to represent them before the VAB.”⁷⁰

Proposed Changes

The bill restricts the persons who can represent the taxpayer to:

- a corporate representative of the taxpayer,
- an attorney who is a member of The Florida Bar,

⁶⁶ Chapter 2002-18, s. 3, Laws of Florida.

⁶⁷ Rule 12D-9.019(4)(a), F.A.C.

⁶⁸ Rule 12D-9.019(4)(b), F.A.C.

⁶⁹ Rule 12D-9.019(4)(b), F.A.C.

⁷⁰ Rule 12D-9.018(3), F.A.C.

- an uncompensated person with power of attorney,
- a real estate appraiser licensed under chapter 475,
- a real estate broker licensed under chapter 475, or
- a certified public accountant licensed under chapter 473.

Determinations of VAB

Current Situation

Current law requires VABs to render a written decision within 20 calendar days after the last day the board is in session.⁷¹ The decision of the VAB must contain findings of fact and conclusions of law and must include reasons for upholding or overturning the determination of the property appraiser.⁷² If a special magistrate has been appointed, the recommendations of the special magistrate shall be considered by the VAB. The clerk of the VAB, upon issuance of a decision, shall notify each taxpayer and the property appraiser of the decision of the VAB. If requested by DOR, the clerk shall provide to DOR a copy of the decision or information relating to the tax impact of the findings and results of the board as described in s. 194.037, F.S., in the manner and form requested.

Proposed Changes

The bill clarifies what must be included in the VAB's findings of fact. Specifically, it states that findings of fact must be based on admitted evidence or a lack thereof.

Special Magistrates

Current Situation

Current law requires counties with a population greater than 75,000 to hire special magistrates to conduct valuation hearings.⁷³ Before conducting hearings, a VAB must hold an organizational meeting to appoint special magistrates and legal counsel and to perform other administrative functions.⁷⁴ Special magistrates must meet the following qualifications:

- A special magistrate appointed to hear issues of exemptions and classifications shall be a member of The Florida Bar with no less than five years' experience in the area of ad valorem taxation.
- A special magistrate appointed to hear issues regarding the valuation of real estate shall be a state certified real estate appraiser with not less than five years' experience in real property valuation.
- A special magistrate appointed to hear issues regarding the valuation of tangible personal property shall be a designated member of a nationally recognized appraiser's organization with not less than five years' experience in tangible personal property valuation.

Proposed Changes

The bill specifies that in the appointment/scheduling of special magistrates no consideration is to be given to assessment reductions recommended by any special magistrate either in the current year or in any prior year.

⁷¹ Section 194.034(2), F.S.

⁷² Section 194.034(2), F.S.; see also rules 12D-9.030, 12D-9.032, and 12D-10.003(3), F.A.C.

⁷³ Section 194.035, F.S.

⁷⁴ Section 194.011(5)(a)2., F.S.

B. SECTION DIRECTORY:

Section 1 amends s. 129.03, F.S., to require the board of county commissioners to specify in the budget summary the proportionate amount of the proposed county tax millage and the proportionate amount of gross ad valorem taxes attributable to county constitutional officers.

Section 2 amends s. 192.0105, F.S., to make conforming changes related to taxpayer representation before the VAB.

Section 3 amends s. 193.122(1), F.S., to require VABs to complete all hearings and certify assessment rolls to the property appraiser by June 1 following the tax year in which the assessments were made, or by December 1 if the petitions in that county increased by more than 10 percent from the prior year.

Section 4 provides applicability for changes made to ss. 193.122(1) and 194.032(4), F.S.

Section 5 amends s. 194.011, F.S., to revise provisions related to VAB petitions and VAB evidence exchange procedures.

Section 6 amends s. 194.014, F.S., to change the interest rate for disputed property tax assessments from 12 percent to the bank prime loan rate established by the Federal Reserve.

Section 7 amends 194.015, F.S., to revise the composition of the VAB; board members elect the chairman and can get continuing education credits for their service; provides applicability.

Section 8 amends s. 194.032, F.S., to revise provisions related to evidence exchange, rehearings, and the VAB timeframe for finishing hearings and certifying the assessment roll.

Section 9 amends s. 194.034, F.S., to restrict the persons who may represent a person before the VAB and to elaborate on what is required in the VAB's findings of fact.

Section 10 amends s. 194.035, F.S., to specify that value reductions given by special magistrates cannot be considered in the hiring of special magistrates.

Section 11 amends s. 1011.62(4)(e), F.S., to provide an alternative computation of school funds for the 2016-2017 fiscal year when the final taxable value of a school district is delayed by VAB hearings; provides applicability.

Section 12 provides a finding of important state interest.

Section 13 provides an effective date of July 1, 2016, except as otherwise expressly provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The DOR will update the administrative rules relating to VABs to implement the provisions of the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On November 20, 2015, the Revenue Estimating Conference evaluated the impacts of some of the provisions included in the bill⁷⁵:

- Sections 3, 4 and 8, which require VABs to complete their hearings and certify the assessment roll by June 1, are expected to have a \$49.8 million non-recurring positive impact to local government revenues in Fiscal Year 2019-2020 due to a speed-up in the process.
- Section 6 reduces the interest rates on ad valorem taxes contested in a VAB proceeding. This section is expected to have a positive impact on local governments of \$5.6 million in Fiscal Year 2016-2017, \$4.4 million in FY 2017-18 and \$4.0 million annually thereafter. Most petitioners in Miami-Dade County, which has the most VAB petitions, pay the full amount of ad valorem taxes and earn interest at 12 percent annually on the overpaid amount if successful in the petition; the result is more interest is paid out to petitioners than the amount of interest brought in to the county from interest paid on tax underpayments.
- Section 11, which provides a method of computing of school funds for the 2016-2017 fiscal year when the final taxable value of a school district is delayed by VAB hearings is expected to shift school funds, which typically would not become available until the following year, from Fiscal Year 2017-18 to FY 2016-17, resulting in a non-recurring, positive fiscal impact of \$37.7 million in Fiscal Year 2016-17 and a non-recurring, negative fiscal impact of \$37.7 million the following year.

2. Expenditures:

The bill requires local governments to take the following actions, which are likely to require expenditure of local funds:

- Section 1 requires local governments to break out the budgets of county constitutional officers in the budget summary and the TRIM notice.
- Sections 3, 4, and 8 require VABs to complete hearings and certify the tax roll to the property appraiser prior to June 1 of the year following the assessment, unless the petitions in that county increased by more than 10 percent from the prior year.
- Section 5 requires the property appraiser to provide more information as part of the evidence exchange.
- Section 7 authorizes VAB members to receive per diem expenses without requiring the school board and the board of county commissioners to allow such compensation.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Taxpayers that successfully dispute ad valorem assessments through a VAB hearing are expected to receive less revenue (interest paid on overpayments of disputed tax amounts) because of the interest rate change. Taxpayers may receive more revenue (interest paid on overpayments of disputed tax amounts) because this act allows for interest accrual when the property appraiser and the petitioner reach a settlement prior to the VAB hearing.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18(a), of the Florida Constitution may apply because this bill may require local governments to take action that requires the expenditure of

⁷⁵ Revenue Estimating Conference, Impact Conference, Value Adjustment Boards: HB 499 (November 20, 2015).

money. If the bill does qualify as a mandate, the law must fulfill an important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature. The bill does contain a statement of important state interest.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DOR projects that ten rules and three forms will need to be amended to implement the provisions of the bill.⁷⁶ If the form or its proposed amendment imposes a requirement or solicits information not specifically required by statute or existing rule, the form would constitute a rule⁷⁷ and must be adopted through the statutory rulemaking procedure.⁷⁸ Additionally, any generally applicable statement by DOR implementing, interpreting, or prescribing policy or procedure requirements necessary to implement the provisions of the bill must be adopted through rulemaking.⁷⁹ The bill does not provide any additional rulemaking authority for DOR.

Rulemaking authority is delegated by the Legislature⁸⁰ by law authorizing an agency to “adopt, develop, establish, or otherwise create”⁸¹ a rule. Agencies do not have discretion whether to engage in rulemaking.⁸² To adopt a rule an agency must have an express grant of authority to implement a specific law by rulemaking.⁸³ The grant of rulemaking authority itself need not be specific or detailed.⁸⁴ The particular statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.⁸⁵

DOR currently is authorized to adopt rules and forms for the assessing and collecting of taxes.⁸⁶ DOR also is required to administer and enforce the taxes levied and imposed under the chapter.⁸⁷ If necessary to resolve an immediate danger to public health, safety, or welfare, DOR is authorized to adopt emergency rules.⁸⁸ While DOR would appear to have sufficient authority to implement the provisions of the bill by administrative rulemaking,⁸⁹ any question may be resolved by authorizing DOR to use its present rulemaking authority under s. 201.11, F.S., to implement the powers granted under the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill creates Section 194.011(4)(c), F.S., however, the intent and purpose of that language is unclear.

⁷⁶ 2016 Agency Legislative Bill Analysis, Department of Revenue, HB 499 (12/03/2015), available to Legislators and staff at <http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=6302&yr=2016> (accessed 01/11/2016), and a copy of which is maintained on file by the Local and Federal Affairs Committee.

⁷⁷ Section 120.52(16), F.S.

⁷⁸ Section 120.54(1)(a), F.S.

⁷⁹ *Id.*

⁸⁰ *SW. Florida Water Mgmt. Dist. v. Save the Manatee Club, Inc.*, 773 So. 2d 594 (Fla. 1st DCA 2000).

⁸¹ Section 120.52(17), F.S.

⁸² Section 120.54(1)(a), F.S.

⁸³ Sections 120.52(8) & 120.536(1), F.S.

⁸⁴ *Save the Manatee Club, Inc.*, supra at 773 So. 2d 599.

⁸⁵ *Sloban v. Florida Bd. of Pharmacy*, 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Ass'n*, 794 So. 2d 696, 704 (Fla. 1st DCA 2001).

⁸⁶ Section 195.022, and 195.027, F.S.

⁸⁷ Section 195.002, F.S.

⁸⁸ Section 120.54(4), F.S. Emergency rules adopted under this subsection are effective for only 90 days and may not be renewed unless the agency as initiated regular rulemaking and there is a pending challenge to the proposed rules or the proposed rules are awaiting legislative ratification. Section 120.54(4)(c), F.S.

⁸⁹ Section 120.536(1), F.S.

The Department's analysis notes that on lines 354-355 this bill refers to "an individual with power of attorney to act on behalf of the taxpayer" but does not specifically grant it the authority to draft a form for this purpose.⁹⁰

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁹⁰ 2016 Agency Legislative Bill Analysis, Department of Revenue, HB 735 (12/01/2015), available to Legislators and staff at <http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=6302&yr=2016> (accessed 12/17/2015), and a copy of which is maintained on file by the Local Government Affairs Subcommittee.

27 | assessment; requiring value adjustment boards to
 28 | address issues concerning assessment rolls by a time
 29 | certain; providing applicability; amending s. 194.034,
 30 | F.S.; revising the entities that may represent a
 31 | taxpayer before the value adjustment board; revising
 32 | provisions relating to findings of fact; amending s.
 33 | 194.035, F.S.; prohibiting consideration to be given
 34 | in the appointment of special magistrates to
 35 | assessment reductions recommended by a special
 36 | magistrate; amending s. 1011.62, F.S.; revising the
 37 | dates for purposes of computing each school district's
 38 | required local effort; providing a finding of
 39 | important state interest; providing effective dates.

40 |

41 | Be It Enacted by the Legislature of the State of Florida:

42 |

43 | Section 1. Effective October 1, 2016, paragraph (b) of
 44 | subsection (3) of section 129.03, Florida Statutes, is amended
 45 | to read:

46 | 129.03 Preparation and adoption of budget.—

47 | (3) The county budget officer, after tentatively
 48 | ascertaining the proposed fiscal policies of the board for the
 49 | next fiscal year, shall prepare and present to the board a
 50 | tentative budget for the next fiscal year for each of the funds
 51 | provided in this chapter, including all estimated receipts,
 52 | taxes to be levied, and balances expected to be brought forward

53 and all estimated expenditures, reserves, and balances to be
 54 carried over at the end of the year.

55 (b) Upon receipt of the tentative budgets and completion
 56 of any revisions, the board shall prepare a statement
 57 summarizing all of the adopted tentative budgets. The summary
 58 statement must show, for each budget and the total of all
 59 budgets, the proposed tax millages, balances, reserves, and the
 60 total of each major classification of receipts and expenditures,
 61 classified according to the uniform classification of accounts
 62 adopted by the appropriate state agency. The board shall specify
 63 the proportionate amount of the proposed county tax millage and
 64 the proportionate amount of gross ad valorem taxes attributable
 65 to the budgets of the sheriff, the property appraiser, the clerk
 66 of the circuit court, the county comptroller, the tax collector,
 67 and the supervisor of elections, respectively. The board shall
 68 cause this summary statement to be advertised one time in a
 69 newspaper of general circulation published in the county, or by
 70 posting at the courthouse door if there is no such newspaper,
 71 and the advertisement must appear adjacent to the advertisement
 72 required pursuant to s. 200.065. The board may advertise the
 73 summary statement in a newspaper or other publication more than
 74 once and may post the statement on its website.

75 Section 2. Paragraph (f) of subsection (2) of section
 76 192.0105, Florida Statutes, is amended to read:

77 192.0105 Taxpayer rights.—There is created a Florida
 78 Taxpayer's Bill of Rights for property taxes and assessments to

79 guarantee that the rights, privacy, and property of the
 80 taxpayers of this state are adequately safeguarded and protected
 81 during tax levy, assessment, collection, and enforcement
 82 processes administered under the revenue laws of this state. The
 83 Taxpayer's Bill of Rights compiles, in one document, brief but
 84 comprehensive statements that summarize the rights and
 85 obligations of the property appraisers, tax collectors, clerks
 86 of the court, local governing boards, the Department of Revenue,
 87 and taxpayers. Additional rights afforded to payors of taxes and
 88 assessments imposed under the revenue laws of this state are
 89 provided in s. 213.015. The rights afforded taxpayers to assure
 90 that their privacy and property are safeguarded and protected
 91 during tax levy, assessment, and collection are available only
 92 insofar as they are implemented in other parts of the Florida
 93 Statutes or rules of the Department of Revenue. The rights so
 94 guaranteed to state taxpayers in the Florida Statutes and the
 95 departmental rules include:

96 (2) THE RIGHT TO DUE PROCESS.—

97 (f) The right, in value adjustment board proceedings, to
 98 have all evidence presented and considered at a public hearing
 99 at the scheduled time, to be represented by a person specified
 100 in s. 194.034(1)(a) ~~an attorney or agent~~, to have witnesses
 101 sworn and cross-examined, and to examine property appraisers or
 102 evaluators employed by the board who present testimony (see ss.
 103 194.034(1)(a) and (c) and (4), and 194.035(2)).

104 Section 3. Subsection (1) of section 193.122, Florida

105 Statutes, is amended to read:

106 193.122 Certificates of value adjustment board and
 107 property appraiser; extensions on the assessment rolls.—

108 (1) The value adjustment board shall certify each
 109 assessment roll upon order of the board of county commissioners
 110 pursuant to s. 197.323, if applicable, and again after all
 111 hearings required by s. 194.032 have been held. These
 112 certificates shall be attached to each roll as required by the
 113 Department of Revenue. Notwithstanding an extension of the roll
 114 pursuant to s. 197.323, the value adjustment board must complete
 115 all hearings required by s. 194.032 and certify the assessment
 116 roll to the property appraiser by June 1 following the tax year
 117 in which the assessments were made. The June 1 requirement shall
 118 be extended until December 1 in each year in which the number of
 119 petitions filed increased by more than 10 percent over the
 120 previous year.

121 Section 4. The amendments made by this act to ss. 193.122
 122 and 194.032(4), Florida Statutes, first apply beginning with the
 123 2018 tax roll.

124 Section 5. Subsections (3) and (4) of section 194.011,
 125 Florida Statutes, are amended to read:

126 194.011 Assessment notice; objections to assessments.—

127 (3) A petition to the value adjustment board must be in
 128 substantially the form prescribed by the department.

129 Notwithstanding s. 195.022, a county officer may not refuse to
 130 accept a form provided by the department for this purpose if the

131 taxpayer chooses to use it. A petition to the value adjustment
 132 board must be signed by the taxpayer or be accompanied at the
 133 time of filing by the taxpayer's written authorization for
 134 representation by a person specified in s. 194.034(1)(a). A
 135 written authorization is valid for 1 tax year and a new written
 136 authorization by the taxpayer is required for each subsequent
 137 tax year. A petition shall also describe the property by parcel
 138 number and shall be filed as follows:

139 (a) The clerk of the value adjustment board and the
 140 property appraiser shall have available and shall distribute
 141 forms prescribed by the Department of Revenue on which the
 142 petition shall be made. Such petition shall be sworn to by the
 143 petitioner.

144 (b) The completed petition shall be filed with the clerk
 145 of the value adjustment board of the county, who shall
 146 acknowledge receipt thereof and promptly furnish a copy thereof
 147 to the property appraiser.

148 (c) The petition shall state the approximate time
 149 anticipated by the taxpayer to present and argue his or her
 150 petition before the board.

151 (d) The petition may be filed, as to valuation issues, at
 152 any time during the taxable year on or before the 25th day
 153 following the mailing of notice by the property appraiser as
 154 provided in subsection (1). With respect to an issue involving
 155 the denial of an exemption, an agricultural or high-water
 156 recharge classification application, an application for

157 classification as historic property used for commercial or
 158 certain nonprofit purposes, or a deferral, the petition must be
 159 filed at any time during the taxable year on or before the 30th
 160 day following the mailing of the notice by the property
 161 appraiser under s. 193.461, s. 193.503, s. 193.625, s. 196.173,
 162 or s. 196.193 or notice by the tax collector under s. 197.2425.

163 (e) A condominium association, cooperative association, or
 164 any homeowners' association as defined in s. 723.075, with
 165 approval of its board of administration or directors, may file
 166 with the value adjustment board a single joint petition on
 167 behalf of any association members who own parcels of property
 168 which the property appraiser determines are substantially
 169 similar with respect to location, proximity to amenities, number
 170 of rooms, living area, and condition. The condominium
 171 association, cooperative association, or homeowners' association
 172 as defined in s. 723.075 shall provide the unit owners with
 173 notice of its intent to petition the value adjustment board and
 174 shall provide at least 20 days for a unit owner to elect, in
 175 writing, that his or her unit not be included in the petition.

176 (f) An owner of contiguous, undeveloped parcels may file
 177 with the value adjustment board a single joint petition if the
 178 property appraiser determines such parcels are substantially
 179 similar in nature.

