

Bill No. CS for SB 560

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593-2324C-07

Proposed Committee Substitute by the Committee on Finance and Tax

1                                   A bill to be entitled

2           An act relating to local governments; amending

3           s. 73.071, F.S.; requiring that the value of

4           the expected future tax benefits for homestead

5           property be compensated for in an eminent

6           domain taking; creating s. 73.0725, F.S.;

7           requiring the condemning authority in an

8           eminent domain taking to determine the present

9           value of the expected future tax benefit for

10          homestead property; amending s. 193.011, F.S.;

11          clarifying the standard for determining highest

12          and best use for purposes of deriving the just

13          value of property; amending s. 195.052, F.S.;

14          specifying data to be used for tabulating

15          property value and taxation including

16          information concerning ad valorem taxes and

17          millage rates; requiring that such data be

18          reported to the Department of Revenue for

19          publication on the department's website and all

20          property appraiser websites, if available;

21          amending s. 200.069, F.S.; requiring that the

22          notice of proposed property taxes mailed to

23          taxpayers include the county government's

24          official website address; requiring the

25          electronic reporting of local government

26          revenue and expenditure data; requiring the

27          reporting of local government budgets;

28          requiring the electronic reporting of local

29          government contracts; providing for a study by

30          legislative staff and a report; providing an

31          appropriation; providing an effective date.

593-2324C-07

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

2

3 Section 1. Subsection (3) of section 73.071, Florida  
4 Statutes, is amended to read:

5 73.071 Jury trial; compensation; severance damages;  
6 business damages.--

7 (3) The jury shall determine solely the amount of  
8 compensation to be paid, which compensation shall include:

9 (a) The value of the property sought to be  
10 appropriated;

11 (b) Where less than the entire property is sought to  
12 be appropriated, any damages to the remainder caused by the  
13 taking, including, when the action is by the Department of  
14 Transportation, county, municipality, board, district or other  
15 public body for the condemnation of a right-of-way, and the  
16 effect of the taking of the property involved may damage or  
17 destroy an established business of more than 4 years' standing  
18 before January 1, 2005, or the effect of the taking of the  
19 property involved may damage or destroy an established  
20 business of more than 5 years' standing on or after January 1,  
21 2005, owned by the party whose lands are being so taken,  
22 located upon adjoining lands owned or held by such party, the  
23 probable damages to such business which the denial of the use  
24 of the property so taken may reasonably cause; and any person  
25 claiming the right to recover such special damages shall set  
26 forth in his or her written defenses the nature and extent of  
27 such damages; ~~and~~

28 (c) Where the appropriation is of property upon which  
29 a mobile home, other than a travel trailer as defined in s.  
30 320.01, is located, whether or not the owner of the mobile  
31 home is an owner or lessee of the property involved, and the

593-2324C-07

1 effect of the taking of the property involved requires the  
 2 relocation of such mobile home, the reasonable removal or  
 3 relocation expenses incurred by such mobile home owner, not to  
 4 exceed the replacement value of such mobile home. The  
 5 compensation paid to a mobile home owner under this paragraph  
 6 shall preclude an award to a mobile home park owner for such  
 7 expenses of removal or relocation. Any mobile home owner  
 8 claiming the right to such removal or relocation expenses  
 9 shall set forth in his or her written defenses the nature and  
 10 extent of such expenses. This paragraph does ~~shall~~ not apply  
 11 to any governmental authority exercising its power of eminent  
 12 domain when reasonable removal or relocation expenses are ~~must~~  
 13 ~~be~~ paid to mobile home owners under other provisions of law or  
 14 agency rule applicable to such exercise of power; and-

15 (d) Where the appropriation is of homestead property,  
 16 the present value of the expected future tax benefits of the  
 17 property as provided under s. 4(c), Art. VII of the State  
 18 Constitution.

19 Section 2. Section 73.0725, Florida Statutes, is  
 20 created to read:

21 73.0725 When homestead property is appropriated under  
 22 this chapter, the condemning authority shall separately  
 23 determine the present value of the expected future tax  
 24 benefits provided under s. 4(c), Art. VII of the State  
 25 Constitution.

26 Section 3. Section 193.011, Florida Statutes, is  
 27 amended to read:

28 193.011 Factors to consider in deriving just  
 29 valuation.--In arriving at just valuation as required under s.  
 30 4, Art. VII of the State Constitution, the property appraiser  
 31 shall consider ~~take into consideration~~ the following factors:

