



TAXATION AND BUDGET REFORM COMMISSION

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Staff Analysis and Economic Impact Statement

Measure: CS/CP 16, First Engrossed REFERENCE: ACTION:

Sponsors: Commissioner Yablonski, 1. F&T Favorable
Finance and Taxation Committee, 2. GPSC Fav/CS
and Governmental Procedures 3. TBRC Favorable
and Structure Committee 4. Style/Drafting Pre-meeting

Subject: Classification of Land for
Conservation Purposes

Date: March 28, 2008

I. Summary:

The Committee Substitute for Constitutional Proposal 16 directs the Legislature to provide a general law to classify land used for conservation purposes. Land used for conservation purposes will be assessed on the basis of character of use for purposes of ad valorem taxation.

II. Present Situation:

Just Valuation of Property

Article VII, s. 4 of the Florida Constitution requires all property, with some exceptions, to be assessed at a just valuation for the purposes of ad valorem taxation.¹ "The term 'just valuation' means 'fair market value.'"²

¹ Article VII, s. 4, Fla. Const., states:

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

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

(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

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

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

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

To determine the just value or fair market value of a property, property appraisers must consider the eight factors set forth in s. 193.011, F.S. As stated below:

Factors to consider in deriving just valuation.—In arriving at just valuation as required under s. 4, Art. VII of the State Constitution, the property appraiser shall take into consideration the following factors:

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

(2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and considering any moratorium imposed by executive order, law, ordinance, regulation,

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

(2) No assessment shall exceed just value.

(3) After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year. Thereafter, the homestead shall be assessed as provided herein.

(4) New homestead property shall be assessed at just value as of January 1st of the year following the establishment of the homestead. That assessment shall only change as provided herein.

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

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

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

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

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

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

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

² *Gilreath v. Westgate Datona, Ltd.*, 871 So. 2d 96, 967 (Fla. 5th DCA 2004) (quoting *Mazourek v. Wal-Mart Stores, Inc.*, 831 So. 2d 85, 88 (Fla. 2002)).

resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise authorized by applicable law. The applicable governmental body or agency or the Governor shall notify the property appraiser in writing of any executive order, ordinance, regulation, resolution, or proclamation it adopts imposing any such limitation, regulation, or moratorium;

(3) The location of said property;

(4) The quantity or size of said property;

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

(6) The condition of said property;

(7) The income from said property; and

(8) The net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of the sale, including the costs and expenses of financing, and allowance for unconventional or atypical terms of financing arrangements. When the net proceeds of the sale of any property are utilized, directly or indirectly, in the determination of just valuation of realty of the sold parcel or any other parcel under the provisions of this section, the property appraiser, for the purposes of such determination, shall exclude any portion of such net proceeds attributable to payments for household furnishings or other items of personal property.

Section 19.461, F.S., provides the statutory authority for classification and assessment of agricultural land. The statute states that the property appraiser must appraise land annually as agricultural or nonagricultural. Only land used primarily for agricultural purposes can be classified as agricultural. The land is reclassified as nonagricultural if the land is no longer used for agricultural purposes. Therefore, in accordance with Art. VII, s. 4, Art. Const., if land is no longer used for agricultural purposes and reverts to its natural state or is used for other conservation purposes, the property is assessed at the highest and best use.

III. Effect of Proposed Changes:

The Committee Substitute for Constitutional Proposal 16 directs the Legislature to provide a general law to classify land used for conservation purposes. Land used for conservation purposes will be assessed on the basis of character of use for purposes of ad valorem taxation.

The proposal takes effect upon approval by the electors and must be implemented by the Legislature by January 1, 2010.

IV. Constitutional Issues:**A. Constitutional or Legislative Matter:**

The amendment creates an exception to Art. VII, s. 4 of the Florida Constitution and the amendment can only be accomplished through a constitutional amendment.

B. Other Constitutional Issues:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

The classification of land used for conservation purposes may have an impact on the assessment of real property and ad valorem taxes.

B. Private Sector Impact:

Land currently assessed as non-agricultural, which is used for conservation purposes, may be assessed at a reduced amount which could result in a lower tax payment for landowners.

C. Government Sector Impact:

Land currently assessed as non-agricultural which is used for conservation purposes could be assessed at a lower rate, thus reducing the available ad valorem revenues for local government.

Under Art. XI, s. 5(d), Fla. Const., the Secretary of State must publish in newspapers throughout the state proposed constitutional amendments and notice of the date of the election at which it will be submitted to the electors. According to the Department of State, the average publishing costs for citizen initiative amendments is \$60,000. However, the cost to publish lengthy amendments will exceed that amount.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.