180 (g) An owner of multiple tangible personal property
 181 accounts may file with the value adjustment board a single joint
 182 petition if the property appraiser determines that the tangible

183 personal property accounts are substantially similar in nature.

184 (h) The individual, agent, or legal entity that signs the
 185 petition becomes an agent of the taxpayer for the purpose of
 186 serving process to obtain personal jurisdiction over the
 187 taxpayer for the entire value adjustment board proceedings,
 188 including any appeals of a board decision by the property
 189 appraiser pursuant to s. 194.036.

190 (4)(a) At least 15 days before the hearing the petitioner
 191 shall provide to the property appraiser a list of evidence to be
 192 presented at the hearing, together with copies of all
 193 documentation to be considered by the value adjustment board and
 194 a summary of evidence to be presented by witnesses.

195 (b) No later than 7 days before the hearing, if the
 196 petitioner has provided the information required under paragraph
 197 (a), and if requested in writing by the petitioner, the property
 198 appraiser shall provide to the petitioner a list of evidence to
 199 be presented at the hearing, together with copies of all
 200 documentation to be considered by the value adjustment board and
 201 a summary of evidence to be presented by witnesses. The evidence
 202 list must contain the property appraiser's property record card
 203 for the property that is the subject of the petition as well as
 204 the property record cards for any comparable properties listed
 205 as evidence, unless the property record cards are available
 206 online from the property appraiser. If the petitioner's property
 207 record card or the comparable property record cards listed as
 208 evidence are available online from the property appraiser, the

209 property appraiser must notify the petitioner of the cards that
 210 are available online but is not required to provide such card or
 211 cards. The property appraiser must redact any confidential
 212 information contained on any property record card before it is
 213 submitted to the petitioner. ~~Failure of the property appraiser~~
 214 ~~to timely comply with the requirements of this paragraph shall~~
 215 ~~result in a rescheduling of the hearing.~~

216 (c) Notwithstanding a prior request by a property
 217 appraiser for information pursuant to s. 193.011, provisions
 218 related to evidence exchange contained in this section only
 219 apply to value adjustment board proceedings after the petitioner
 220 has served notice of intention to challenge the property
 221 appraiser's assessment of value or classification of property
 222 pursuant to this section.

223 (d) Evidence that is confidential under law remains
 224 confidential until it is submitted to the value adjustment board
 225 for consideration and admission into the record.

226 Section 6. Subsection (2) of section 194.014, Florida
 227 Statutes, is amended to read:

228 194.014 Partial payment of ad valorem taxes; proceedings
 229 before value adjustment board.--

230 (2) If the value adjustment board or the property
 231 appraiser determines that the petitioner owes ad valorem taxes
 232 in excess of the amount paid, the unpaid amount accrues interest
 233 at an annual percentage rate equal to the bank prime loan rate
 234 on July 1, or the first business day thereafter if July 1 is a

235 Saturday, Sunday, or legal holiday, of the tax ~~the rate of 12~~
 236 ~~percent per year, beginning on from~~ the date the taxes became
 237 delinquent pursuant to s. 197.333 until the unpaid amount is
 238 paid. If the value adjustment board or the property appraiser
 239 determines that a refund is due, the overpaid amount accrues
 240 interest at an annual percentage rate equal to the bank prime
 241 loan rate on July 1, or the first business day thereafter if
 242 July 1 is a Saturday, Sunday, or legal holiday, of the tax ~~the~~
 243 ~~rate of 12 percent per year, beginning on from~~ the date the
 244 taxes became delinquent pursuant to s. 197.333 until a refund is
 245 paid. Interest does not accrue on amounts paid in excess of 100
 246 percent of the current taxes due as provided on the tax notice
 247 issued pursuant to s. 197.322. For purposes of this subsection,
 248 the term "bank prime loan rate" means the average predominant
 249 prime rate quoted by commercial banks to large businesses as
 250 determined by the Board of Governors of the Federal Reserve
 251 System.

252 Section 7. Effective July 1, 2017, section 194.015,
 253 Florida Statutes, is amended to read:

254 194.015 Value adjustment board.-Each county shall have
 255 ~~There is hereby created~~ a value adjustment board consisting for
 256 ~~each county, which shall consist~~ of one member ~~two members~~ of
 257 the governing body of the county as elected from the membership
 258 of the board of that ~~said~~ governing body, ~~one of whom shall be~~
 259 ~~elected chairperson,~~ and one member of the school board as
 260 elected from the membership of the school board, and three ~~two~~

261 citizen members, one of whom shall be appointed by the governing
 262 body of the county and must own homestead property within the
 263 county, ~~and~~ one of whom shall ~~must~~ be appointed by the school
 264 board and must own a business occupying commercial space located
 265 within the school district, and one of whom shall be appointed
 266 by the governing body of the county and must be a licensed real
 267 estate appraiser who is a resident of the county. If a licensed
 268 real estate appraiser is not available, another owner of
 269 homestead or commercial property who is a resident of the county
 270 may be appointed by the governing body of the county. The board
 271 shall elect one of its members to serve as chair. The Department
 272 of Business and Professional Regulation must provide continuing
 273 education credits to appraiser members of value adjustment
 274 boards. A citizen member may not be a member or an employee of
 275 any taxing authority, and may not be a person who represents
 276 property owners in any administrative or judicial review of
 277 property taxes. ~~The members of the board may be temporarily~~
 278 ~~replaced by other members of the respective boards on~~
 279 ~~appointment by their respective chairpersons.~~ Any three members
 280 shall constitute a quorum of the board, except that each quorum
 281 must include at least one member of the said governing board, at
 282 least one member of the school board, and at least one citizen
 283 member and no meeting of the board shall take place unless a
 284 quorum is present. Members of the board may receive such per
 285 diem compensation as is allowed by law for state employees ~~if~~
 286 ~~both bodies elect to allow such compensation.~~ The clerk of the

287 governing body of the county shall be the clerk of the value
 288 adjustment board. The board shall appoint private counsel who
 289 has practiced law for over 5 years and who shall receive such
 290 compensation as may be established by the board. The private
 291 counsel may not represent the property appraiser, the tax
 292 collector, any taxing authority, or any property owner in any
 293 administrative or judicial review of property taxes. A ~~No~~
 294 meeting of the board shall not take place unless counsel to the
 295 board is present. Two-fifths of the expenses of the board shall
 296 be borne by the district school board and three-fifths by the
 297 district county commission.

298 Section 8. Paragraph (a) of subsection (2) of section
 299 194.032, Florida Statutes, is amended, and subsection (4) is
 300 added to that section, to read:

301 194.032 Hearing purposes; timetable.-

302 (2)(a) The clerk of the governing body of the county shall
 303 prepare a schedule of appearances before the board based on
 304 petitions timely filed with him or her. The clerk shall notify
 305 each petitioner of the scheduled time of his or her appearance
 306 at least 25 calendar days before the day of the scheduled
 307 appearance. The notice must indicate whether the petition has
 308 been scheduled to be heard at a particular time or during a
 309 block of time. If the petition has been scheduled to be heard
 310 within a block of time, the beginning and ending of that block
 311 of time must be indicated on the notice; however, as provided in
 312 paragraph (b), a petitioner may not be required to wait for more

313 than a reasonable time, not to exceed 2 hours, after the
 314 beginning of the block of time. ~~If the petitioner checked the~~
 315 ~~appropriate box on the petition form to request a copy of the~~
 316 ~~property record card containing relevant information used in~~
 317 ~~computing the current assessment,~~ The property appraiser must
 318 provide a the copy of the property record card containing
 319 information relevant to the computation of the current
 320 assessment, with confidential information redacted, to the
 321 petitioner upon receipt of the petition from the clerk
 322 regardless of whether the petitioner initiates evidence
 323 exchange, unless the property record card is available online
 324 from the property appraiser, in which case the property
 325 appraiser must notify the petitioner that the property record
 326 card is available online. ~~Upon receipt of the notice,~~ The
 327 petitioner or the property appraiser may reschedule the hearing
 328 a single time for good cause ~~by submitting to the clerk a~~
 329 ~~written request to reschedule, at least 5 calendar days before~~
 330 ~~the day of the originally scheduled hearing.~~ As used in this
 331 paragraph, the term "good cause" means circumstances beyond the
 332 control of the person seeking to reschedule the hearing that
 333 reasonably prevent the party from having adequate representation
 334 at the hearing. Good cause includes, but is not limited to, the
 335 failure by the property appraiser's office to comply with
 336 statutory evidence exchange deadlines. If the hearing is
 337 rescheduled by the petitioner or the property appraiser, the
 338 clerk shall notify the petitioner of the rescheduled time of his

339 or her appearance at least 15 calendar days before the day of
 340 the rescheduled appearance.

341 (4) The board must hear all petitions, complaints,
 342 appeals, and disputes and must submit the certified assessment
 343 roll as required under s. 193.122 to the property appraiser each
 344 year by June 1 of the tax year following the assessment date.
 345 The June 1 requirement shall be extended until December 1 in
 346 each year in which the number of petitions filed increased by
 347 more than 10 percent over the previous year.

348 Section 9. Paragraph (a) of subsection (1) and subsection
 349 (2) of section 194.034, Florida Statutes, are amended to read:

350 194.034 Hearing procedures; rules.—

351 (1)(a) Petitioners before the board may be represented by
 352 a corporate representative of the taxpayer, an attorney who is a
 353 member of The Florida Bar, an individual with power of attorney
 354 to act on behalf of the taxpayer pursuant to part II of chapter
 355 709 who receives no compensation, a real estate appraiser
 356 licensed under chapter 475, a real estate broker licensed under
 357 chapter 475, or a certified public accountant licensed under
 358 chapter 473, retained by the taxpayer. Such person may ~~or agent~~
 359 ~~and~~ present testimony and other evidence. The property appraiser
 360 or his or her authorized representatives may be represented by
 361 an attorney in defending the property appraiser's assessment or
 362 opposing an exemption and may present testimony and other
 363 evidence. The property appraiser, each petitioner, and all
 364 witnesses shall be required, upon the request of either party,

365 to testify under oath as administered by the chair ~~chairperson~~
 366 of the board. Hearings shall be conducted in the manner
 367 prescribed by rules of the department, which rules shall include
 368 the right of cross-examination of any witness.

369 (2) In each case, except if the complaint is withdrawn by
 370 the petitioner or if the complaint is acknowledged as correct by
 371 the property appraiser, the value adjustment board shall render
 372 a written decision. All such decisions shall be issued within 20
 373 calendar days after the last day the board is in session under
 374 s. 194.032. The decision of the board must contain findings of
 375 fact and conclusions of law and must include reasons for
 376 upholding or overturning the determination of the property
 377 appraiser. Findings of fact must be based on admitted evidence
 378 or a lack thereof. If a special magistrate has been appointed,
 379 the recommendations of the special magistrate shall be
 380 considered by the board. The clerk, upon issuance of a decision,
 381 shall, on a form provided by the Department of Revenue, notify
 382 each taxpayer and the property appraiser of the decision of the
 383 board. This notification shall be by first-class mail or by
 384 electronic means if selected by the taxpayer on the originally
 385 filed petition. If requested by the Department of Revenue, the
 386 clerk shall provide to the department a copy of the decision or
 387 information relating to the tax impact of the findings and
 388 results of the board as described in s. 194.037 in the manner
 389 and form requested.

390 Section 10. Subsection (1) of section 194.035, Florida

391 Statutes, is amended to read:

392 194.035 Special magistrates; property evaluators.—

393 (1) In counties having a population of more than 75,000,
 394 the board shall appoint special magistrates for the purpose of
 395 taking testimony and making recommendations to the board, which
 396 recommendations the board may act upon without further hearing.
 397 These special magistrates may not be elected or appointed
 398 officials or employees of the county but shall be selected from
 399 a list of those qualified individuals who are willing to serve
 400 as special magistrates. Employees and elected or appointed
 401 officials of a taxing jurisdiction or of the state may not serve
 402 as special magistrates. The clerk of the board shall annually
 403 notify such individuals or their professional associations to
 404 make known to them that opportunities to serve as special
 405 magistrates exist. The Department of Revenue shall provide a
 406 list of qualified special magistrates to any county with a
 407 population of 75,000 or less. Subject to appropriation, the
 408 department shall reimburse counties with a population of 75,000
 409 or less for payments made to special magistrates appointed for
 410 the purpose of taking testimony and making recommendations to
 411 the value adjustment board pursuant to this section. The
 412 department shall establish a reasonable range for payments per
 413 case to special magistrates based on such payments in other
 414 counties. Requests for reimbursement of payments outside this
 415 range shall be justified by the county. If the total of all
 416 requests for reimbursement in any year exceeds the amount

417 available pursuant to this section, payments to all counties
 418 shall be prorated accordingly. If a county having a population
 419 less than 75,000 does not appoint a special magistrate to hear
 420 each petition, the person or persons designated to hear
 421 petitions before the value adjustment board or the attorney
 422 appointed to advise the value adjustment board shall attend the
 423 training provided pursuant to subsection (3), regardless of
 424 whether the person would otherwise be required to attend, but
 425 shall not be required to pay the tuition fee specified in
 426 subsection (3). A special magistrate appointed to hear issues of
 427 exemptions and classifications shall be a member of The Florida
 428 Bar with no less than 5 years' experience in the area of ad
 429 valorem taxation. A special magistrate appointed to hear issues
 430 regarding the valuation of real estate shall be a state
 431 certified real estate appraiser with not less than 5 years'
 432 experience in real property valuation. A special magistrate
 433 appointed to hear issues regarding the valuation of tangible
 434 personal property shall be a designated member of a nationally
 435 recognized appraiser's organization with not less than 5 years'
 436 experience in tangible personal property valuation. A special
 437 magistrate need not be a resident of the county in which he or
 438 she serves. A special magistrate may not represent a person
 439 before the board in any tax year during which he or she has
 440 served that board as a special magistrate. Before appointing a
 441 special magistrate, a value adjustment board shall verify the
 442 special magistrate's qualifications. The value adjustment board

443 shall ensure that the selection of special magistrates is based
 444 solely upon the experience and qualifications of the special
 445 magistrate and is not influenced by the property appraiser. The
 446 special magistrate shall accurately and completely preserve all
 447 testimony and, in making recommendations to the value adjustment
 448 board, shall include proposed findings of fact, conclusions of
 449 law, and reasons for upholding or overturning the determination
 450 of the property appraiser. The expense of hearings before
 451 magistrates and any compensation of special magistrates shall be
 452 borne three-fifths by the board of county commissioners and two-
 453 fifths by the school board. When appointing special magistrates
 454 or scheduling special magistrates for specific hearings, the
 455 board, board attorney, and board clerk may not consider the
 456 dollar amount or percentage of any assessment reductions
 457 recommended by any special magistrate in the current year or in
 458 any previous year.

459 Section 11. Effective June 30, 2016, paragraph (e) of
 460 subsection (4) of section 1011.62, Florida Statutes, is amended
 461 to read:

462 1011.62 Funds for operation of schools.—If the annual
 463 allocation from the Florida Education Finance Program to each
 464 district for operation of schools is not determined in the
 465 annual appropriations act or the substantive bill implementing
 466 the annual appropriations act, it shall be determined as
 467 follows:

468 (4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The

469 Legislature shall prescribe the aggregate required local effort
 470 for all school districts collectively as an item in the General
 471 Appropriations Act for each fiscal year. The amount that each
 472 district shall provide annually toward the cost of the Florida
 473 Education Finance Program for kindergarten through grade 12
 474 programs shall be calculated as follows:

475 (e) Prior period funding adjustment millage.—

476 1. There shall be an additional millage to be known as the
 477 Prior Period Funding Adjustment Millage levied by a school
 478 district if the prior period unrealized required local effort
 479 funds are greater than zero. The Commissioner of Education shall
 480 calculate the amount of the prior period unrealized required
 481 local effort funds as specified in subparagraph 2. and the
 482 millage required to generate that amount as specified in this
 483 subparagraph. The Prior Period Funding Adjustment Millage shall
 484 be the quotient of the prior period unrealized required local
 485 effort funds divided by the current year taxable value certified
 486 to the Commissioner of Education pursuant to sub-subparagraph
 487 (a)1.a. This levy shall be in addition to the required local
 488 effort millage certified pursuant to this subsection. Such
 489 millage shall not affect the calculation of the current year's
 490 required local effort, and the funds generated by such levy
 491 shall not be included in the district's Florida Education
 492 Finance Program allocation for that fiscal year. For purposes of
 493 the millage to be included on the Notice of Proposed Taxes, the
 494 Commissioner of Education shall adjust the required local effort

495 millage computed pursuant to paragraph (a) as adjusted by
 496 paragraph (b) for the current year for any district that levies
 497 a Prior Period Funding Adjustment Millage to include all Prior
 498 Period Funding Adjustment Millage. For the purpose of this
 499 paragraph, there shall be a Prior Period Funding Adjustment
 500 Millage levied for each year certified by the Department of
 501 Revenue pursuant to sub-subparagraph (a)2.a. since the previous
 502 year certification and for which the calculation in sub-
 503 subparagraph 2.b. is greater than zero.

504 2.a. As used in this subparagraph, the term:

505 (I) "Prior year" means a year certified under sub-
 506 subparagraph (a)2.a.

507 (II) "Preliminary taxable value" means:

508 (A) If the prior year is the 2009-2010 fiscal year or
 509 later, the taxable value certified to the Commissioner of
 510 Education pursuant to sub-subparagraph (a)1.a.

511 (B) If the prior year is the 2008-2009 fiscal year or
 512 earlier, the taxable value certified pursuant to the final
 513 calculation as specified in former paragraph (b) as that
 514 paragraph existed in the prior year.

515 (III) "Final taxable value" means the district's taxable
 516 value as certified by the property appraiser pursuant to s.
 517 193.122(2) or (3), if applicable. This is the certification that
 518 reflects all final administrative actions of the value
 519 adjustment board.

520 b. For purposes of this subsection and with respect to

521 each year certified pursuant to sub-subparagraph (a)2.a., if the
 522 district's prior year preliminary taxable value is greater than
 523 the district's prior year final taxable value, the prior period
 524 unrealized required local effort funds are the difference
 525 between the district's prior year preliminary taxable value and
 526 the district's prior year final taxable value, multiplied by the
 527 prior year district required local effort millage. If the
 528 district's prior year preliminary taxable value is less than the
 529 district's prior year final taxable value, the prior period
 530 unrealized required local effort funds are zero.