593-2324C-07

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

6           (2) The highest and best use to which the property can  
 7 be expected to be put in the immediate future which is  
 8 reasonably probable, physically possible, and legally  
 9 permissible as well as financially feasible and maximally  
 10 productive, and the present use of the property, taking into  
 11 consideration any applicable judicial limitation, local or  
 12 state land use regulation, current zoning limitation,  
 13 variance, or historic preservation ordinance, and considering  
 14 any moratorium imposed by executive order, law, ordinance,  
 15 regulation, resolution, or proclamation adopted by any  
 16 governmental body or agency or the Governor when the  
 17 moratorium or judicial limitation prohibits or restricts the  
 18 development or improvement of property as otherwise authorized  
 19 by applicable law. The applicable governmental body or agency  
 20 or the Governor shall notify the property appraiser in writing  
 21 of any executive order, ordinance, regulation, resolution, or  
 22 proclamation it adopts imposing any such limitation,  
 23 regulation, or moratorium;

- 24           (3) The location of said property;
- 25           (4) The quantity or size of said property;
- 26           (5) The cost of said property and the present
- 27 replacement value of any improvements thereon;
- 28           (6) The condition of said property;
- 29           (7) The income from said property; and
- 30           (8) The net proceeds of the sale of the property, as

31 received by the seller, after deduction of all of the usual

593-2324C-07

1 and reasonable fees and costs of the sale, including the costs  
 2 and expenses of financing, and allowance for unconventional or  
 3 atypical terms of financing arrangements. ~~If when~~ the net  
 4 proceeds of the sale of any property are used ~~utilized~~,  
 5 directly or indirectly, in determining the ~~the determination~~  
 6 ~~of~~ just valuation ~~of realty~~ of the sold parcel or any other  
 7 parcel ~~under the provisions of this section~~, the property  
 8 appraiser, for the purposes of such determination, shall  
 9 exclude any portion of such net proceeds attributable to  
 10 payments for household furnishings or other items of personal  
 11 property.

12 Section 4. Section 195.052, Florida Statutes, is  
 13 amended to read:

14 195.052 Research and tabulation of data.--The  
 15 Department of Revenue shall conduct constant research and  
 16 maintain accurate tabulations of data and conditions existing  
 17 as to ad valorem taxation, shall annually publish such data as  
 18 may be appropriate to facilitate fiscal policymaking, and  
 19 shall annually make such recommendations to the Legislature as  
 20 are necessary to ensure that property is valued according to  
 21 its just value and is equitably taxed throughout the state.  
 22 The data published must include the annual percentage increase  
 23 in total nonvoted ad valorem taxes levied by each municipality  
 24 and county and information concerning the distribution of ad  
 25 valorem taxes levied among the various classifications of  
 26 property, including homestead, nonhomestead residential, new  
 27 construction, commercial, and industrial properties. The  
 28 published data must also include the previous year's adopted  
 29 millage rate, the current year's millage rate, and the current  
 30 percentage increase in taxes levied above the rolled-back  
 31 rate. At a minimum, the data must be published on the

593-2324C-07

1 department's website and on the websites of all property  
 2 appraisers of this state, if available. Publication must ~~shall~~  
 3 occur within 90 ~~not later than 60~~ days after receipt of  
 4 extended rolls for all counties pursuant to s. 193.122(7).

5 Section 5. Section 200.069, Florida Statutes, is  
 6 amended to read:

7 200.069 Notice of proposed property taxes and non-ad  
 8 valorem assessments.--Pursuant to s. 200.065(2)(b), the  
 9 property appraiser, in the name of the taxing authorities and  
 10 local governing boards levying non-ad valorem assessments  
 11 within his or her jurisdiction and at the expense of the  
 12 county, shall prepare and deliver by first-class mail to each  
 13 taxpayer to be listed on the current year's assessment roll a  
 14 notice of proposed property taxes, which notice must ~~shall~~  
 15 contain the elements and use the format provided in the  
 16 following form, and include the address of the county  
 17 government's official Internet website. Notwithstanding the  
 18 provisions of s. 195.022, a ~~no~~ county officer may not ~~shall~~  
 19 use a form other than that provided herein. The Department of  
 20 Revenue may adjust the spacing and placement on the form of  
 21 the elements listed in this section as it considers necessary  
 22 based on changes in conditions necessitated by various taxing  
 23 authorities. If the elements are in the order listed, the  
 24 placement of the listed columns may be varied at the  
 25 discretion and expense of the property appraiser, and the  
 26 property appraiser may use printing technology and devices to  
 27 complete the form, the spacing, and the placement of the  
 28 information in the columns. A county officer may use a form  
 29 other than that provided by the department for purposes of  
 30 this part, but only if his or her office pays the related  
 31 expenses and he or she obtains prior written permission from

593-2324C-07

1 the executive director of the department; however, a county  
 2 officer may not use a form the substantive content of which is  
 3 at variance with the form prescribed by the department. The  
 4 county officer may continue to use such an approved form until  
 5 the law that specifies the form is amended or repealed or  
 6 until the officer receives written disapproval from the  
 7 executive director.

