

Meeting Minutes
Property Tax Workgroup
Taxation and Budget Reform Commission
Senate Office Building, Room 301
Tallahassee, Florida
August 16, 2007
2:30 p.m. – 5:30 p.m.

Workgroup Members: *Barney Barnett (Facilitator), Randy Miller, James Scott, Ken Wilkinson, Darryl Rouson*

Members Present:

Barney Barnett
Randy Miller
James Scott
Ken Wilkinson

Other Commission Members Present:

Allan Bense, TBRC Chair
Nancy Riley
Martha Barnett
Carlos Lacasa
John McKay
Susan Story
Greg Turbeville
Patricia Levesque

Members Excused:

Darryl Rouson

Barney Barnett called the Property Tax Workgroup to order at 2:30 p.m.

Staff called the roll and the presence of a quorum was announced.

Commissioner Randy Miller commented that the equity issue was one of the driving forces to getting the ad valorem tax rule prior to Save Our Homes (SOH). He further commented that SOH had eliminated equity between strata which leads to shifting of taxation from one group of taxpayers and some action should be taken to put equity back into the tax structure.

Commissioner Carlos Lacasca asked whether there was a way to rebalance over the long or short term. Commissioner Miller responded that the solution to the problem was long term and takes too long. Commissioner Lacasca pointed out that it may be accomplished by amortizing if differentials could be ported between properties.

Commissioner Ken Wilkinson stated that the reason that the SOH bill was written was to protect original homesteaders since people came and paid property prices that were never anticipated. He indicated that growth causes rising values and commercial property benefits from growth. He commented that there is no doubt that any exemption creates an inequity. There are twenty-seven current exemptions (veterans, low-income, disability, etc.). According to Commissioner Wilkinson, SOH did not work as anticipated and action should be taken to correct that, but the real problem is runaway spending. Every state has some form of homestead protection for property owners.

Commissioner John McKay stated that the group should be careful not to mix “spending” or size of budget with tax structure fairness. He commented that the property tax system in Florida today is not fair and the unintended consequence is that it has damaged the second home market. Property taxes passed on to commercial tenants are running \$3.00 to \$4.00 per foot and there should be a way to more equitably spread the tax requirement. When small tenants can’t pay the freight, we lose on the commercial side and the focus should not just be on portability but a way to lower taxes across the board.

Commissioner James Scott suggested looking at changing property tax assessment to some number; maybe 75% of value or something similar on homes, second homes, or businesses as a better way of approaching the problem. He commented that SOH would be different if the originators knew then what is known now. However, it’s here and it would be difficult to eliminate the SOH. The intent is to find a way to make that portable and get sales increased again. In Broward County, a straw ballot indicated that 79% of the voters supported some kind of portability. He noted that if assessment was decreased, it would be necessary to look at impacts on education and other services. He questioned whether there would be a need for replacement and if so, how much.

Commissioner Barney Barnett inquired whether SOH could be phased out without portability. Commissioner Wilkinson stated that fifteen property appraisers in Florida are on a ballot initiative board. Staff has provided that initiative language to commissioners for review. Anywhere in Florida, if you move within 2 years and apply for a Homestead Exemption, you can take up to \$400,000 with you. He commented that he thought that, “it’s a winner.”

Commissioner Martha Barnett indicated that homestead property in truth has benefited because value of property has increased. The concept of portability has some immediate appeal; but the primary reason for the homestead exemption was to protect the original owners in their homestead. The very thing that was designed to protect them is now being portrayed as the problem and actions are exacerbating instead of solving the problem.

Commissioner Carlos Lacasa indicated that he agreed with the concerns. Implementation of SOH created a huge growth wave to keep owners from being taxed out of homes and capped rate of growth to allow long-term planning for homeowners. Market distortions exist. We can ignore them (if ballot issue passes this problem just gets worse) or

amortize a plan to reduce distortions. The best solution currently seems to be portability to keep markets moving. The level of growth control that has been provided for homesteaders should be extended to commercial properties. Commissioner Miller indicated that part of the problem that SOH addressed was high run-up of high value properties on the coastline. Today's issue is tax-shifting to non-homestead and commercial property owners.

Commissioner Nancy Riley indicated that she hears this from buyers and sellers and the issue does not cross between taxes and services (spending). She stated that SOH owners haven't been engaged because it doesn't touch them and portability will only magnify the problem. She commented that we are focusing on the past instead of the future. Commissioner Lacasa inquired whether SOH would go away if the benefit and reality of SOH was acknowledged.

Chair Bense noted that there may not be enough votes to unwind SOH and commented that we will have to find a way to work around it. He asked the group how to make it better if it is going to stay.

Commissioner Barney Barnett commented that without portability, it is impossible to get there.

Chair Story commented that a decision must be made regarding who we are making the system fair for if we accept SOH. She commented that we are exponentially worsening the situation and we know that there is an imbalance between the young and the retired.

Commissioner Randy Miller commented that SOH is here and we can not exacerbate the problem with portability and need to find another way to provide equity. Commissioner Lacasa stated that portability, over time, can be used as a tool to get the market moving.

Commissioner Riley commented that portability hurts first time homeowners and really hurts affordable housing for service employees to keep businesses going. The January ballot issue "stops the bleeding" across the board. It will create the spur needed to kick the economy back up to speed.

Commissioner McKay stated that, ultimately, we will not reduce tax if millage and rates don't go down.

Commissioner Barney Barnett commented that one of the top issues heard on the Property Tax Task Force was the "highest and best use" issue. Commissioner Wilkinson indicated he was under the impression that it was not really used and he knew of only two examples in Lee County. He commented that in Lee County, they look at current use as long as there is no immediate change in use (sale, zoning change, etc.)