531 c. For the 2016-2017 ~~2015-2016~~ fiscal year only, if a
 532 district's prior period unrealized required local effort funds
 533 and prior period district required local effort millage cannot
 534 be determined because such district's final taxable value has
 535 not yet been certified pursuant to s. 193.122(2) or (3), for the
 536 2016 ~~2015~~ tax levy, the Prior Period Funding Adjustment Millage
 537 for such fiscal year shall be levied, if not previously levied,
 538 in 2016 ~~2015~~ in an amount equal to 75 percent of such district's
 539 most recent unrealized required local effort for which a Prior
 540 Period Funding Adjustment Millage was determined as provided in
 541 this section. Upon certification of the final taxable value for
 542 the ~~2012, 2013, or 2014~~ and 2015 tax rolls in accordance with s.
 543 193.122(2) or (3), the Prior Period Funding Adjustment Millage
 544 levied in ~~2015 and 2016~~ and 2017 shall be adjusted to include
 545 any shortfall or surplus in the prior period unrealized required
 546 local effort funds that would have been levied in ~~2014 or 2015~~

547 or 2016, had the district's final taxable value been certified
548 pursuant to s. 193.122(2) or (3) for the ~~2014 or 2015~~ or 2016
549 tax levy. If this adjustment is made for a surplus, the
550 reduction in prior period millage may not exceed the prior
551 period funding adjustment millage calculated pursuant to
552 subparagraph 1. and sub-subparagraphs a. and b. and any
553 additional reduction shall be carried forward to the subsequent
554 fiscal year.

555 Section 12. The Legislature finds that this act fulfills
556 an important state interest.

557 Section 13. Except as otherwise expressly provided in this
558 act and except for this section, which shall take effect upon
559 this act becoming a law, this act shall take effect July 1,
560 2016.



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COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Local & Federal Affairs
 2 Committee
 3 Representative Avila offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. Effective October 1, 2016, paragraph (b) of
 8 subsection (3) of section 129.03, Florida Statutes, is amended
 9 to read:

10 129.03 Preparation and adoption of budget.—

11 (3) The county budget officer, after tentatively
 12 ascertaining the proposed fiscal policies of the board for the
 13 next fiscal year, shall prepare and present to the board a
 14 tentative budget for the next fiscal year for each of the funds
 15 provided in this chapter, including all estimated receipts,
 16 taxes to be levied, and balances expected to be brought forward



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17 and all estimated expenditures, reserves, and balances to be
18 carried over at the end of the year.

19 (b) Upon receipt of the tentative budgets and completion
20 of any revisions, the board shall prepare a statement
21 summarizing all of the adopted tentative budgets. The summary
22 statement must show, for each budget and the total of all
23 budgets, the proposed tax millages, balances, reserves, and the
24 total of each major classification of receipts and expenditures,
25 classified according to the uniform classification of accounts
26 adopted by the appropriate state agency. The board shall specify
27 the proportionate amount of the proposed county tax millage and
28 the proportionate amount of gross ad valorem taxes attributable
29 to the budgets of the sheriff, the property appraiser, the clerk
30 of the circuit court, the county comptroller, the tax collector,
31 and the supervisor of elections, respectively. The board shall
32 cause this summary statement to be advertised one time in a
33 newspaper of general circulation published in the county, or by
34 posting at the courthouse door if there is no such newspaper,
35 and the advertisement must appear adjacent to the advertisement
36 required pursuant to s. 200.065. The board may advertise the
37 summary statement in a newspaper or other publication more than
38 once and may post the statement on its website.

39 Section 2. Paragraph (f) of subsection (2) of section
40 192.0105, Florida Statutes, is amended to read:

41 192.0105 Taxpayer rights.--There is created a Florida
42 Taxpayer's Bill of Rights for property taxes and assessments to



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43 guarantee that the rights, privacy, and property of the
44 taxpayers of this state are adequately safeguarded and protected
45 during tax levy, assessment, collection, and enforcement
46 processes administered under the revenue laws of this state. The
47 Taxpayer's Bill of Rights compiles, in one document, brief but
48 comprehensive statements that summarize the rights and
49 obligations of the property appraisers, tax collectors, clerks
50 of the court, local governing boards, the Department of Revenue,
51 and taxpayers. Additional rights afforded to payors of taxes and
52 assessments imposed under the revenue laws of this state are
53 provided in s. 213.015. The rights afforded taxpayers to assure
54 that their privacy and property are safeguarded and protected
55 during tax levy, assessment, and collection are available only
56 insofar as they are implemented in other parts of the Florida
57 Statutes or rules of the Department of Revenue. The rights so
58 guaranteed to state taxpayers in the Florida Statutes and the
59 departmental rules include:

60 (2) THE RIGHT TO DUE PROCESS.—

61 (f) The right, in value adjustment board proceedings, to
62 have all evidence presented and considered at a public hearing
63 at the scheduled time, to be represented by a person specified
64 in s. 194.034(1)(a) (b) or (c) ~~an attorney or agent~~, to have
65 witnesses sworn and cross-examined, and to examine property
66 appraisers or evaluators employed by the board who present
67 testimony (see ss. 194.034(1) ~~(a) and (c)~~ and (4), and
68 194.035(2)).



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69 Section 3. Subsection (1) of section 193.073, Florida
70 Statutes, is amended to read:

71 (1) Upon discovery that an erroneous or incomplete
72 statement of personal property has been filed by a taxpayer or
73 that all the property of a taxpayer has not been returned for
74 taxation, the property appraiser shall proceed as follows:

75 (a)1. Mail a notice informing the taxpayer that an
76 erroneous or incomplete statement of personal property has been
77 filed. Such notice shall be mailed at any time prior to the
78 mailing of the notice provided for in s. 200.069.

79 2. After the mailing of the notice under 1., the taxpayer
80 shall have 30 days to provide the property appraiser with a
81 complete return submitting all property for taxation.

82 (b)(a)—If the property is personal property and is
83 discovered before April 1, the property appraiser shall make an
84 assessment in triplicate. After attaching the affidavit and
85 warrant required by law, the property appraiser shall dispose of
86 the additional assessment roll in the same manner as provided by
87 law.

88 (c)(b)—If the property is personal property and is
89 discovered on or after April 1, or is real property discovered
90 at any time, the property shall be added to the assessment roll
91 then in preparation.

92 Section 4. Subsection (1) of section 193.122, Florida
93 Statutes, is amended to read:



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94 193.122 Certificates of value adjustment board and
95 property appraiser; extensions on the assessment rolls.-

96 (1) The value adjustment board shall certify each
97 assessment roll upon order of the board of county commissioners
98 pursuant to s. 197.323, if applicable, and again after all
99 hearings required by s. 194.032 have been held. These
100 certificates shall be attached to each roll as required by the
101 Department of Revenue. Notwithstanding an extension of the roll
102 pursuant to s. 197.323, the value adjustment board must complete
103 all hearings required by s. 194.032 and certify the assessment
104 roll to the property appraiser by June 1 following the tax year
105 in which the assessments were made. The June 1 requirement shall
106 be extended until December 1 in each year in which the number of
107 petitions filed increased by more than 10 percent over the
108 previous year.

109 Section 5. The amendments made by this act to ss. 193.122
110 and 194.032(4), Florida Statutes, first apply beginning with the
111 2018 tax roll.

112 Section 6. Subsection (11) of section 193.155, is created
113 to read:

114 (11) A taxpayer may appeal the implementation of the
115 assessment cap on his or her property for the current tax year
116 by filing a petition with the value adjustment board within 25
117 days of the mailing of the notice under s. 194.011(1).



Amendment No.

118 Section 7. Subsection (10) of section 193.1554, Florida
119 Statutes, is amended, and subsection (11) is added to that
120 section, to read:

121 193.1554 Assessment of nonhomestead residential property. -

122 (10) If the property appraiser determines that for any year
123 or years within the prior 10 years a person or entity who was
124 not entitled to the property assessment limitation granted under
125 this section was granted the property assessment limitation, the
126 property appraiser making such determination shall record in the
127 public records of the county a notice of tax lien against any
128 property owned by that person or entity in the county, and such
129 property must be identified in the notice of tax lien. Such
130 property that is situated in this state is subject to the unpaid
131 taxes, plus a penalty of 50 percent of the unpaid taxes for each
132 year and 15 percent interest per annum. If the property
133 assessment limitation is improperly granted as a result of a
134 clerical mistake or an omission by the property appraiser, the
135 person or entity improperly receiving the property assessment
136 limitation shall not be assessed penalty and interest. Before
137 any such lien may be filed, the owner so notified must be given
138 30 days to pay the taxes and any applicable penalties and
139 interest.

140 (11) A taxpayer may appeal the implementation of the
141 assessment cap on his or her property for the current tax year
142 by filing a petition with the value adjustment board within 25
143 days of the mailing of the notice under s. 194.011(1).



Amendment No.

144 Section 8. Subsection (10) of section 193.1555, Florida
145 Statutes, is amended, and subsection (11) is added to that
146 section, to read:

147 193.1555 Assessment of certain residential and
148 nonresidential real property.—

149 (10) If the property appraiser determines that for any year
150 or years within the prior 10 years a person or entity who was
151 not entitled to the property assessment limitation granted under
152 this section was granted the property assessment limitation, the
153 property appraiser making such determination shall record in the
154 public records of the county a notice of tax lien against any
155 property owned by that person or entity in the county, and such
156 property must be identified in the notice of tax lien. Such
157 property that is situated in this state is subject to the unpaid
158 taxes, plus a penalty of 50 percent of the unpaid taxes for each
159 year and 15 percent interest per annum. If the property
160 assessment limitation is improperly granted as a result of a
161 clerical mistake or an omission by the property appraiser, the
162 person or entity improperly receiving the property assessment
163 limitation shall not be assessed penalty and interest. Before
164 any such lien may be filed, the owner so notified must be given
165 30 days to pay the taxes and any applicable penalties and
166 interest.

167 (11) A taxpayer may appeal the implementation of the
168 assessment cap on his or her property for the current tax year



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169 by filing a petition with the value adjustment board within 25
170 days of the mailing of the notice under s. 194.011(1).

171 Section 9. Subsections (3) and (4) of section 194.011,
172 Florida Statutes, are amended to read:

173 194.011 Assessment notice; objections to assessments.—

174 (3) A petition to the value adjustment board must be in
175 substantially the form prescribed by the department.

176 Notwithstanding s. 195.022, a county officer may not refuse to
177 accept a form provided by the department for this purpose if the
178 taxpayer chooses to use it. A petition to the value adjustment
179 board must be signed by the taxpayer or be accompanied at the
180 time of filing by the taxpayer's written authorization or power
181 of attorney, unless the person filing the petition is listed in
182 s. 194.034(1)(a). A person listed in s. 194.034(1)(a) may file a
183 petition with a value adjustment board without the taxpayer's
184 signature or a letter of authorization from the taxpayer by
185 certifying under penalties of perjury that he or she has
186 authorization to file the petition on behalf of the taxpayer. If
187 a taxpayer notifies the value adjustment board that a petition
188 has been filed for the taxpayer's property without his or her
189 consent, the value adjustment board may require the person
190 filing the petition to provide a letter of authorization from
191 the taxpayer, authorizing such agent to proceed with the appeal
192 before a hearing is held. If the value adjustment board finds
193 that a person listed in s. 194.034(1)(a) willfully and knowingly
194 filed a petition which was not authorized by the taxpayer, the



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195 value adjustment board shall require such person to provide a
196 taxpayer's written authorization for representation to the value
197 adjustment board clerk before any petition that person files is
198 heard, for a period of one year from imposition of such
199 requirement by the value adjustment board. A power of attorney
200 or written authorization is valid for 1 tax year and a new power
201 of attorney or written authorization by the taxpayer is required
202 for each subsequent tax year. A petition shall also describe the
203 property by parcel number and shall be filed as follows:

204 (a) The clerk of the value adjustment board and the
205 property appraiser shall have available and shall distribute
206 forms prescribed by the Department of Revenue on which the
207 petition shall be made. Such petition shall be sworn to by the
208 petitioner.

209 (b) The completed petition shall be filed with the clerk
210 of the value adjustment board of the county, who shall
211 acknowledge receipt thereof and promptly furnish a copy thereof
212 to the property appraiser.

213 (c) The petition shall state the approximate time
214 anticipated by the taxpayer to present and argue his or her
215 petition before the board.

216 (d) The petition may be filed, as to valuation issues, at
217 any time during the taxable year on or before the 25th day
218 following the mailing of notice by the property appraiser as
219 provided in subsection (1). With respect to an issue involving
220 the denial of an exemption, an agricultural or high-water



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221 recharge classification application, an application for
222 classification as historic property used for commercial or
223 certain nonprofit purposes, or a deferral, the petition must be
224 filed at any time during the taxable year on or before the 30th
225 day following the mailing of the notice by the property
226 appraiser under s. 193.461, s. 193.503, s. 193.625, s. 196.173,
227 or s. 196.193 or notice by the tax collector under s. 197.2425.

228 (e) A condominium association, cooperative association, or
229 any homeowners' association as defined in s. 723.075, with
230 approval of its board of administration or directors, may file
231 with the value adjustment board a single joint petition on
232 behalf of any association members who own parcels of property
233 which the property appraiser determines are substantially
234 similar with respect to location, proximity to amenities, number
235 of rooms, living area, and condition. The condominium
236 association, cooperative association, or homeowners' association
237 as defined in s. 723.075 shall provide the unit owners with
238 notice of its intent to petition the value adjustment board and
239 shall provide at least 20 days for a unit owner to elect, in
240 writing, that his or her unit not be included in the petition.

241 (f) An owner of contiguous, undeveloped parcels may file
242 with the value adjustment board a single joint petition if the
243 property appraiser determines such parcels are substantially
244 similar in nature.

245 (g) An owner of multiple tangible personal property
246 accounts may file with the value adjustment board a single joint



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247 petition if the property appraiser determines that the tangible
248 personal property accounts are substantially similar in nature.

249 (h) The individual, agent, or legal entity that signs the
250 petition becomes an agent of the taxpayer for the purpose of
251 serving process to obtain personal jurisdiction over the
252 taxpayer for the entire value adjustment board proceedings,
253 including any appeals of a board decision by the property
254 appraiser pursuant to s. 194.036. This does not authorize the
255 individual, agent, or legal entity to receive or access the
256 taxpayer's confidential information without such written
257 authorization from the taxpayer.

258 (4) (a) At least 15 days before the hearing the petitioner
259 shall provide to the property appraiser a list of evidence to be
260 presented at the hearing, together with copies of all
261 documentation to be considered by the value adjustment board and
262 a summary of evidence to be presented by witnesses.
263 Notwithstanding the provisions of this subsection, no petitioner
264 may present for consideration, nor may a board or special
265 magistrate accept for consideration, evidence that was requested
266 of the petitioner in writing by the property appraiser of which
267 the petitioner had knowledge and denied to the property
268 appraiser.

269 (b) No later than 7 days before the hearing, if the
270 petitioner has provided the information required under paragraph
271 (a), and if requested in writing by the petitioner, the property
272 appraiser shall provide to the petitioner a list of evidence to



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273 be presented at the hearing, together with copies of all
274 documentation to be considered by the value adjustment board and
275 a summary of evidence to be presented by witnesses. The evidence
276 list must contain the property appraiser's property record card
277 for the property that is the subject of the petition as well as
278 the property record cards for any comparable properties listed
279 as evidence, unless the property record cards are available
280 online from the property appraiser. If the petitioner's property
281 record card or the comparable property record cards listed as
282 evidence are available online from the property appraiser, the
283 property appraiser must notify the petitioner of the cards that
284 are available online but is not required to provide such card or
285 cards. The property appraiser must redact any confidential
286 information contained on any property record card before it is
287 submitted to the petitioner. ~~Failure of the property appraiser~~
288 ~~to timely comply with the requirements of this paragraph shall~~
289 ~~result in a rescheduling of the hearing.~~

290 (c) Evidence that is confidential under law remains
291 confidential until it is submitted to the value adjustment board
292 for consideration and admission into the record.

293 Section 10. Subsection (2) of section 194.014, Florida
294 Statutes, is amended to read:

295 194.014 Partial payment of ad valorem taxes; proceedings
296 before value adjustment board.-

297 (2) If the value adjustment board or the property
298 appraiser determines that the petitioner owes ad valorem taxes



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299 in excess of the amount paid, the unpaid amount accrues interest
300 at an annual percentage rate equal to the bank prime loan rate
301 on July 1, or the first business day thereafter if July 1 is a
302 Saturday, Sunday, or legal holiday, of the tax ~~the rate of 12~~
303 ~~percent per year, beginning on~~ ~~from~~ the date the taxes became
304 delinquent pursuant to s. 197.333 until the unpaid amount is
305 paid. If the value adjustment board or the property appraiser
306 determines that a refund is due, the overpaid amount accrues
307 interest at an annual percentage rate equal to the bank prime
308 loan rate on July 1, or the first business day thereafter if
309 July 1 is a Saturday, Sunday, or legal holiday, of the tax ~~the~~
310 ~~rate of 12 percent per year, beginning on~~ ~~from~~ the date the
311 taxes became delinquent pursuant to s. 197.333 until a refund is
312 paid. Interest does not accrue on amounts paid in excess of 100
313 percent of the current taxes due as provided on the tax notice
314 issued pursuant to s. 197.322. For purposes of this subsection,
315 the term "bank prime loan rate" means the average predominant
316 prime rate quoted by commercial banks to large businesses as
317 determined by the Board of Governors of the Federal Reserve
318 System.

319 Section 11. Effective July 1, 2017, section 194.015,
320 Florida Statutes, is amended to read:

321 194.015 Value adjustment board. ~~Each county shall have~~
322 ~~There is hereby created a value adjustment board consisting for~~
323 ~~each county, which shall consist of one member ~~two members~~ of~~
324 the governing body of the county as elected from the membership



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325 of the board of that said governing body, one of whom shall be
326 elected chairperson, and one member of the school board as
327 elected from the membership of the school board, and three ~~two~~
328 citizen members, one of whom shall be appointed by the governing
329 body of the county and must own homestead property within the
330 county, ~~and~~ one of whom shall ~~must~~ be appointed by the school
331 board and must own a business occupying commercial space located
332 within the school district, and one of whom shall be appointed
333 by the governing body of the county and must be a licensed real
334 estate appraiser who is a resident of the county. If a licensed
335 real estate appraiser is not available, another owner of
336 homestead or commercial property who is a resident of the county
337 may be appointed by the governing body of the county. The board
338 shall elect one of its members to serve as chair. The Department
339 of Business and Professional Regulation must provide continuing
340 education credits to appraiser members of value adjustment
341 boards. A citizen member may not be a member or an employee of
342 any taxing authority, and may not be a person who represents
343 property owners in any administrative or judicial review of
344 property taxes. ~~The members of the board may be temporarily~~
345 ~~replaced by other members of the respective boards on~~
346 ~~appointment by their respective chairpersons.~~ Any three members
347 shall constitute a quorum of the board, except that each quorum
348 must include at least one member of the said governing board, at
349 least one member of the school board, and at least one citizen
350 member and no meeting of the board shall take place unless a



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351 quorum is present. Members of the board may receive such per
352 diem compensation as is allowed by law for state employees ~~if~~
353 ~~both bodies elect to allow such compensation.~~ The clerk of the
354 governing body of the county shall be the clerk of the value
355 adjustment board. The board shall appoint private counsel who
356 has practiced law for over 5 years and who shall receive such
357 compensation as may be established by the board. The private
358 counsel may not represent the property appraiser, the tax
359 collector, any taxing authority, or any property owner in any
360 administrative or judicial review of property taxes. A ~~No~~
361 meeting of the board shall not take place unless counsel to the
362 board is present. Two-fifths of the expenses of the board shall
363 be borne by the district school board and three-fifths by the
364 district county commission.

365 Section 12. Paragraph (a) of subsection (2) of section
366 194.032, Florida Statutes, is amended, and subsection (4) is
367 added to that section, to read:

368 194.032 Hearing purposes; timetable.—

369 (2)(a) The clerk of the governing body of the county shall
370 prepare a schedule of appearances before the board based on
371 petitions timely filed with him or her. The clerk shall notify
372 each petitioner of the scheduled time of his or her appearance
373 at least 25 calendar days before the day of the scheduled
374 appearance. The notice must indicate whether the petition has
375 been scheduled to be heard at a particular time or during a
376 block of time. If the petition has been scheduled to be heard



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377 within a block of time, the beginning and ending of that block
378 of time must be indicated on the notice; however, as provided in
379 paragraph (b), a petitioner may not be required to wait for more
380 than a reasonable time, not to exceed 2 hours, after the
381 beginning of the block of time. ~~If the petitioner checked the~~
382 ~~appropriate box on the petition form to request a copy of the~~
383 ~~property record card containing relevant information used in~~
384 ~~computing the current assessment,~~ The property appraiser must
385 provide a the copy of the property record card containing
386 information relevant to the computation of the current
387 assessment, with confidential information redacted, to the
388 petitioner upon receipt of the petition from the clerk
389 regardless of whether the petitioner initiates evidence
390 exchange, unless the property record card is available online
391 from the property appraiser, in which case the property
392 appraiser must notify the petitioner that the property record
393 card is available online. ~~Upon receipt of the notice,~~ The
394 petitioner and the property appraiser may each reschedule the
395 hearing a single time for good cause ~~by submitting to the clerk~~
396 ~~a written request to reschedule, at least 5 calendar days before~~
397 ~~the day of the originally scheduled hearing.~~ As used in this
398 paragraph, the term "good cause" means circumstances beyond the
399 control of the person seeking to reschedule the hearing that
400 reasonably prevent the party from having adequate representation
401 at the hearing. Good cause includes, but is not limited to, the
402 failure by the property appraiser's office to comply with



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403 statutory evidence exchange deadlines. If the hearing is
404 rescheduled by the petitioner or the property appraiser, the
405 clerk shall notify the petitioner of the rescheduled time of his
406 or her appearance at least 15 calendar days before the day of
407 the rescheduled appearance, unless this notice is waived by both
408 parties.

409 (4) The board must hear all petitions, complaints,
410 appeals, and disputes and must submit the certified assessment
411 roll as required under s. 193.122 to the property appraiser each
412 year by June 1 of the tax year following the assessment date.
413 The June 1 requirement shall be extended until December 1 in
414 each year in which the number of petitions filed increased by
415 more than 10 percent over the previous year.

416 Section 13. Subsection (1) and subsection (2) of section
417 194.034, Florida Statutes, are amended to read:

418 194.034 Hearing procedures; rules.-

419 (1)(a) Petitioners before the board may be represented by
420 a corporate representative of the taxpayer, an attorney who is a
421 member of The Florida Bar, a real estate appraiser licensed
422 under chapter 475, a real estate broker licensed under chapter
423 475, or a certified public accountant licensed under chapter
424 473, retained by the taxpayer. Such person may ~~or agent and~~
425 present testimony and other evidence.

426 (b) A petitioner before the board may also be represented
427 by a person with a power of attorney to act on behalf of the
428 taxpayer pursuant to part II of chapter 709. Such person may



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429 present testimony and other evidence. The Department of Revenue
430 shall promulgate a form which meets the requirements of part II
431 of chapter 709 and authorizes a person to represent a taxpayer
432 for a single petition in a single tax year. The petitioner shall
433 not be required to use the Department's form to grant the power
434 of attorney.

435 (c) A petitioner before the board may also be represented
436 by a person with written authorization to act on behalf of the
437 taxpayer who receives no compensation. Such person may present
438 testimony and other evidence. The Department of Revenue shall
439 promulgate a form which authorizes an uncompensated person to
440 represent a taxpayer for a single petition in a single tax year.
441 The petitioner shall not be required to use the Department's
442 form to grant the authorization.

443 (d) The property appraiser or his or her authorized
444 representatives may be represented by an attorney in defending
445 the property appraiser's assessment or opposing an exemption and
446 may present testimony and other evidence.

447 (e) The property appraiser, each petitioner, and all
448 witnesses shall be required, upon the request of either party,
449 to testify under oath as administered by the chair ~~chairperson~~
450 of the board. Hearings shall be conducted in the manner
451 prescribed by rules of the department, which rules shall include
452 the right of cross-examination of any witness.

453 (f) ~~(b)~~ Nothing herein shall preclude an aggrieved taxpayer
454 from contesting his or her assessment in the manner provided by



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455 s. 194.171, whether or not he or she has initiated an action
456 pursuant to s. 194.011.

457 ~~(g)(e)~~—The rules shall provide that no evidence shall be
458 considered by the board except when presented during the time
459 scheduled for the petitioner's hearing or at a time when the
460 petitioner has been given reasonable notice; that a verbatim
461 record of the proceedings shall be made, and proof of any
462 documentary evidence presented shall be preserved and made
463 available to the Department of Revenue, if requested; and that
464 further judicial proceedings shall be as provided in s. 194.036.

465 ~~(h)(d)~~—Notwithstanding the provisions of this subsection,
466 no petitioner may present for consideration, nor may a board or
467 special magistrate accept for consideration, evidence testimony
468 ~~or other evidentiary materials~~ that was ~~were~~ requested of the
469 petitioner in writing by the property appraiser, at any time
470 during the assessment process and prior to the hearing, of which
471 the petitioner had knowledge and denied to the property
472 appraiser. This paragraph applies to a written request for
473 information made by the property appraiser under the
474 authorization of any statute.

475 ~~(i)(e)~~—Chapter 120 does not apply to hearings of the value
476 adjustment board.

477 ~~(j)(f)~~—An assessment may not be contested ~~until~~ unless a
478 return as required by s. 193.052 ~~has been~~ was timely filed. For
479 the purposes of this paragraph, "timely filed" means filed by
480 the deadline established in s. 193.062, or before the expiration



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481 of any extension granted under s. 193.063. If notice was sent
482 pursuant to s. 193.703(1)(a)1., a complete return must be
483 submitted under s. 193.703(1)(a)2. for the assessment to be
484 contested.

485 (2) In each case, except if the complaint is withdrawn by
486 the petitioner or if the complaint is acknowledged as correct by
487 the property appraiser, the value adjustment board shall render
488 a written decision. All such decisions shall be issued within 20
489 calendar days after the last day the board is in session under
490 s. 194.032. The decision of the board must contain findings of
491 fact and conclusions of law and must include reasons for
492 upholding or overturning the determination of the property
493 appraiser. Findings of fact must be based on admitted evidence
494 or a lack thereof. If a special magistrate has been appointed,
495 the recommendations of the special magistrate shall be
496 considered by the board. The clerk, upon issuance of a decision,
497 shall, on a form provided by the Department of Revenue, notify
498 each taxpayer and the property appraiser of the decision of the
499 board. This notification shall be by first-class mail or by
500 electronic means if selected by the taxpayer on the originally
501 filed petition. If requested by the Department of Revenue, the
502 clerk shall provide to the department a copy of the decision or
503 information relating to the tax impact of the findings and
504 results of the board as described in s. 194.037 in the manner
505 and form requested.



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506 Section 14. Subsection (1) of section 194.035, Florida
507 Statutes, is amended to read:
508 194.035 Special magistrates; property evaluators.—
509 (1) In counties having a population of more than 75,000,
510 the board shall appoint special magistrates for the purpose of
511 taking testimony and making recommendations to the board, which
512 recommendations the board may act upon without further hearing.
513 These special magistrates may not be elected or appointed
514 officials or employees of the county but shall be selected from
515 a list of those qualified individuals who are willing to serve
516 as special magistrates. Employees and elected or appointed
517 officials of a taxing jurisdiction or of the state may not serve
518 as special magistrates. The clerk of the board shall annually
519 notify such individuals or their professional associations to
520 make known to them that opportunities to serve as special
521 magistrates exist. The Department of Revenue shall provide a
522 list of qualified special magistrates to any county with a
523 population of 75,000 or less. Subject to appropriation, the
524 department shall reimburse counties with a population of 75,000
525 or less for payments made to special magistrates appointed for
526 the purpose of taking testimony and making recommendations to
527 the value adjustment board pursuant to this section. The
528 department shall establish a reasonable range for payments per
529 case to special magistrates based on such payments in other
530 counties. Requests for reimbursement of payments outside this
531 range shall be justified by the county. If the total of all



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532 requests for reimbursement in any year exceeds the amount
533 available pursuant to this section, payments to all counties
534 shall be prorated accordingly. If a county having a population
535 less than 75,000 does not appoint a special magistrate to hear
536 each petition, the person or persons designated to hear
537 petitions before the value adjustment board or the attorney
538 appointed to advise the value adjustment board shall attend the
539 training provided pursuant to subsection (3), regardless of
540 whether the person would otherwise be required to attend, but
541 shall not be required to pay the tuition fee specified in
542 subsection (3). A special magistrate appointed to hear issues of
543 exemptions and classifications, the application of assessment
544 limitations, or the denial of a tax deferral, shall be a member
545 of The Florida Bar with no less than 5 years' experience in the
546 area of ad valorem taxation. A special magistrate appointed to
547 hear issues regarding the valuation of real estate shall be a
548 state certified real estate appraiser with not less than 5
549 years' experience in real property valuation. A special
550 magistrate appointed to hear issues regarding the valuation of
551 tangible personal property shall be a designated member of a
552 nationally recognized appraiser's organization with not less
553 than 5 years' experience in tangible personal property
554 valuation. A special magistrate need not be a resident of the
555 county in which he or she serves. A special magistrate may not
556 represent a person before the board in any tax year during which
557 he or she has served that board as a special magistrate. Before



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558 appointing a special magistrate, a value adjustment board shall
559 verify the special magistrate's qualifications. The value
560 adjustment board shall ensure that the selection of special
561 magistrates is based solely upon the experience and
562 qualifications of the special magistrate and is not influenced
563 by the property appraiser. The special magistrate shall
564 accurately and completely preserve all testimony and, in making
565 recommendations to the value adjustment board, shall include
566 proposed findings of fact, conclusions of law, and reasons for
567 upholding or overturning the determination of the property
568 appraiser. The expense of hearings before magistrates and any
569 compensation of special magistrates shall be borne three-fifths
570 by the board of county commissioners and two-fifths by the
571 school board. When appointing special magistrates or scheduling
572 special magistrates for specific hearings, the board, board
573 attorney, and board clerk may not consider the dollar amount or
574 percentage of any assessment reductions recommended by any
575 special magistrate in the current year or in any previous year.

576 Section 15. Effective June 30, 2016, paragraph (e) of
577 subsection (4) of section 1011.62, Florida Statutes, is amended
578 to read:

579 1011.62 Funds for operation of schools.—If the annual
580 allocation from the Florida Education Finance Program to each
581 district for operation of schools is not determined in the
582 annual appropriations act or the substantive bill implementing



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583 the annual appropriations act, it shall be determined as
584 follows:

585 (4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The
586 Legislature shall prescribe the aggregate required local effort
587 for all school districts collectively as an item in the General
588 Appropriations Act for each fiscal year. The amount that each
589 district shall provide annually toward the cost of the Florida
590 Education Finance Program for kindergarten through grade 12
591 programs shall be calculated as follows:

592 (e) Prior period funding adjustment millage.—

593 1. There shall be an additional millage to be known as the
594 Prior Period Funding Adjustment Millage levied by a school
595 district if the prior period unrealized required local effort
596 funds are greater than zero. The Commissioner of Education shall
597 calculate the amount of the prior period unrealized required
598 local effort funds as specified in subparagraph 2. and the
599 millage required to generate that amount as specified in this
600 subparagraph. The Prior Period Funding Adjustment Millage shall
601 be the quotient of the prior period unrealized required local
602 effort funds divided by the current year taxable value certified
603 to the Commissioner of Education pursuant to sub-subparagraph
604 (a)1.a. This levy shall be in addition to the required local
605 effort millage certified pursuant to this subsection. Such
606 millage shall not affect the calculation of the current year's
607 required local effort, and the funds generated by such levy
608 shall not be included in the district's Florida Education



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609 Finance Program allocation for that fiscal year. For purposes of
610 the millage to be included on the Notice of Proposed Taxes, the
611 Commissioner of Education shall adjust the required local effort
612 millage computed pursuant to paragraph (a) as adjusted by
613 paragraph (b) for the current year for any district that levies
614 a Prior Period Funding Adjustment Millage to include all Prior
615 Period Funding Adjustment Millage. For the purpose of this
616 paragraph, there shall be a Prior Period Funding Adjustment
617 Millage levied for each year certified by the Department of
618 Revenue pursuant to sub-subparagraph (a)2.a. since the previous
619 year certification and for which the calculation in sub-
620 subparagraph 2.b. is greater than zero.

621 2.a. As used in this subparagraph, the term:

622 (I) "Prior year" means a year certified under sub-
623 subparagraph (a)2.a.

624 (II) "Preliminary taxable value" means:

625 (A) If the prior year is the 2009-2010 fiscal year or
626 later, the taxable value certified to the Commissioner of
627 Education pursuant to sub-subparagraph (a)1.a.

628 (B) If the prior year is the 2008-2009 fiscal year or
629 earlier, the taxable value certified pursuant to the final
630 calculation as specified in former paragraph (b) as that
631 paragraph existed in the prior year.

632 (III) "Final taxable value" means the district's taxable
633 value as certified by the property appraiser pursuant to s.
634 193.122(2) or (3), if applicable. This is the certification that



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635 reflects all final administrative actions of the value
636 adjustment board.

637 b. For purposes of this subsection and with respect to
638 each year certified pursuant to sub-subparagraph (a)2.a., if the
639 district's prior year preliminary taxable value is greater than
640 the district's prior year final taxable value, the prior period
641 unrealized required local effort funds are the difference
642 between the district's prior year preliminary taxable value and
643 the district's prior year final taxable value, multiplied by the
644 prior year district required local effort millage. If the
645 district's prior year preliminary taxable value is less than the
646 district's prior year final taxable value, the prior period
647 unrealized required local effort funds are zero.

648 c. For the 2016-2017 ~~2015-2016~~ fiscal year only, if a
649 district's prior period unrealized required local effort funds
650 and prior period district required local effort millage cannot
651 be determined because such district's final taxable value has
652 not yet been certified pursuant to s. 193.122(2) or (3), for the
653 2016 ~~2015~~ tax levy, the Prior Period Funding Adjustment Millage
654 for such fiscal year shall be levied, if not previously levied,
655 in 2016 ~~2015~~ in an amount equal to 75 percent of such district's
656 most recent unrealized required local effort for which a Prior
657 Period Funding Adjustment Millage was determined as provided in
658 this section. Upon certification of the final taxable value for
659 the ~~2012, 2013, or 2014~~ and 2015 tax rolls in accordance with s.
660 193.122(2) or (3), the Prior Period Funding Adjustment Millage



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661 levied in ~~2015 and~~ 2016 and 2017 shall be adjusted to include
662 any shortfall or surplus in the prior period unrealized required
663 local effort funds that would have been levied in ~~2014 or~~ 2015
664 or 2016, had the district's final taxable value been certified
665 pursuant to s. 193.122(2) or (3) for the ~~2014 or~~ 2015 or 2016
666 tax levy. If this adjustment is made for a surplus, the
667 reduction in prior period millage may not exceed the prior
668 period funding adjustment millage calculated pursuant to
669 subparagraph 1. and sub-subparagraphs a. and b. and any
670 additional reduction shall be carried forward to the subsequent
671 fiscal year.

672 Section 16. The following rules of the Department of
673 Revenue are nullified and of no further force or effect:

674 (1) Rule 12D-9.020(1), (2), and (8), Florida Administrative
675 Code, relating to Exchange of Evidence.

676 (2) Rule 12D-9.025(4)(a) and (f), Florida Administrative
677 Code, relating to Procedures for Conducting a Hearing;
678 Presentation of Evidence; Testimony of Witnesses.

679 (3) Rule 12D-9.019(4) and (5), Florida Administrative Code,
680 relating to Scheduling and Notice of a Hearing.

681 Section 17. The Legislature finds that this act fulfills
682 an important state interest.

683 Section 18. Except as otherwise expressly provided in this
684 act and except for this section, which shall take effect upon
685 this act becoming a law, this act shall take effect July 1,
686 2016.