Commissioner Riley inquired if "highest and best use" was required to be used in Florida Statutes. Commissioners Wilkinson and Miller indicated that the statutes require consideration of such valuation but it is not mandatory. Commissioner Riley stated that

she had lots of examples and property appraisers say that they are “mandated” to use “highest and best use”. She commented that if it is not being used, it should be eliminated from the statutes. Commissioner Scott stated that from his experience on the Broward Valuation Board there were a variety of problems. He indicated that we should limit requirement of highest and best use valuations.

Commissioner Miller stated that according to section 193.11 (1-8), F.S., there are lots of criteria. Different appraisers use different parts of the statute. He asked staff to determine how the Department of Revenue looks at the appraised value issue.

Commissioner McKay agreed that it can be used capriciously and it changes in different markets. He questioned how the workgroup would put the issue forward.

The Workgroup took a short break at 3:52 p.m. and reconvened at 4:00 p.m.

Commissioner Miller requested to hear from the Department of Revenue and property appraiser groups.

Commissioner B. Barnett asked how to address valuation of other properties beyond SOH. Commissioner Scott commented that fractional assessment is what was being described. He commented that when Bob Graham was governor, he made a push to get 100% (net 88-90%) to pay for education and then raised home exemption from \$5,000 to \$25,000. At the time, 39% of homes paid no taxes because the value was below \$25,000. The tough part of the equation is the requirement for paying for education and the group should consider a review of the issue. Commissioner B. Barnett commented that he assumes that we are not considering millage increases at this time. All agreed that was the case.

Commissioner Miller commented that there were two parts to consider which included the value of property and amount of levy against it. There would be some equity of properties. There was another part that caused problems; the less than 15% cost of sale “exemption”. He indicated that the same 3% cap going forward would help balance and this idea has some merit.

Commissioner Wilkinson indicated that he agreed and would be interested in cutting values because of the other unintended consequences addressed. He emphasized putting pressure on the rate and the importance of not taking away the flexibility to adjust millage.

Commissioner Riley indicated that more money would be available if tax assessment changed at the date of sale. Commissioner Miller indicated that what was paid for the property would be different than what tax rate would be if it was recaptured at the point of sale.

Commissioner Lacasa indicated that fractional assessment is like devaluation of currency in foreign countries and would give immediate relief that would disappear over time. He

further stated that caps on millage set base against which you could tax. Commissioner B. Barnett questioned what guarantees are there that government will not use other revenue sources to compensate for lost revenues. Staff was directed to look at other states that use fractional system and to provide a summary of all revenue sources for local and state governments.

Revenue caps for ad valorem are important according to Commissioner Lacasa. He indicated that the legislature should be able to apply limits to local governments. However, Commissioner Martha Barnett indicated that constitutionality of the legislature limiting local government is being challenged and a constitutional amendment would be required to provide that power to the legislature. Commissioner Riley commented that spending caps are not as effective as revenue caps.

Commissioner Scott indicated having the legislature set spending levels for local government creates a problem.

Commissioner McKay indicated that the group should be careful in its approach to changing a representative form of government and not try to control a representative form of government. He commented that the group should avoid artificial caps. Commissioner Lacasa asked whether Article VII, Section 9 (A) and (B) provided the authority. Tom Cibula, General Counsel, commented that was the subject of a lawsuit with good arguments on both sides.

Commissioner B. Barnett indicated that SOH has taken the voter out of the equation and Commissioner Miller commented that one topic of discussion during the Special Session was Special Districts. He indicated that there must be about 1,000 special districts which the group should review.

Commissioner Riley inquired whether there would be a discussion about reserves and whether reserves could be capped. Chair Bense questioned how to quantify how much of a reserve is enough. The state's perspective is to reduce taxes as much as possible and then place the remaining in reserve. Commissioner Miller stated that Leon County was levying taxes to force reserves to maintain high bond ratings but that rate is not at thirty, forty or fifty percent. Chair Bense indicated that it will be challenging to review this issue but the commission should take that challenge. Commissioner McKay requested that staff contact a bond counsel or others to provide the "number" which triggers high bond rates.

Commissioner Lacasa inquired about fundamental rights to be held in the Constitution. He stated that it would not be difficult to determine what goes into the Constitution based on what is fundamental and what is authorization. Commissioner Riley commented that since education is a fundamental right and funded by property taxes that they are inherently tied.

Commissioner B. Barnett then requested comments from the audience. Mr. Ben Phipps, The Florida Bar Tax Section, suggested that the group consider highest and best use;

burden of proof in tax challenges, along with other suggested topics from the Florida Chamber of Commerce. Mr. Phipps discussed the difference between county government and voluntary government such as cities, and special taxing districts in response to Commissioner Lacasa's question regarding city leased property to private taxable property.

Commissioner B. Barnett inquired regarding "greenbelt" and Commissioner M. Barnett indicated that it was an entire class of property tax exemptions but she had not heard it from anywhere. She also requested a complete list of issues from the Chamber of Commerce and Mr. Phipps indicated that it would be provided to the group.

Senator McKay indicated that the group wants to ensure that when experts are hired that they measure if SOH has caused shift. Commissioner Scott indicated that the group should request an evaluation of rollbacks of assessment and the impacts on education, RLE, etc. Chair Story commented that the group must be very specific in the range of numbers specified for modeling.

Chair Bense requested that the workgroup prioritize their issues for research and review. Chair Story asked that the staff provide the data at the next meeting for a vote to go forward. Commissioner Miller requested that Morgan B. Gilreath, Jr. be invited to a meeting to discuss fractional assessment.

There being no further business, the meeting was adjourned at 5:19 p.m.