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

Remove lines 2-39 and insert:

An act relating to ad valorem taxation; amending s. 129.03, F.S.; revising the information required to be included on summaries of adopted tentative budgets; authorizing a summary statement to be published more than once in specified locations; amending s. 192.0105, F.S.; conforming provisions to changes made by the act; amending s. 193.073, F.S.; establishing procedures for the revision of an erroneous or incomplete personal property tax return; amending s. 193.122, F.S.; establishing deadlines for value adjustment boards to complete final assessment roll certifications; providing applicability; amending s. 193.155, F.S.; confirming the right of taxpayers to appeal the application of the assessment cap on homestead property to the value adjustment board; amending s. 193.1554, F.S.; confirming the right of taxpayers to appeal the application of the assessment cap on nonhomestead residential property to the value adjustment board; allowing for the waiver of penalties and interest; allowing for a taxpayers to pay taxes, penalties, and interest within 30 days to avoid the filing of a lien; amending s. 193.1555, F.S.; confirming the right of taxpayers to appeal the application of the assessment cap on certain residential and nonresidential property to the



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713 value adjustment board; allowing for the waiver of penalties and
714 interest; allowing for a taxpayers to pay taxes, penalties, and
715 interest within 30 days to avoid the filing of a lien; amending
716 s. 194.011, F.S.; revising the procedures for filing petitions
717 to the value adjustment board; revising the procedures used
718 during a value adjustment board hearing; revising the
719 documentation required to be on evidence lists during value
720 adjustment board hearings; confirming the confidentiality of
721 certain documents; amending s. 194.014, F.S.; revising the
722 interest rate upon which certain unpaid and overpaid ad valorem
723 taxes accrue; defining the term "bank prime loan rate"; amending
724 s. 194.015, F.S.; revising the selection procedures for
725 appointment to a value adjustment board; requiring continuing
726 education for appraiser members; amending s. 194.032, F.S.;
727 revising requirements for the provision of property record cards
728 to a petitioner; requiring the petitioner or property appraiser
729 to show good cause to reschedule a hearing related to an
730 assessment; requiring value adjustment boards to address issues
731 concerning assessment rolls by a time certain; providing
732 applicability; amending s. 194.034, F.S.; revising the
733 authorization required for various entities that may represent a
734 taxpayer before the value adjustment board; revising provisions
735 relating to findings of fact; confirming that evidence that was
736 previously requested of a taxpayer in writing and not provided
737 to the property appraiser may not be admitted in a value
738 adjustment board hearing; clarifying that a taxpayer may not





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739 appeal a tangible personal property tax exemption to the value
740 adjustment board unless they filed a timely return which was not
741 found to be erroneous or incomplete; amending s. 194.035, F.S.;
742 specifying that certain petitions shall be heard by an attorney
743 special magistrate; prohibiting consideration to be given in the
744 appointment of special magistrates to assessment reductions
745 recommended by a special magistrate; amending s. 1011.62, F.S.;
746 revising the dates for purposes of computing each school
747 district's required local effort; repealing certain Rules
748 promulgated by the Department of Revenue; providing a finding of
749 important state interest; providing effective dates.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 709 City of Tallahassee, Leon County
SPONSOR(S): Williams
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	9 Y, 0 N	Walker	Miller
2) Business & Professions Subcommittee	11 Y, 0 N	Butler	Anstead
3) Local & Federal Affairs Committee		Walker 	Kiner 

SUMMARY ANALYSIS

In 2008, the Legislature enacted a special act to authorize the issuance of temporary permits for the sale of alcoholic beverages at outdoor events in downtown Tallahassee. The act defined the boundaries of the downtown area of Tallahassee, including parts of Florida A&M University, where alcoholic beverages may be served and consumed during temporary events.

The bill revises the boundaries covered by the temporary permit to include Bragg Memorial Stadium on the Florida A&M University campus.

The Economic Impact Statement filed for the bill projects an indeterminate increase in sales tax revenues.

The bill takes effect upon becoming law.

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) may apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Division of Alcoholic Beverages and Tobacco (Division) of the Department of Business and Professional Regulation (DBPR) is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of alcoholic beverages. Chapters 561-565 and 567-568, F.S., comprise Florida's Beverage Law.

A nonprofit civic organization may apply for up to three temporary alcoholic beverage permits for events lasting 3 days or less, subject to any other state, municipal, or county ordinance time restrictions for selling alcoholic beverages.¹ Each permit requires that the alcoholic beverages may only be consumed on the premises.

In 2008, the Legislature enacted ch. 2008-294, Laws of Florida, ("the Act") to authorize the Division to issue a temporary permit authorizing the sale of alcoholic beverages for consumption on the premises at outdoor events on public rights-of-way in the downtown area of Tallahassee. The Act defined the boundaries of the downtown area of Tallahassee, where the temporary permits would allow the consumption of alcoholic beverages, and included portions of Florida A&M University.

The Act increased the number of temporary food service permits available to a nonprofit civic organization beyond the limits under general law, so long as the temporary event is located within the area specified by the Act. A nonprofit civic organization may be issued up to 15 temporary permits per calendar year, valid for up to three days, in addition to the three temporary permits authorized in general law.

Effect of Proposed Changes

The bill amends ch. 2008-294, Laws of Florida, revising the boundaries of the downtown area of Tallahassee to include Bragg Memorial Stadium on the Florida A&M University campus. This expands the area of the temporary alcoholic beverages permits created by the Act in 2008, and authorizes the Division to issue additional temporary permits to a nonprofit civic organization to sell alcoholic beverages in the newly expanded area.

The Economic Impact Statement projects the bill would slightly increase sales tax revenue due to increased sales on the campus of Florida A&M University during special events.² The Statement also anticipates the potential for local business growth due to the expansion of the college football and special events markets at Florida A&M University.

B. SECTION DIRECTORY:

Section 1. Amends ch. 2008-294, Laws of Florida, revising the boundaries of the downtown area of Tallahassee to expand the area subject to the exemption from s. 561.422, F.S., authorizing the Division to issue additional temporary permits for a nonprofit civic organization to sell alcoholic beverages on the premises at outdoor events on public right-of-way.

Section 2. Provides that the bill shall take effect upon becoming law.

¹ s. 561.422, F.S.

² Economic Impact Statement for HB 709 (2016).

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? October 16, 2015

WHERE? *Tallahassee Democrat*, a daily newspaper published in Leon County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) may apply to this bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

Rep. Williams
HB 709 LB

TALLAHASSEE DEMOCRAT
Tallahassee.com
A GANNETT COMPANY

FLORIDA A&M UNIVERSITY
PO BOX 7238
TALLAHASSEE, FL 32314

STATE OF FLORIDA COUNTY OF LEON:

Before the undersigned authority personally appeared Kristina Balytova, who on oath says that he or she is a Legal Advertising Representative of the Tallahassee Democrat, a daily newspaper published at Tallahassee in Leon County, Florida; that the attached copy of advertisement, being a Legal Ad in the matter of

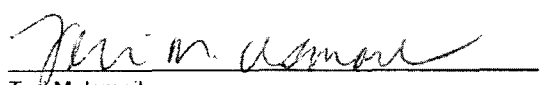
NOTICE

In the Second Judicial Circuit Court was published in said newspaper in the issues of:

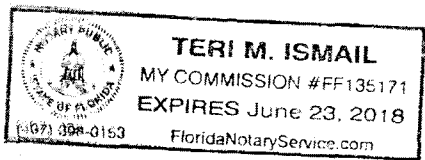
10/16/15

Affiant further says that the said Tallahassee Democrat is a newspaper published at Tallahassee, in the said Leon County, Florida, and that the said newspaper has heretofore been continuously published in said Leon County, Florida each day and has been entered as periodicals matter at the post office in Tallahassee, in said Leon County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or coporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 19th of October 2015, by



Teri M. Ismail
Notary Public for the State of Florida



NOTICE OF LEGISLATION TO WHOM IT MAY CONCERN: Notice is hereby given of the intent to apply to the 2016 Legislature, or 2016 Legislative Sessions, or 20156 legislature and any Special or Extended Sessions, for passage of an act amending Chapter 2008-294, Laws of Florida to expand the boundaries of the downtown Tallahassee area designated for purposes of temporary permits for a nonprofit civic organization to sell alcoholic beverages for consumption on the premises and providing an effective date.
PUBLICATION: 10/16/2015

0000785398-01

NOTICE OF LEGISLATION TO WHOM IT MAY CONCERN: Notice is hereby given of the intent to apply to the 2016 Legislature, or 2016 Legislative Sessions, or 20156 legislature and any Special or Extended Sessions, for passage of an act amending Chapter 2008-294, Laws of Florida to expand the boundaries of the downtown Tallahassee area designated for purposes of temporary permits for a nonprofit civic organization to sell alcoholic beverages for consumption on the premises and providing an effective date.
PUBLICATION: 10/16/2015

0000785398-01

**HOUSE OF REPRESENTATIVES
2016 LOCAL BILL CERTIFICATION FORM**

BILL #: HB 709
SPONSOR(S): Alan Williams
RELATING TO: City of Tallahassee, FL
[Indicate Area Affected (City, County, or Special District) and Subject]
NAME OF DELEGATION: Leon County
CONTACT PERSON: Alan Williams
PHONE NO.: (850) 717-5008 **E-Mail:** alan.williams@myfloridahouse.gov

I. House local bill policy requires the following steps must occur before a committee or subcommittee of the House considers a local bill:

- (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level;
- (2) The legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and
- (3) The bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting.
- (4) An Economic Impact Statement for local bills must be prepared at the local level and submitted to the Local Government Affairs Subcommittee. Under House policy, no local bill will be considered by a committee or subcommittee without an Economic Impact Statement.

(1) Does the delegation certify the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES NO

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES NO

Date hearing held: 09/21/2015

Location: Leon County Commission Chambers, Tallahassee, FL

(3) Was this bill formally approved by a majority of the delegation members?

YES NO

(4) Was an Economic Impact Statement prepared at the local level and submitted to the Local Government Affairs Subcommittee?

YES NO

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES NO DATE October 12, 2015

Where? Tallahassee Democrat County Leon

Referendum in lieu of publication: YES NO

Date of Referendum _____

III. Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES NO

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES NO

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES NO

Please submit this completed, original form to the Local Government Affairs Subcommittee.



Delegation Chair (Original Signature)

November 20, 2015

Date

William Montford

Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES
2016 ECONOMIC IMPACT STATEMENT FORM

****Read all instructions carefully.****

House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local Government Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.

BILL #: HB 709

SPONSOR(S): Alan Williams

RELATING TO: City of Tallahassee

[Indicate Area Affected (City, County or Special District) and Subject]

I. REVENUES:

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 16-17</u>	<u>FY 17-18</u>
Revenue decrease due to bill:	\$ <u>-0-</u>	\$ <u>-0-</u>
Revenue increase due to bill:	\$ <u>-0-</u>	\$ <u>-0-</u>

II. COST:

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY 16-17</u>	<u>FY 17-18</u>
	\$ <u>-0-</u>	\$ <u>-0-</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

There could perhaps be a small increase in sales tax revenue from slightly increased sales.

However, the amount would be very slight given the small number of events that would be included in the expanded area. There would be no cost increase to the sale due to the passage of this legislation.

III. FUNDING SOURCE(S):

State the specific sources from which funding will be received, for example, license plate fees, state funds, borrowed funds, or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 16-17</u>	<u>FY 17-18</u>
Local:	\$ <u>-0-</u>	\$ <u>-0-</u>
State:	\$ <u>-0-</u>	\$ <u>-0-</u>
Federal:	\$ <u>-0-</u>	\$ <u>-0-</u>

IV. ECONOMIC IMPACT:

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: Individuals benefit from expanded selections at local college football games and special events.
2. Advantages to Businesses: Local businesses benefit from expanding the economy surrounding local college football and other special events.
3. Advantages to Government: N/A

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals: N/A

2. Disadvantages to Businesses:

N/A

3. Disadvantages to Government:

N/A

V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:

N/A

VI. SPECIFIC DATA USED IN REACHING ESTIMATES:

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

N/A

VII. CERTIFICATION BY PREPARER

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY:



[Must be signed by Preparer]

Print preparer's name:

David C. Self, II

November 20, 2015

Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

Associate General Counsel

REPRESENTING:

Florida A&M University

PHONE:

(850)599-3591

E-MAIL ADDRESS:

david.self@famu.edu

A bill to be entitled

An act relating to the City of Tallahassee, Leon County; amending chapter 2008-294, Laws of Florida; revising the boundaries of the downtown area for purposes of temporary permits for a nonprofit civic organization to sell alcoholic beverages for consumption on the premises at outdoor events on public right-of-way in the downtown area of Tallahassee; providing an effective date.

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

Section 1. Subsection (1) of section 1 of chapter 2008-294, Laws of Florida, is amended to read:

Section 1. (1) Notwithstanding any other provision of law, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation may issue to a bona fide nonprofit civic organization, upon application and presentation of a valid street-closure permit issued by the City of Tallahassee, a temporary permit authorizing the sale of alcoholic beverages for consumption on the premises at outdoor events on public right-of-way in the downtown area of Tallahassee. Any such nonprofit civic organization may be issued up to 15 temporary permits per calendar year, and each temporary permit is valid for up to 3 days. For purposes of this act, the downtown area of Tallahassee is that area beginning at the

27 intersection of Wahnish Way and West Orange Avenue, running
 28 north along Wahnish Way to Okaloosa Street; then west on
 29 Okaloosa Street to Perry Street; then north on Perry Street to
 30 Gamble Street; then east on Gamble Street to Wahnish Way,
 31 Railroad Avenue, and Macomb Street; then north along Wahnish
 32 Way, Railroad Avenue, and Macomb Street to West Park Avenue;~~τ~~
 33 then east to North Meridian Street;~~τ~~ then south to Apalachee
 34 Parkway;~~τ~~ then east to Suwannee Street;~~τ~~ then south to Myers
 35 Park Drive;~~τ~~ then east to Golf Terrace Drive;~~τ~~ then south to
 36 East Magnolia Drive;~~τ~~ then west to South Meridian Street;~~τ~~ then
 37 south to East Orange Avenue;~~τ~~ then west to the point of
 38 beginning at the intersection of Wahnish Way and West Orange
 39 Avenue, the total area encompassing approximately 1.5 square
 40 miles.

41 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 885 Residential Facilities
SPONSOR(S): Health Innovation Subcommittee, Avila
TIED BILLS: IDEN./SIM. **BILLS:** SB 1174

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee	12 Y, 0 N	McElroy	Poche
2) Local & Federal Affairs Committee		Kiner <i>KLK</i>	Kiner <i>KLK</i>

SUMMARY ANALYSIS

A community residential home is a home consisting of 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents. Pursuant to s. 419.001(3)(c), F.S., a community residential home may not be constructed within a radius of 1,200 feet of another such home or within a radius of 500 feet of an area of single-family zoning. Similarly, pursuant to 419.001(2), F.S., a home of six or fewer residents which otherwise meets the definition of a community residential home may not be constructed within a radius of 1,000 feet of another such home. The statute, however, is silent as to which zoning requirement applies when determining the proper distance between a community residential home and a home of six or fewer residents which otherwise meets the definition of a community residential home.

CS/HB 885 amends s. 419.001, F.S., to prohibit a community residential home and a home of six or fewer residents which otherwise meets the definition of a community residential home from being located within a radius of 1,200 feet of each other. The bill does not impact the status of any community residential home or home of six or fewer residents which otherwise meets the definition of a community residential home permitted and operating as of July 1, 2016.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Community Residential Homes

Historically, community housing options for persons with disabilities, frail elderly persons, dependent or delinquent children, and persons with mental illnesses have been limited. Although the transition from providing services in large institutions to community-based programs began in the 1970's¹, the availability of safe, appropriate, and affordable housing in Florida has been an ongoing challenge. The primary obstacle was the opposition to establishing affordable housing or housing for persons with disabilities or special needs in residential neighborhoods. In an attempt to address this issue the Legislature enacted s. 419.001, F.S., which establishes the siting requirements applicable to local governments for community residential homes.

A community residential home is a home consisting of 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.² Residency in a community residential home is limited to individuals who qualify as:

- "Developmentally disabled," as defined in s.393.063, F.S., which includes a person with a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely;
- A "frail elder" as defined in s. 429.65(9), F.S., which includes a functionally impaired elderly person who is 60 years of age or older and who has physical or mental limitations that restrict the person's ability to perform the normal activities of daily living and that impede the person's capacity to live independently;
- "Handicapped" pursuant to s. 760.22(7)(a), F.S., which includes a person who has a physical or mental impairment which substantially limits one or more major life activities, or he or she has a record of having, or is regarded as having, such physical or mental impairment;
- A nondangerous person who has a "mental illness" as defined in s. 394.455(18), F.S., which includes an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living; or
- A child who is found to be dependent by the court pursuant to ss. 39.01(14), and 984.03 F.S., and a "child in need of services" as defined in ss. 984.03(9) and 985.03(8), F.S.

Community residential homes must be licensed by the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, the Department of Children and Families, or the Agency for Health Care Administration (collectively the "licensing entity").³

¹ Normalization and deinstitutionalization have long been held to provide benefits to individuals with special needs. Normalization is a social science theory based upon the proposition "that the quality of life increases as an individual's access to culturally typical activities and settings increases." Deinstitutionalization seeks to remove individuals from placement in the more restrictive environment of institutions to the less restrictive environment of mainstream society. Working in concert these two principles encourage the development of community-based living arrangements for individuals with special needs. *Normalization and Deinstitutionalization of Mentally Retarded Individuals: Controversy and Facts*, American Psychologist, August 1987, Vol 42, No. 8,809-816.

² Section 419.001, F.S.

³ Section 419.001(1)(b), F.S.

Local Government Approval of Proposed Community Residential Homes

Local government is responsible for the site approval of a proposed community residential home. A sponsoring agency⁴ is required to notify the chief executive officer of the local government in writing when a site for a community residential home has been selected in an area zoned for multifamily use.⁵ The notice must include the address of the site, the residential licensing category, the number of residents, and the community support requirements of the program.⁶ The notice must also contain a statement from the licensing entity indicating the need for the proposed home, the licensing status of the home, and how the home meets applicable licensing criteria for the safe care and supervision of the residents.⁷ The sponsoring agency must provide the local government with the most recently published data that identifies all community residential homes in the district in which the proposed site is to be located.⁸ The local government reviews the notification from the sponsoring agency in accordance with the zoning ordinance of the jurisdiction in which the community residential home is located.⁹ The local government then has up to 60 days to respond, and if no response is given within 60 days, the sponsoring agency may establish the home at the site in question.¹⁰

A local government may not deny the siting of a community residential home unless the site selected:¹¹

- Does not otherwise conform to existing zoning regulations applicable to other multifamily uses in the area;
- Does not meet licensing criteria ; or
- Would substantially alter the nature and character of the area by being located within a radius of:
 - 1,200 feet of another existing community residential home or
 - 500 feet of an area of single-family zoning.

Section 419.001, F.S. additionally addresses siting requirements for homes with six or fewer residents which otherwise meet the definition of a community residential home. These homes are considered a single-family unit and a noncommercial, residential use for the purpose of local laws and ordinances.¹² These homes are allowed in a single- or multi-family zoned area without approval by the local government provided:¹³

- The home does not exist within a radius of 1,000 feet of another such home; and
- The sponsoring agency notifies the local government at the time of occupancy that the home is licensed.

Section 419.001, F.S., is silent as to which zoning requirement (within a radius of 1,200 feet or within a radius of 1,000 feet) applies when determining the proper distance between a community residential home and a home with six or fewer residents which otherwise meets the definition of a community residential home.

⁴ Section 419.001(1)(e), F.S., defines "sponsoring agency" as an agency or unit of government, a profit or nonprofit agency, or any other person or organization which intends to establish or operate a community residential home.

⁵ Section 419.001(3)(a), F.S.

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Section 419.001(3)(b), F.S.

¹¹ Section 419.001(3)(c), F.S.

¹² Section 419.001(2), F.S.

¹³ Id.

Effect of Proposed Changes

CS/HB 885 amends s. 419.001, F.S., to prohibit a community residential home and a home of six or fewer residents which otherwise meets the definition of a community residential home from being located within a radius of 1,200 feet of each other. The bill expressly states that, for purposes of local land use and zoning determinations, the legal nonconforming use status of any community residential home lawfully permitted and operating as of July 1, 2016 is not affected, which "grandfathers in" those community residential homes and homes with six or fewer residents which otherwise meet the definition of a community residential home existing prior to the effective date of the bill.

B. SECTION DIRECTORY:

Section 1: Amends s. 419.001, F.S., relating to site selection of community residential homes.

Section 2: Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 19, 2016, the Health Innovation Subcommittee adopted a strike-all amendment to HB 885. The amendment:

- Clarified that a community residential home and a residential home of six or fewer residents may not be located within a radius of 1,200 feet of each other;
- Deleted an unnecessary provision requiring all distance requirements in s. 419.001, F.S., to be applied equally to all community residential homes and homes with 6 or fewer residents that otherwise meet the requirements of a community residential home, regardless of which state agency serves the residents of the home or homes.

This analysis is drafted to the committee substitute as passed by the Health Innovation Subcommittee.

1 A bill to be entitled
 2 An act relating to residential facilities; amending s.
 3 419.001, F.S.; specifying applicability of siting
 4 requirements for community residential homes;
 5 providing applicability with respect to local land use
 6 and zoning; providing an effective date.

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

9
 10 Section 1. Subsection (2) of section 419.001, Florida
 11 Statutes, is amended to read:

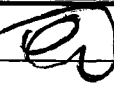

12 419.001 Site selection of community residential homes.—
 13 (2) Homes of six or fewer residents which otherwise meet
 14 the definition of a community residential home shall be deemed a
 15 single-family unit and a noncommercial, residential use for the
 16 purpose of local laws and ordinances. Homes of six or fewer
 17 residents which otherwise meet the definition of a community
 18 residential home shall be allowed in single-family or
 19 multifamily zoning without approval by the local government,
 20 provided that such homes are ~~shall~~ not be located within a
 21 radius of 1,000 feet of another existing such home with six or
 22 fewer residents or within a radius of 1,200 feet of another
 23 existing community residential home. Such homes with six or
 24 fewer residents are ~~shall~~ not be required to comply with the
 25 notification provisions of this section; provided that, before
 26 ~~prior to~~ licensure, the sponsoring agency provides the local

27 | government with the most recently published data compiled from
 28 | the licensing entities that identifies all community residential
 29 | homes within the jurisdictional limits of the local government
 30 | in which the proposed site is to be located in order to show
 31 | that there is neither a home of six or fewer residents which
 32 | otherwise meets the definition of a ~~no other~~ community
 33 | residential home ~~is~~ within a radius of 1,000 feet nor a
 34 | community residential home within a radius of 1,200 feet of the
 35 | proposed home ~~with six or fewer residents~~. At the time of home
 36 | occupancy, the sponsoring agency must notify the local
 37 | government that the home is licensed by the licensing entity.
 38 | For purposes of local land use and zoning determinations, this
 39 | subsection does not affect the legal nonconforming use status of
 40 | any community residential home lawfully permitted and operating
 41 | as of July 1, 2016.

42 | Section 2. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HR 1001 Anti-Israel Boycott, Divestment, & Sanctions Campaigns
SPONSOR(S): Berman and others
TIED BILLS: IDEN./SIM. **BILLS:** SR 1184

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Walker	 Kiner 
2) State Affairs Committee			

SUMMARY ANALYSIS

United States-Israel relations are characterized by support, cultural resonance, and cooperative mutual interests. In recent years, there has been an increase in anti-Semitism as well as violence in Israel and around the world. The Boycott, Divest, and Sanctions Movement advocates for economic and social pressures to be applied to force Israel to accede to the demands of Palestinian citizens. Although the organization has been condemned by many as anti-Semitic, it continues to have a presence in the United States, particularly on college campuses.

This resolution pronounces that the members of the Florida House of Representatives condemn the international Boycott, Divestment, and Sanctions Movement against the State of Israel and calls upon Florida governmental institutions to denounce hatred and discrimination.

Resolutions are not subject to action by the Governor, nor are they subject to the constitutional one-subject limitation or to the constitutional title requirements and do not have the effect of law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

United States-Israel relations

United States-Israel relations are characterized by support, cultural resonance, and cooperative mutual interests. In 1948, the United States was the first country to recognize Israel as a state.¹ Relations have evolved through legislation as well as diplomatic memoranda of understanding, resulting in important benefits to the United States including economic, scientific, military, and trade agreements.²

Today, Israel is America's "most reliable partner in the Middle East."³ The United States' continued commitment to Israel's security and well-being is demonstrated by its continued economic and security assistance to Israel.⁴

BDS Movement

The Boycott, Divest, and Sanctions Movement (BDS) began in 2005 with a call from Palestinian civil society to take action against Israel in response to perceived civil rights infractions against Palestinian citizens.⁵ The organization advocates for economic and social pressures to be applied to Israel in order to force a series of policy changes.⁶ The three main objectives of BDS are for Israel to: 1) relinquish control over the lands subsumed in June 1967 as a result of the Six-Day War; 2) recognize the rights of Palestinian citizens of Israel; and 3) grant Palestinian refugees a right to return to Israel.⁷ The BDS Movement is opposed to the two-state solution supported by the United States.⁸ The right of return if granted would cause the population demographics to shift, making Jewish people a minority in Israel.⁹ For this reason, the right of return is criticized as being an attempt to destroy the existence of a Jewish state.¹⁰

In order to promote third party decisions to boycott, divest, and sanction Israel, BDS runs a series of campaigns aimed at individual goals. The divestment campaign calls for withdrawal of capital investments in Israeli companies.¹¹ The consumer boycott campaign calls for consumers to stop purchasing the products of Israeli companies.¹² The sanction campaign calls for entities at the state,

¹ *U.S. Relations with Israel*, U.S. DEPARTMENT OF STATE, <http://www.state.gov/r/pa/ei/bgn/3581.htm> (last visited Jan. 12, 2016).

² Michael Eisenstadt and David Pollock, *Friends with Benefits: Why the U.S.-Israeli Alliance Is Good for America*, THE WASHINGTON INSTITUTE, <https://www.foreignaffairs.com/articles/2012-11-07/friends-benefits?gp=135637%3A36ce918050c21605> (Last Visited Jan. 15, 2016).

³ *U.S. Relations with Israel*, U.S. DEPARTMENT OF STATE, <http://www.state.gov/r/pa/ei/bgn/3581.htm> (last visited Jan. 12, 2016).

⁴ *Id.*

⁵ *Introducing the BDS Movement*, BDS MOVEMENT, <http://bdsmovement.net/bdsintro> (last visited Jan. 13, 2016).

⁶ *Id.*

⁷ *Id.*

⁸ Maurice Ostroff, *BDS opposes the two state solution of the Arab-Israel conflict*, THE JERUSALEM POST, <http://www.jpost.com/Blogs/2nd-Thoughts/BDS-opposes-the-two-state-solution-of-the-Arab-Israel-conflict-364648> (last visited Jan. 15, 2016).

⁹ *Is BDS Hate Speech?*, FORWARD, <http://forward.com/opinion/editorial/171165/is-bds-hate-speech/> (last visited Jan. 13, 2016).

¹⁰ *Id.*

¹¹ *Divestment*, BDS MOVEMENT, <http://bdsmovement.net/activecamps/divestment> (last visited Jan. 13, 2016).

¹² *Consumer Boycott*, BDS MOVEMENT, <http://bdsmovement.net/activecamps/consumer-boycott> (last visited Jan. 13, 2016).

regional, and institutional levels to enact military, economic, and diplomatic sanctions on Israel.¹³ Finally, the organization calls for cultural and academic boycotts of Israel, including moratoriums on Israeli academic institutions and institutions which collaborate with Israeli academic institutions.¹⁴

The organization has been heavily criticized as being anti-Semitic.¹⁵ On January 22, 2015, the United Nations General Assembly met to discuss a global rise in anti-Semitism, resulting in a statement signed by 40 member countries, condemning anti-Semitism and requesting all signatories and government officials to “[d]eclare their categorical rejection of [a]nti-[S]emitism.”¹⁶ Recently, in the wake of sharp increases in anti-Semitic hate crimes, the former President of France condemned the BDS Movement as racist.¹⁷ The current Prime Minister of France echoed this statement condemning the boycott of Israel.¹⁸

Despite the criticism, the BDS Movement enjoys recognition and in some cases even support, particularly on college campuses. Currently, 44 college student governments in the United States have taken a total of 70 votes proposing to support the BDS with a 36 percent passage rate.¹⁹ In the past several years, students at both UCLA and Stanford have experienced discrimination in running for student leadership positions based upon their Jewish identity and involvement with Jewish community organizations.²⁰ The climate of anti-Semitism on campus has recently begun emerging in Florida as well. In 2013, a prominent Jewish speaker was heckled during a presentation on the Israeli-Palestinian conflict at the University of Florida.²¹ In response to the growing issues with anti-Semitism, the California Legislature is currently considering legislation condemning the BDS and refusing to do business with companies that support the organization or boycott Israel.²² The BDS has also been condemned by several other state legislatures including New York, Tennessee, Indiana, Illinois, and Pennsylvania.²³

Effect of the Resolution

¹³ *Sanctions*, BDS MOVEMENT, <http://bdsmovement.net/activecamps/sanctions> (last visited Jan. 13, 2016).

¹⁴ *Academic Boycott*, BDS MOVEMENT, <http://bdsmovement.net/activecamps/academic-boycott> (last visited Jan. 13, 2016).

¹⁵ *Is BDS Hate Speech?*, FORWARD, <http://forward.com/opinion/editorial/171165/is-bds-hate-speech/> (Last visited January 13, 2016); *Rise of Global Genocidal Antisemitism*, ISRAEL MINISTRY OF FOREIGN AFFAIRS, <http://mfa.gov.il/MFA/ForeignPolicy/AntiSemitism/Pages/Rise-of-Global-Genocidal-Antisemitism-12-Aug-2015.aspx> (Last visited Jan. 15, 2016); *Are calls to boycott Israel anti-Semitic?*, THE ECONOMIST, <http://www.economist.com/blogs/democracyinamerica/2015/05/campus-politics> (Last Visited Jan. 15, 2016).

¹⁶ *UN General Assembly: Joint Statement against Antisemitism*, UN GENERAL ASSEMBLY, <http://mfa.gov.il/MFA/ForeignPolicy/AntiSemitism/Pages/UN-General-Assembly-Joint-Statement-against-Antisemitism-22-Jan-2015.aspx> (Last Visited Jan. 15, 2016).

¹⁷ Josh Nass, *Nicolas Sarkozy Condemns BDS Movement*, INTERNATIONAL OBSERVER, <http://observer.com/2016/01/nicolas-sarkozy-condemns-bds-movement/> (Last Visited Jan. 15, 2016).

¹⁸ *French PM Valls condemns BDS: ‘Criticism of Israeli policies that turned into anti-Semitism’*, THE JERUSALEM POST, <http://www.jpost.com/International/French-PM-Valls-condemns-BDS-Criticism-of-Israeli-policies-that-turned-into-anti-Semitism-437814> (Jan. 15, 2016).

¹⁹ *The Anti-Semitic BDS Campaigns on Campus: What is Their Impact?*, THE JERUSALEM POST, <http://www.jpost.com/Blogs/Classroom-Battlegrounds/The-Anti-Semitic-BDS-Campaigns-on-Campus-What-is-Their-Impact-413235> (Last Visited Jan. 15, 2016).

²⁰ Abraham H. Foxman, *Anti-Semitism on Campus: Old Wine in New Bottles*, THE HUFFINGTON POST, http://www.huffingtonpost.com/abraham-h-foxman/anti-semitism-on-campus-o_b_7172986.html (last visited Jan. 19, 2016).

²¹ Doni Kandel, *Israeli Counter-Terror Expert Stands Up To Anti-Israel Hecklers At U of Florida Speech*, BREAKING ISRAELI NEWS, <http://www.breakingisraelnews.com/6029/israeli-counter-terror-expert-stands-anti-israel-hecklers-u-florida-speech/#BJSKbclVLSccPbUc.99> (last visited Jan. 19, 2016).

²² Adelle Nazarian, *California Assemblyman Introduces Anti-BDS Bill*, BREITBART, <http://www.breitbart.com/california/2016/01/07/california-assemblyman-introduces-anti-bds-bill/> (last visited Jan. 19, 2016).

²³ Toby Tabachnick, *Pennsylvania’s anti-BDS resolution sends message to Israel: ‘We support you’*, THE JEWISH CHRONICLE, http://thejewishchronicle.net/view/full_story/26730559/article-Pennsylvania-s-anti-BDS-resolution-sends-message-to-Israel---We-support-you (last visited Jan. 19, 2016).

This resolution pronounces that the members of the Florida House of Representatives condemn the international Boycott, Divestment, and Sanctions Movement against the State of Israel and calls upon Florida governmental institutions to denounce hatred and discrimination.

B. SECTION DIRECTORY: Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable.

2. Other: None.

B. RULE-MAKING AUTHORITY: Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

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House Resolution

A resolution condemning the Boycott, Divestment, and Sanctions (BDS) movement and the increasing incidents of anti-Semitism.

WHEREAS, the citizens of the State of Florida have long opposed bigotry, oppression, discrimination, and injustice as a matter of public policy, and

WHEREAS, Florida and Israel have enjoyed a long history of friendship and are great allies in support of each other's interests, and

WHEREAS, the State of Israel, the only democracy in the Middle East, is the greatest friend and ally of the United States in that region, and

WHEREAS, the elected representatives of the state recognize the importance of expressing Florida's unwavering support of the Jewish people and the State of Israel's right to exist and right to self-defense, and

WHEREAS, there are increasing incidents of anti-Semitism throughout the world, including in the United States and in Florida, reflected in official hate crime statistics, and

WHEREAS, the international Boycott, Divestment, and Sanctions (BDS) movement is one of the main vehicles for spreading anti-Semitic perspectives and advocating the elimination of the Jewish State, and

26 WHEREAS, activities promoting Boycott, Divestment, and
 27 Sanctions against Israel have increased in the State of Florida,
 28 including on university campuses and in other Florida
 29 communities, and contribute to the promotion of anti-Semitic and
 30 anti-Zionist propaganda, and

31 WHEREAS, the increase in BDS campaign activities on college
 32 campuses around the country has resulted in increased
 33 confrontation, intimidation, and discrimination against Jewish
 34 students, and

35 WHEREAS, leaders of the BDS movement express that their
 36 goal is to eliminate Israel as the national home of the Jewish
 37 people, and

38 WHEREAS, the BDS campaign's call for academic and cultural
 39 boycotts has been condemned by many of our nation's largest
 40 academic associations, more than 250 university presidents, and
 41 many other leading scholars as a violation of the bedrock
 42 principle of academic freedom, NOW, THEREFORE,

43
 44 Be It Resolved by the House of Representatives of the State of
 45 Florida:

46
 47 That the Florida House of Representatives condemns the
 48 international Boycott, Divestment, and Sanctions (BDS) movement
 49 against the State of Israel and calls upon its governmental
 50 institutions to denounce hatred and discrimination whenever they
 51 appear.

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52 BE IT FURTHER RESOLVED that copies of this resolution be
53 presented to the President of the United States, the President
54 and Secretary of the United States Senate, the Speaker and Clerk
55 of the United States House of Representatives, and the Israeli
56 Embassy in Washington, D.C., for transmission to the proper
57 authorities of the State of Israel as a tangible token of the
58 sentiments expressed herein.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 1009 Tax Exemption for Senior, Totally Permanently Disabled First Responders
SPONSOR(S): Metz
TIED BILLS: IDEN./SIM. BILLS: SJR 1194

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	15 Y, 0 N	Dugan	Langston
2) Local & Federal Affairs Committee		Monroe <i>KDSM</i>	Kiner <i>KLK</i>

SUMMARY ANALYSIS

The Florida Constitution provides for exemption from property taxes for some persons who are totally and permanently disabled, including certain military veterans, as well as widows and widowers, including the surviving spouse of certain military veterans and the surviving spouse of certain first responders.

The joint resolution proposes an amendment to the Florida Constitution to allow the Legislature, as provided by general law, to grant a property tax exemption on homestead property to certain first responders. To qualify, the first responder must be 65 or older and totally, permanently disabled as a result of an injury or injuries sustained in the line of duty. The first responder's disability must be determined by the United States Social Security Administration, and causal connection between the disability and service in the line of duty must be determined as provided by general law. The term "disability" does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease.

The proposed constitutional amendment takes effect January 1, 2017, if approved by the voters.

The Revenue Estimating Conference has not reviewed the joint resolution. However, if approved by the electorate the joint resolution alone will have a zero impact on local government revenue due to the need for further implementation at the option of the Legislature.

Based on 2014 advertising costs, the Division of Elections within the Department of State has estimated the full publication costs for advertising the proposed constitutional amendment to be approximately \$151,742. This would be paid from non-recurring General Revenue funds.

A joint resolution proposing an amendment to the Florida Constitution must be passed by three-fifths of the membership of each house of the Legislature.

The Constitution requires 60 percent voter approval for passage of a proposed constitutional amendment.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Property Taxes in Florida

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

Exemptions

Case law precedent provides that the Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁶

Article VII, section 3(b) of the Florida Constitution provides for exemptions from property taxes for widows and widowers, blind persons, and persons who are totally and permanently disabled. The Legislature implemented this provision through various property tax exemptions in chapter 196, Florida Statutes. For example, s. 196.101, F.S., provides property tax exemptions for any real estate used and owned as a homestead by any quadriplegic, and any real estate used and owned as a homestead by a paraplegic, hemiplegic, or other totally and permanently disabled person who must use a wheelchair for mobility or who is legally blind.⁷ Generally, in order to qualify for an exemption as a "totally and permanently disabled person", he or she must submit evidence of such disability as certified by two licensed physicians of this state who are professionally unrelated, by the United States Department of Veterans Affairs or its predecessor, or by the Social Security Administration.⁸

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

¹ Fla. Const. art. VII, s. 1(a).

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

³ Fla. Const., art. VII, s. 4.

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

⁵ s. 196.031, F.S.

⁶ *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

⁷ s. 196.101(1)-(2), F.S.

⁸ s. 196.012(11), F.S.

Article VII, section 6 also authorizes the Legislature to provide, by general law, ad valorem tax relief to the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces, as well as the surviving spouse of a first responder⁹ who died in the line of duty.¹⁰ This constitutional provision was implemented¹¹ by the Legislature in s. 196.081, F.S. The Constitution defines "first responder" as a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic.¹² The term is further defined in general law to mean:

- a law enforcement officer or correctional officer as defined in s. 943.10,
- a firefighter as defined in s. 633.102,
- or an emergency medical technician or paramedic as defined in s. 401.23 who is a full-time paid employee, part-time paid employee, or unpaid volunteer.¹³

The Constitution defines "in the line of duty" as arising out of and in the actual performance of duty required by employment as a first responder¹⁴ and the term is further defined in general law to include:

- engaging in law enforcement;
- performing an activity relating to fire suppression and prevention;
- responding to a hazardous material emergency;
- performing rescue activity;
- providing emergency medical services;
- performing disaster relief activity;
- otherwise engaging in emergency response activity; or
- engaging in a training exercise related to any of the events or activities enumerated in this subparagraph if the training has been authorized by the employing entity.¹⁵

United States Social Security Administration

The Social Security Administration (SSA) administers two programs that provide benefits based on disability: the Social Security disability insurance program (title II of the Social Security Act (the Act)) and the supplemental security income (SSI) program (title XVI of the Act).¹⁶ Title II provides for payment of disability benefits to individuals who are "insured" under the Act by virtue of their contributions to the Social Security trust fund through the Social Security tax on their earnings, as well as to certain disabled dependents of insured individuals.¹⁷ Title XVI provides SSI payments to disabled individuals who have limited income and resources.¹⁸

Definition of Disability

The Act and SSA's implementing regulations prescribe rules for deciding if an individual is "disabled." For all individuals applying for disability benefits under title II, and for adults applying under title XVI, the definition of disability is the same. The law defines disability as the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment(s) which

⁹ Fla. Const. art. VII, s. 6(f).

¹⁰ "See s. 196.081(6)(c), F.S.

¹¹ Ch. 2012-54, Laws of Fla

¹² Fla. Const. art. VII, s 6(f)(3)a.

¹³ s. 196.081(6)(c)1., F.S.

¹⁴ Fla. Const. art. VII, s. (6)(f)(3)b.

¹⁵ s. 196.081(6)(c)2., F.S.

¹⁶ United States Social Security Administration website, available at: <https://www.ssa.gov/disability/professionals/bluebook/general-info.htm> (last viewed January 15, 2016).

¹⁷ Id.

¹⁸ Id.

can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.¹⁹

The Disability Determination Process

Most disability claims are initially processed through a network of local Social Security field offices and State agencies (usually called disability determination services, or DDSs). SSA representatives in the field offices obtain applications for disability benefits and verify nonmedical eligibility requirements, which may include age, employment, marital status, citizenship/residency and Social Security coverage information.²⁰ Then, the field office sends the case to a DDS for disability evaluation. The DDSs are responsible for developing medical evidence and rendering the initial determination on whether the claimant is disabled under the law.²¹ After completing its initial development, the DDS makes the disability determination and returns the case to the field office. The field office takes appropriate action depending on whether the claim is allowed or denied. If the DDS finds the claimant disabled, SSA will complete any outstanding non-disability development, compute the benefit amount, and begin paying benefits. If the claimant is found not disabled, the file is retained in the field office in case the claimant decides to appeal the determination.

Proposed Changes

The joint resolution proposes an amendment to the Florida Constitution to allow the Legislature, as provided by general law, to grant a property tax exemption to certain first responders. To qualify, the first responder must be 65 or older and totally, permanently disabled as a result of an injury or injuries sustained in the line of duty. The exemption applies to the property tax otherwise owed on homestead property, and may be the total amount or a portion.

The first responder's disability must be determined by the United States Social Security Administration.

Causal connection between the disability and service in the line of duty must be established by the applicant in order to qualify for the exemption. The term "disability" does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease. General law implementation is required to establish a framework for making determinations of causal connection and disallowed chronic conditions and diseases.

The proposed constitutional amendment takes effect January 1, 2017, if approved by the voters.

B. SECTION DIRECTORY:

Not applicable to joint resolutions.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, s. 5(d) of the State Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper

¹⁹ Id.

²⁰ United States Social Security Administration website, available at: <https://www.ssa.gov/disability/professionals/bluebook/general-info.htm> (last viewed January 15, 2016).

²¹ In Florida, the disability determination services are the responsibility of the Department of Health (Division of Disability Determinations).

is published. The amendment or revision must be published once in the 10th week and again in the sixth week immediately preceding the week the election is held. The Division of Elections (division) within the Department of State estimates the full publication costs for advertising the proposed amendment to be approximately \$135.97 per word, for a total publishing cost of approximately \$151,742.52.²²

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not reviewed the joint resolution. However, if approved by the electorate the joint resolution alone will have a zero impact on local government revenue due to the need for further implementation at the option of the Legislature.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the proposed amendment is approved by the electorate and implemented by the Legislature, first responders with certain disabilities sustained in the line of duty would be eligible to receive property tax relief.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable to joint resolutions.

2. Other:

The Legislature may propose amendments to the state constitution by joint resolution approved by three-fifths of the membership of each house.²³ The amendment must be submitted to the electors at the next general election more than 90 days after the proposal has been filed with the Secretary of State's office, unless pursuant to law enacted by a three-fourths vote of the membership of each house, and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.²⁴

Article XI, section 5(e) of the Florida Constitution, requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose. Without an effective date, the amendment becomes effective on the first Tuesday after the first Monday in the January following the election, which will be January 3, 2017. However, the joint resolution provides an effective date of January 1, 2017.

B. RULE-MAKING AUTHORITY:

None.

²² Department of State, Agency Analysis 2016 HJR 811 (December 21, 2015)

²³ Art. XI, s. 1 of the Florida Constitution.

²⁴ Art. XI, s. 5 of the Florida Constitution.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

House Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution to authorize a first responder, who is age 65 or older and totally permanently disabled as a result of an injury sustained in the line of duty, to receive a discount on ad valorem taxes assessed on homestead property, if authorized by general law, and to provide an effective date.

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

That the following amendment to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.—

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for

27 special benefits, up to the assessed valuation of twenty-five
 28 thousand dollars and, for all levies other than school district
 29 levies, on the assessed valuation greater than fifty thousand
 30 dollars and up to seventy-five thousand dollars, upon
 31 establishment of right thereto in the manner prescribed by law.
 32 The real estate may be held by legal or equitable title, by the
 33 entireties, jointly, in common, as a condominium, or indirectly
 34 by stock ownership or membership representing the owner's or
 35 member's proprietary interest in a corporation owning a fee or a
 36 leasehold initially in excess of ninety-eight years. The
 37 exemption shall not apply with respect to any assessment roll
 38 until such roll is first determined to be in compliance with the
 39 provisions of section 4 by a state agency designated by general
 40 law. This exemption is repealed on the effective date of any
 41 amendment to this Article which provides for the assessment of
 42 homestead property at less than just value.

43 (b) Not more than one exemption shall be allowed any
 44 individual or family unit or with respect to any residential
 45 unit. No exemption shall exceed the value of the real estate
 46 assessable to the owner or, in case of ownership through stock
 47 or membership in a corporation, the value of the proportion
 48 which the interest in the corporation bears to the assessed
 49 value of the property.

50 (c) By general law and subject to conditions specified
 51 therein, the Legislature may provide to renters, who are
 52 permanent residents, ad valorem tax relief on all ad valorem tax

53 levies. Such ad valorem tax relief shall be in the form and
 54 amount established by general law.

55 (d) The legislature may, by general law, allow counties or
 56 municipalities, for the purpose of their respective tax levies
 57 and subject to the provisions of general law, to grant either or
 58 both of the following additional homestead tax exemptions:

59 (1) An exemption not exceeding fifty thousand dollars to
 60 any person who has the legal or equitable title to real estate
 61 and maintains thereon the permanent residence of the owner and
 62 who has attained age sixty-five and whose household income, as
 63 defined by general law, does not exceed twenty thousand dollars;
 64 or

65 (2) An exemption equal to the assessed value of the
 66 property to any person who has the legal or equitable title to
 67 real estate with a just value less than two hundred and fifty
 68 thousand dollars and who has maintained thereon the permanent
 69 residence of the owner for not less than twenty-five years and
 70 who has attained age sixty-five and whose household income does
 71 not exceed the income limitation prescribed in paragraph (1).
 72

73 The general law must allow counties and municipalities to grant
 74 these additional exemptions, within the limits prescribed in
 75 this subsection, by ordinance adopted in the manner prescribed
 76 by general law, and must provide for the periodic adjustment of
 77 the income limitation prescribed in this subsection for changes
 78 in the cost of living.

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79 (e) Each veteran who is age 65 or older who is partially
80 or totally permanently disabled shall receive a discount from
81 the amount of the ad valorem tax otherwise owed on homestead
82 property the veteran owns and resides in if the disability was
83 combat related and the veteran was honorably discharged upon
84 separation from military service. The discount shall be in a
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, an official letter from
90 the United States Department of Veterans Affairs stating the
91 percentage of the veteran's service-connected disability and
92 such evidence that reasonably identifies the disability as
93 combat related and a copy of the veteran's honorable discharge.
94 If the property appraiser denies the request for a discount, the
95 appraiser must notify the applicant in writing of the reasons
96 for the denial, and the veteran may reapply. The Legislature
97 may, by general law, waive the annual application requirement in
98 subsequent years. This subsection is self-executing and does not
99 require implementing legislation.

100 (f) By general law and subject to conditions and
101 limitations specified therein, the Legislature may provide ad
102 valorem tax relief equal to the total amount or a portion of the
103 ad valorem tax otherwise owed on homestead property to ~~the~~:

104 (1) The surviving spouse of a veteran who died from

105 service-connected causes while on active duty as a member of the
 106 United States Armed Forces.

107 (2) The surviving spouse of a first responder who died in
 108 the line of duty.

109 (3) A first responder who is age 65 or older and totally
 110 permanently disabled as a result of an injury or injuries
 111 sustained in the line of duty. A first responder's total
 112 permanent disability must first be determined by the United
 113 States Social Security Administration. Causal connection between
 114 a disability and service in the line of duty shall not be
 115 presumed but must be determined as provided by general law. For
 116 purposes of this paragraph, the term "disability" does not
 117 include a chronic condition or chronic disease, unless the
 118 injury sustained in the line of duty was the sole cause of the
 119 chronic condition or chronic disease.

120
 121 As used in this subsection and as further defined by general
 122 law, the term+

123 a- "first responder" means a law enforcement officer, a
 124 correctional officer, a firefighter, an emergency medical
 125 technician, or a paramedic, and the term-

126 b- "in the line of duty" means arising out of and in the
 127 actual performance of duty required by employment as a first
 128 responder.

129 ARTICLE XII

130 SCHEDULE

131 Tax exemption for senior, totally permanently disabled
 132 first responders.—The amendment to Section 6 of Article VII
 133 relating to a discount on ad valorem taxes assessed on homestead
 134 property for first responders, who are age 65 or older and
 135 totally permanently disabled as a result of injuries sustained
 136 in the line of duty, takes effect January 1, 2017.

137 BE IT FURTHER RESOLVED that the following statement be
 138 placed on the ballot:

139 CONSTITUTIONAL AMENDMENT

140 ARTICLE VII, SECTION 6

141 ARTICLE XII

142 TAX EXEMPTION FOR SENIOR, TOTALLY PERMANENTLY DISABLED
 143 FIRST RESPONDERS.—Proposing an amendment to the State
 144 Constitution to authorize a first responder, who is age 65 or
 145 older and totally permanently disabled as a result of injuries
 146 sustained in the line of duty, to receive a discount on ad
 147 valorem taxes assessed on homestead property, if authorized by
 148 general law. If approved by voters, the amendment takes effect
 149 January 1, 2017.



Amendment No.

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Local & Federal Affairs
 2 Committee
 3 Representative Metz offered the following:

Amendment (with schedule, ballot and title amendments)

Remove line 109 and insert:

(3) A first responder who is totally and

SCHEDULE AMENDMENT

Remove lines 131-135 and insert:

Tax exemption for totally and permanently disabled first
responders. - The amendment to Section 6 of Article VII relating
to a discount on ad valorem taxes assessed on homestead property
for first responders who are totally and permanently disabled as
a result of injuries sustained



Amendment No.

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

Remove lines 142-145 and insert:

TAX EXEMPTION FOR TOTALLY AND PERMANENTLY DISABLED FIRST
RESPONDERS. - Proposing and amendment to the State Constitution
to authorize a first responder, who is totally and permanently
disabled as a result of injuries

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

Remove line 5 and insert:

first responder, who is totally and

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 1225 Preventing Voting by Noncitizens
SPONSOR(S): Metz
TIED BILLS: IDEN./SIM. BILLS: SM 1514

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Walker	<i>[Signature]</i> Kiner <i>[Signature]</i> KKK
2) State Affairs Committee			

SUMMARY ANALYSIS

HM 1225 calls upon the U.S. Congress to amend the National Voter Registration Act of 1993 (NRVA) to clarify that states have the authority to require documentary proof of citizenship for applicants who seek to register to vote using the federal form. The memorial further requests that Congress amend the Immigration Reform and Control Act (IRCA) and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) to expressly grant the states immediate access to the Systematic Alien Verification for Entitlements (SAVE) program database to confirm immigration status information for purposes of voter registration. Finally, the memorial requests that Congress amend NRVA to clarify that noncitizen voters may be removed from voter rolls within the 90 day period before a federal election.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The National Voter Registration Act of 1993 (NRVA) was enacted to increase voter registration and participation by allowing voters to register with the Department of Highway Safety and Motor Vehicles. NRVA also requires states to use a standard federal form to register voters which asks whether the individual is a U.S. citizen but does not require verification.¹ In 2013, the Supreme Court held that states could not require verification outside of the 'check the box' provision contained on the federal registration form.² In order to supersede the Supreme Court ruling, Congress would have to amend NRVA to allow or require additional proof of citizenship.

Additionally, Section 8(c)(2)(A) of the NRVA requires states to "complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters." Currently, courts have interpreted the 90 day provision in NRVA to mean that any removal of noncitizens from the voter rolls must occur at least 90 days before any federal election.³

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) provides a mechanism to verify immigration status, but sharply limits the number and reasons for inquiries.⁴ However, another potential mechanism for immigration status verification exists. In 1986 the Immigration Reform and Control Act (IRCA) authorized what is presently the Systematic Alien Verification for Entitlements (SAVE) database, administered by the U.S. Department of Homeland Security.⁵ SAVE is presently used to determine eligibility for the receipt of benefits or licenses. The SAVE database contains more than 100 million immigration status records.⁶

Since the time NRVA was enacted in 1993, the population of illegal immigrants has increased from approximately 3.5 million to 11.3 million in 2014.⁷ Proponents of NRVA reform argue that this increase in the population of illegal immigrants decreases the feasibility of preventing noncitizens from registering and voting without proof of citizenship at registration.⁸

¹THE DEPARTMENT OF JUSTICE, *About the National Voter Registration Act*, <http://www.justice.gov/crt/about-national-voter-registration-a> <http://www.justice.gov/crt/about-national-voter-registration-actct> (last visited Jan. 25, 2016).

² *Arizona v. Inter Tribal Council of Arizona, Inc.*, 133 S. Ct. 2247 (2013).

³ *Arcia v. Sec'y of Fla.*, 772 F.3d 1335, 1348 (11th Cir. 2014).

⁴ GOVERNMENT PRINTING OFFICE, *Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) Pub. L. No. 104-208*, <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwjz4cbS4sXKAhXHSiYKHberBncQFggcMAA&url=https%3A%2F%2Fwww.gpo.gov%2Ffdsys%2Fpkg%2FPLAW-104publ208%2Fpdf%2FPLAW-104publ208.pdf&usq=AFQjCNG4s43LZt9u-ttRKXhWAbVh0Qbhf> (last visited Jan. 25, 2016).

⁵ AMERICAN IMMIGRATION COUNSEL, *The Systematic Alien Verification for Entitlements (SAVE) Program: A Fact Sheet*, <http://www.immigrationpolicy.org/just-facts/systematic-alien-verification-entitlements-save-program-fact-sheet> (last accessed Jan. 25, 2016).

⁶ U.S. DEPARTMENT OF HOMELAND SECURITY: U.S. CITIZENSHIP AND IMMIGRATION, *What is SAVE?*, <https://www.uscis.gov/save/what-save/what-save> (last visited Jan. 25, 2016).

⁷ PEW RESEARCH CENTER, *5 facts about illegal immigration in the U.S.*, <http://www.pewresearch.org/fact-tank/2015/11/19/5-facts-about-illegal-immigration-in-the-u-s/> (last visited Jan. 25, 2016).

⁸ Dale L. Wilcox, *The D.C. Caller, The Obama Administration Wants Non-Citizens Voting In Federal Elections*, <http://dailycaller.com/2015/05/06/the-obama-administration-wants-non-citizens-voting-in-federal-elections/> (last visited Jan. 25, 2016).

Effect of the Memorial

HM 1225 calls upon the U.S. Congress to amend NRVA to clarify that states have the authority to require documentary proof of citizenship for applicants who seek to register to vote using the federal form. The memorial further requests that Congress amend the IRCA and IIRIRA to expressly grant the states immediate access to the SAVE program database to confirm immigration status information for purposes of voter registration. Finally, the memorial requests that Congress amend NRVA to clarify that noncitizen voters may be removed from voter rolls within the 90 day period before a federal election.

B. SECTION DIRECTORY: N/A

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT: None.

1. Revenues:

2. Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS: None.

1. Revenues:

2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES: None.

1. Applicability of Municipality/County Mandates Provision:

2. Other:

B. RULE-MAKING AUTHORITY: N/A

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

HM 1225

2016

House Memorial

A memorial to the Congress of the United States,
 urging Congress to amend certain federal laws to
 remove obstacles to states exercising their authority
 and obligation, under state and federal law, to
 protect the integrity of elections by ensuring that
 only United States citizens are registered to vote.

WHEREAS, one of the most fundamental and cherished rights
 under the Constitution of the United States is the right to
 vote, and

WHEREAS, the right to vote is rightly conferred only upon
 citizens of the United States, and

WHEREAS, when noncitizens are able to vote notwithstanding
 the legal prohibition against it, the votes of lawful citizens
 are diluted and election outcomes affected, and

WHEREAS, with an estimated 11 million to 20 million illegal
 immigrants present in the United States, state and local voter
 registration entities must be able to exercise their authority
 to prevent the registration of noncitizens and remove
 noncitizens who register to vote, and

WHEREAS, in order to increase voter registration, Congress
 passed the National Voter Registration Act of 1993 (NVRA), which
 requires states to "accept and use" a uniform "Federal Form" to
 register voters for federal elections, and

WHEREAS, the Federal Form developed by the Federal Election

27 Assistance Commission requires only that an applicant aver,
 28 under penalty of perjury, that he or she is a citizen of the
 29 United States of America and does not require any accompanying
 30 documentary evidence of citizenship, and

31 WHEREAS, in 2004, Arizona voters approved a ballot
 32 proposition that required voter registration officials to
 33 "reject any application for registration that is not accompanied
 34 by satisfactory evidence of United States citizenship,"
 35 including the Federal Form, and

36 WHEREAS, in the case of *Arizona et al. v. Inter Tribal*
 37 *Council of Arizona, Inc., et al.*, 133 S. Ct. 2247 (2013), the
 38 United States Supreme Court held that Arizona's evidence of
 39 citizenship requirement, as applied to Federal Form applicants,
 40 is preempted by the NVRA's mandate that states "accept and use"
 41 the Federal Form, and

42 WHEREAS, the holding in *Arizona v. Inter Tribal Council of*
 43 *Arizona, Inc.*, is grounded upon a statutory interpretation that
 44 the NVRA requirement that states "accept and use" the Federal
 45 Form does not allow states to require an applicant to submit
 46 documentary proof of citizenship supporting a response on the
 47 Federal Form that he or she is a citizen of the United States of
 48 America, and

49 WHEREAS, the holding in *Arizona v. Inter Tribal Council of*
 50 *Arizona, Inc.*, can be superseded by Congress amending the NVRA
 51 to clarify that states have the authority to require documentary
 52 proof of citizenship for applicants who seek to register to vote

53 using the Federal Form, and

54 WHEREAS, the Immigration Reform and Control Act (IRCA),
 55 Pub. L. No. 99-603, required the Federal Government to establish
 56 a system that would allow for immediate verification of the
 57 immigration status of noncitizen applicants for, and recipients
 58 of, certain types of federally funded benefits and to make the
 59 system available to federal, state, and local governmental
 60 entities that issue such benefits, which resulted in the
 61 creation of the Systematic Alien Verification for Entitlements
 62 (SAVE) program database, and

63 WHEREAS, the Illegal Immigration Reform and Immigrant
 64 Responsibility Act (IIRIRA), Pub. L. No. 104-208, mandated that
 65 the federal agency charged with enforcement of immigration laws
 66 "shall respond to an inquiry by a Federal, State, or local
 67 government agency, seeking to verify or ascertain the
 68 citizenship or immigration status of any individual within the
 69 jurisdiction of the agency for any purpose authorized by law, by
 70 providing the requested verification or status information," but
 71 also limited the number of inquiries state agencies may make,
 72 limited the circumstances under which a state agency may
 73 inquire, and authorized the federal agency charged with
 74 enforcement of immigration laws to limit its responses to
 75 inquiring agencies, and

76 WHEREAS, the SAVE program uses an online system that checks
 77 the immigration status of an individual against millions of
 78 Department of Homeland Security database records, allowing

79 states and local agencies access to the most accurate and up-to-
 80 date information regarding immigration status, and, to
 81 facilitate the states' efforts to ensure that noncitizens are
 82 not registered to vote, Congress should clarify existing federal
 83 statutory law and expressly grant states the right of immediate
 84 access to the SAVE program database in order to allow the states
 85 to confirm immigration status information for purposes of voter
 86 registration, and

87 WHEREAS, Congress should amend the NVRA to clarify that the
 88 90-day provision codified in 52 U.S.C. s. 20507(c)(2)(A) does
 89 not preclude removal of noncitizens from the voter registration
 90 rolls within 90 days before an election and that the general
 91 removal provision codified in 52 U.S.C. s. 20507(c)(2)(B) allows
 92 removal of noncitizens from the voter registration rolls at any
 93 time, and

94 WHEREAS, the foregoing statutory changes are necessary in
 95 order to ensure the integrity of voter registration rolls in
 96 Florida and throughout the United States of America and in
 97 particular to prevent illegal immigrants from registering to
 98 vote, NOW, THEREFORE,

99

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

101

102 That the Legislature of the State of Florida requests the
 103 United States Congress to amend the NVRA to clarify that states
 104 have authority to require documentary proof of citizenship for

HM 1225



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105 applicants who seek to register to vote using the Federal Form;
106 amend the IRCA and the IIRIRA to expressly grant the states
107 immediate access to the SAVE program database, allowing states
108 to confirm immigration status information for purposes of voter
109 registration; and amend the NVRA to clarify that the 90-day
110 provision codified in 52 U.S.C. s. 20507(c)(2)(A) does not
111 preclude removal of noncitizens from the voter registration
112 rolls within 90 days before an election and that the general
113 removal provision codified in 52 U.S.C. s. 20507(c)(2)(B) allows
114 removal of noncitizens from the voter registration rolls at any
115 time.

116 BE IT FURTHER RESOLVED that copies of this memorial be
117 dispatched to the President of the United States, to the
118 President of the United States Senate, to the Speaker of the
119 United States House of Representatives, to each member of the
120 Florida delegation to the United States Congress, and to the
121 presiding officer of each house of the Legislature of each
122 state.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 1319 Declaration of War Against Global Islamic Terrorist Organizations
SPONSOR(S): Ahern and others
TIED BILLS: IDEN./SIM. BILLS: SM 1710

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Darden 	Kiner 
2) State Affairs Committee			

SUMMARY ANALYSIS

The Islamic State of Iraq and the Levant (ISIL), al-Qaeda, and other global Islamist terrorist organizations have engaged in acts of terrorism leading to the loss of innocent life in the United States and other nations around the world, including most recently the November 13, 2015 attacks in Paris which killed 129 people and severely wounded hundreds more.

The memorial urges Congress to exercise its power pursuant by Article I, Section 8 of the United States Constitution to declare that a state of war exists between the United States and ISIL, al-Qaeda, and all other global Islamist terrorist organizations that engage in acts of terrorism against the United States and its allies.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

This memorial does not have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Declarations of War

The United States Constitution vests Congress with the power to declare war.¹ This power has been exercised on eleven occasions in the nation's history:²

- United Kingdom (1812)
- Mexico (1846)
- Spain (1898)
- Germany (1917)
- Austria-Hungary (1917)
- Japan (1941)
- Germany (1941)
- Italy (1941)
- Bulgaria (1942)
- Hungary (1942)
- Romania (1942)

Congress's power to declare war has also been understood to include the power to authorize the use of military force.³ Since the earliest days of the Republic, American jurisprudence has drawn a distinction between general war, in which "one whole nation is at war with another whole nation... in every place, and under every circumstance," and limited war, "confined in its nature and extent... as to places, persons, and things."⁴ During the 19th century, formal declarations of war were reserved for conflicts against other nations, while authorizations for the use of military force (AUMF) allowed the President to take action against pirates and other non-state actors.⁵

Since the Second World War, the United States Congress has only adopted AUMFs.⁶ These authorizations have included both non-state actors⁷ and broad expressions of Presidential authority against nations.⁸ Two factors led to the shift away from formal declarations of war. First, nations generally have moved away from issuing formal declarations of war, with at least one commentator asserting that no formal declaration of war has been delivered by diplomatic channels since 1945.⁹

¹ U.S. Const., art. I, s. 8, cl. 11.

² See Jennifer K. Elsea and Richard F. Grimmett, *Declarations of War and Authorizations for the Use of Military Force: Historical Background and Legal Implications* 81-87, Congressional Research Service, available at <https://www.fas.org/sgp/crs/natsec/RL31133.pdf> (text of each formal declaration of war approved by Congress) (last visited Jan. 22, 2016).

³ *Id.* at 24.

⁴ *Id.*, quoting *Bas v. Tinhy*, 4 Dall. 37, 40 (1800).

⁵ *Id.*

⁶ *Id.* at 23.

⁷ See Authorization for the President To Employ the Armed Forces of the United States for Protecting the Security of Formosa, the Pescadores, and Related Positions and Territories of That Area, Pub. L. No. 84-4, H.J. Res. 159, 84th Cong (Jan. 29, 1955) (authorizing the President to use force in defense of Formosa, part of the Republic of China (Taiwan), against the then-unrecognized People's Republic of China).

⁸ Authorization of the Use of Force Against Iraq Resolution of 2002, Pub. L. 107-243, H.J. Res. 114, 107th Cong (Oct. 16, 2002) (authorizing the President to use force "as he determines to be necessary and appropriate" to defend the national security and enforce United Nations Security Council resolutions regarding Iraq).

⁹ Elsea and Grimmett, at 23.

Nations has increasingly attempted to maintain diplomatic and commercial relationships to the extent possible during conflicts, with the historical tendency to abrogate treaties replaced by a tendency to deem treaties as remaining in effect to the maximum possible extent.¹⁰ Second, a formal declaration of war is the operative event in many statutes to confer special powers on the President, many of which directly affect domestic concerns.¹¹ These special powers include:

- Interdiction of trade;¹²
- Ordering manufacturing plants to produce arms and seizing them if they fail to comply;¹³
- Taking control of the transportation system;¹⁴ and
- Taking control of communications systems.¹⁵

The most vital powers relevant to conducting a military operation, however, are triggered by either a declaration of war or an AUMF. Both types of resolutions eliminate the time limits imposed on military deployments by the War Powers Resolution¹⁶ and authorize the capture and detention of enemy combatants to the duration of hostilities.¹⁷

Islamic State of Iraq and the Levant (ISIL)

The Islamic State of Iraq and the Levant (ISIL) is a terrorist organization primarily operating in Iraq and Syria. The group is the current manifestation of earlier terrorist groups operating in Iraq from 2002 to 2006.¹⁸ The group's leader was killed by American forces in 2006, after which the remaining organization rebranded as the Islamic State of Iraq.¹⁹ By the time American forces left Iraq in 2011, the group had been weakened, but still existed.²⁰ The group would later rebrand as ISIL in 2013, after a merger with the al-Nusra Front in Syria.²¹ In June 2014, ISIL's leadership declared the reestablishment of the caliphate²² and began referring to themselves as the Islamic State.²³

In addition the group's fighters in Iraq and Syria, ISIL has received pledges of support from various terrorist groups in the Middle East, Africa, and South Asia.²⁴ Prior to 2015, the majority of the group's attacks were concentrated in Iraq and Syria, but the attacks elsewhere in 2015 resulted in more than 1,000 deaths.²⁵ It is believed active ISIL cells currently operate in Yemen, Egypt, Algeria, Saudi Arabia, Libya, Afghanistan, and Nigeria.²⁶

November 2015 Paris Attacks

¹⁰ *Id.*

¹¹ *Id.* at 25. Some of these powers are also triggered in the event the President declares a national emergency.

¹² 50 U.S.C. s. 1702.

¹³ 10 U.S.C. s. 2538

¹⁴ 10 U.S.C. s. 2644

¹⁵ 47 U.S.C. s. 606.

¹⁶ Elsea and Grimmett, at 25.

¹⁷ *Id.*, citing *Hamdi v. Rumsfeld*, 542 U.S. 507, 518 (2004) (O'Connor, J., plurality opinion) and *Hamdi v. Rumsfeld*, 542 U.S. 507, 588-89 (2004) (Thomas, J., dissenting).

¹⁸ John W. Rollins and Heidi M. Peters, *The Islamic State—Frequently Asked Questions: Threats, Global Implications, and U.S. Policy Responses* 1, Congressional Research Services, available at <https://www.fas.org/sgp/crs/mideast/R44276.pdf>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *What is 'Islamic State'?*, BBC (Dec. 2, 2015), <http://www.bbc.com/news/world-middle-east-29052144>.

²² A "caliphate," a state governed by a "caliph," refers to the religious and political successors of Muhammad. Disputes over succession form the basis of the early fissures in Islam. Gerhard Bowering, *The Princeton Encyclopedia of Islamic Political Thought* 202 (1st ed. 2013).

²³ Rollins and Peters, at 1.

²⁴ Christopher M. Blanchard and Carla E. Humud, *The Islamic State and U.S. Policy* 4, Congressional Research Service, available at <https://fas.org/sgp/crs/mideast/R43612.pdf>.

²⁵ Rollins and Peters, at 2.

²⁶ *Id.*

On November 13, 2015, ISIL conducted a series of coordinated terrorist attacks in and around Paris, France. Attacks against Stade de France, the Bataclan theatre, and four other sites left 130 people dead and more than 350 injured.²⁷ ISIL claimed responsibility for the attack in a statement issued November 14, calling Paris “the lead carrier of the cross in Europe” and threatening violence against all nations opposed to their activities in Iraq and Syria.²⁸

Operation Inherent Resolve

On June 15, 2014, the United States and its allies launched Operation Inherent Resolve to combat ISIL.²⁹ As of January 19, 2016, American and coalition forces have conducted 9,782 airstrikes against ISIL in Syria and Iraq.³⁰ The American-led coalition contains 60 nations and partner organizations conducting military operations, stopping the flow of fighters and funds to ISIL, and addressing humanitarian crises that ISIL has previously exploited as a recruitment tool.³¹ As a result of the operation, Kurdish forces and Arab allies have been able to recapture portions of Iraq and northern Syria.³² It is unclear what impact Operation Inherent Resolve has had on the number of fighters ISIL is able to field in Iraq and Syria, with some reports suggesting the group has been forced to resort to conscription in some areas, while others suggest ISIL is still being replenished with significant numbers of foreign fighters.³³

In addition to the efforts of the American-led coalition, Russian forces have also been engaged in the conflict.³⁴ While initially acting in support of Syrian President Bashar al-Assad, Russian efforts have been focused on ISIL since the group targeted a Russian airliner on October 31, 2015, killing all 224 passengers.³⁵

Legal Status of Operation Inherent Resolve

Operation Inherent Resolve was initially launched under a claim of Presidential authority under his Article II powers as commander-in-chief.³⁶ Later statements from the Obama administration, however, have cited to the authorizations for the use of military force against al-Qaeda and Iraq as providing the legal basis for the strikes.³⁷ The President also indicated in November 2014 that he intended to seek explicit Congressional authorization to specifically target ISIL, in order to “right-size and update” the earlier authorizations.³⁸

Debates over a new authorization for the use of military force are still on-going. The Senate Foreign Relations Committee voted to approve a new AUMF in December 2014, but final passage was hamstrung by concerns of whether the authority granted to the President was too restricted.³⁹ The

²⁷ Matthew Dalton, et al., *Seven Militants Led Deadly Paris Attacks*, Wall St. Journal (Nov. 14, 2015)

<http://www.wsj.com/articles/paris-attacks-were-an-act-of-war-by-islamic-state-french-president-francois-hollande-says-1447498080>.

²⁸ Swati Sharma, *Islamic State claims responsibility for Paris attacks*, Washington Post (Nov. 14, 2015),

<https://www.washingtonpost.com/news/worldviews/wp/2015/11/14/islamic-state-claims-responsibility-for-paris-attacks/>.

²⁹ See Chris Carroll, *Global War on Terrorism Expeditionary Medal authorized for Operation Inherent Resolve*, Stars and Stripes (Oct. 31, 2014), <http://www.stripes.com/news/global-war-on-terrorism-expeditionary-medal-authorized-for-operation-inherent-resolve-1.311466> (declaring June 15, 2014 as beginning of eligibility period for troops engaged in Operation Inherent Resolve).

³⁰ United States Dept. of Defense, *Operation Inherent Resolve: Targeted Operations against ISIL Terrorists*, http://www.defense.gov/News/Special-Reports/0814_Inherent-Resolve (last visited Jan. 23, 2016).

³¹ Rollins and Peters, at 3.

³² Blanchard and Humud, at 5.

³³ *Id.*

³⁴ Rollins and Peters, at 4.

³⁵ *Id.*

³⁶ *Id.* at 5.

³⁷ *Id.*

³⁸ *Id.*

³⁹ Karen DeYoung, *Senate committee approves military action against Islamic State*, Washington Post (Dec. 11, 2014), https://www.washingtonpost.com/world/national-security/senate-committee-approves-military-action-against-islamic-state/2014/12/11/48dbd0fc-815b-11e4-9f38-95a187e4c1f7_story.html.

issue was again raised after the Obama administration announced in November 2015 that 50 special operations forces were being sent to Syria to act as advisors to allied rebel groups.⁴⁰

Effect of the Memorial

The memorial urges Congress to exercise its power, pursuant to Article I, Section 8 of the United States Constitution, to declare war on al-Qaeda, ISIL, and all other global Islamic terrorist organizations that similarly engaged in acts of terrorism against the United States, its people, and allied and friendly governments and peoples.

Copies of the memorial will be sent to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

B. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

⁴⁰ Karoun Demirjian, *Boots on the ground in Syria have lawmakers calling for a new AUMF*, Washington Post (Nov. 1, 2015), <https://www.washingtonpost.com/news/powerpost/wp/2015/11/01/boots-on-the-ground-in-syria-has-lawmakers-calling-for-a-new-aumf/>.

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This memorial does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The memorial does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

House Memorial

A memorial to the Congress of the United States, urging Congress to declare war on al-Qaeda, the Islamic State of Iraq and the Levant (ISIL), and all other global Islamic terrorist organizations that similarly engage in acts of terrorism.

WHEREAS, the attacks on the United States of September 11, 2001, were organized and financed by al-Qaeda, and

WHEREAS, another global Islamic terrorist organization, whether known as the Islamic State of Iraq and the Levant (ISIL), the Islamic State of Iraq and Syria (ISIS), simply as the Islamic State, or by the Arabic acronym Daesh, claimed responsibility for coordinated attacks launched against six sites across Paris, France, on November 13, 2015, resulting in the loss of at least 129 innocent lives and the severe wounding of many hundreds, and

WHEREAS, ISIL systematically targets, kidnaps, and kills innocent men, women, and children throughout Iraq and Syria, continues to expand its terror influence, and is responsible for recent attacks in Egypt, Lebanon, Tunisia, and France, and

WHEREAS, al-Qaeda, ISIL, and other global Islamic terrorist organizations have committed unprovoked acts of war against the government and people of the United States and against allied and friendly governments and their populations, NOW, THEREFORE,

HM 1319

2016

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

28

29 That the Congress of the United States, by the power vested
 30 in it by Section 8, Article I of the United States Constitution,
 31 is urged to declare that a state of war exists between the
 32 United States and al-Qaeda, the Islamic State of Iraq and the
 33 Levant (ISIL), and all other global Islamic terrorist
 34 organizations that similarly engage in acts of terrorism against
 35 the United States and its people and against allied and friendly
 36 governments and their populations.

37 BE IT FURTHER RESOLVED that copies of this memorial be
 38 dispatched to the President of the United States, to the
 39 President of the United States Senate, to the Speaker of the
 40 United States House of Representatives, and to each member of
 41 the Florida delegation to the United States Congress.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Local & Federal Affairs
 2 Committee
 3 Representative Ahern offered the following:

Amendment (with title amendment)

6 Remove line 12 and insert:
 7 (ISIL), the Islamic State of Iraq and Syria (ISIS),
 8 Remove lines 31-32 and insert:
 9 is urged to approve an authorization for the use of military
 10 force against al-Qaeda, the Islamic State of Iraq and the

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

14 Remove line 3 and insert:
 15 urging Congress to authorize the use of military force against
 16 al-Qaeda, the