8 (1) The notice must ~~shall~~ read as follows:

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10 NOTICE OF PROPOSED PROPERTY TAXES

11 DO NOT PAY--THIS IS NOT A BILL

12

13 The taxing authorities that ~~which~~ levy property taxes  
 14 against your property will soon hold PUBLIC HEARINGS to adopt  
 15 budgets and tax rates for the next year.

16 The purpose of these PUBLIC HEARINGS is to receive  
 17 opinions from the general public and to answer questions on  
 18 the proposed tax change and budget PRIOR TO TAKING FINAL  
 19 ACTION.

20 Each taxing authority may AMEND OR ALTER its proposals  
 21 at the hearing.

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23 (2) The notice must also ~~shall further~~ contain  
 24 information applicable to the specific parcel in question. The  
 25 information must ~~shall~~ be in columnar form. There shall be  
 26 five column headings which ~~shall~~ read: "Taxing Authority,"  
 27 "Your Property Taxes Last Year," "Your Taxes This Year IF  
 28 PROPOSED Budget Change is Made," "A Public Hearing on the  
 29 Proposed Taxes and Budget Will be Held:", and "Your Taxes This  
 30 Year IF NO Budget Change is Made."

31 (3) ~~There shall be~~ Under each column heading there

593-2324C-07

1 must be an entry for the county; the school district levy  
 2 required pursuant to s. 1011.60(6); other operating school  
 3 levies; the municipality or municipal service taxing unit or  
 4 units in which the parcel lies, if any; the water management  
 5 district levying pursuant to s. 373.503; the independent  
 6 special districts in which the parcel lies, if any; and for  
 7 all voted levies for debt service applicable to the parcel, if  
 8 any.

9 (4) For each entry listed in subsection (3), ~~there~~  
 10 ~~shall appear on the notice~~ the following must appear on the  
 11 notice:

12 (a) In the first column, a brief, commonly used name  
 13 for the taxing authority or its governing body. The entry in  
 14 the first column for the levy required pursuant to s.  
 15 1011.60(6) shall be "By State Law." The entry for other  
 16 operating school district levies shall be "By Local Board."  
 17 Both school levy entries must ~~shall~~ be indented and preceded  
 18 by the notation "Public Schools:". For each voted levy for  
 19 debt service, the entry shall be "Voter Approved Debt  
 20 Payments."

21 (b) In the second column, the gross amount of ad  
 22 valorem taxes levied against the parcel in the previous year.  
 23 If the parcel did not exist in the previous year, the second  
 24 column must ~~shall~~ be blank.

25 (c) In the third column, the gross amount of ad  
 26 valorem taxes proposed to be levied in the current year, which  
 27 amount is ~~shall be~~ based on the proposed millage rates  
 28 provided to the property appraiser pursuant to s.  
 29 200.065(2)(b) or, in the case of voted levies for debt  
 30 service, the millage rate previously authorized by referendum,  
 31 and the taxable value of the parcel as shown on the current

593-2324C-07

1 year's assessment roll.

2 (d) In the fourth column, the date, the time, and a  
3 brief description of the location of the public hearing  
4 required pursuant to s. 200.065(2)(c).

5 (e) In the fifth column, the gross amount of ad  
6 valorem taxes which would apply to the parcel in the current  
7 year if each taxing authority were to levy the rolled-back  
8 rate computed pursuant to s. 200.065(1) or, in the case of  
9 voted levies for debt service, the amount previously  
10 authorized by referendum.

11 (f) For special assessments collected utilizing the ad  
12 valorem method pursuant to s. 197.363, the previous year's  
13 assessment amount must ~~shall~~ be added to the ad valorem taxes  
14 shown in the second and fifth columns, and the amount proposed  
15 to be imposed for the current year must ~~shall~~ be added to the  
16 ad valorem taxes shown in the third column.

17 (5) The amounts shown on each line preceding each  
18 entry for voted levies for debt service must ~~shall~~ include the  
19 sum of all ad valorem levies of the applicable unit of local  
20 government for operating purposes, including those of  
21 dependent special districts (except for municipal service  
22 taxing units, which must ~~shall~~ be listed on the line for  
23 municipalities), and all nonvoted or nondebt service special  
24 assessments imposed by the applicable unit of local government  
25 to be collected utilizing the ad valorem method.

26 (6) Following the entries for each taxing authority, a  
27 final entry must ~~shall~~ show: in the first column, the words  
28 "Total Property Taxes:" and in the second, third, and fifth  
29 columns, the sum of the entries for each of the individual  
30 taxing authorities. The second, third, and fifth columns  
31 ~~shall~~, immediately below said entries, must be labeled Column

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593-2324C-07

1 1, Column 2, and Column 3, respectively. Below these labels  
 2 ~~shall appear~~, in boldfaced type, the following statement must  
 3 appear: SEE REVERSE SIDE FOR EXPLANATION.

4 (7) The notice must also ~~shall further~~ show a brief  
 5 legal description of the property and the name and mailing  
 6 address of the owner of record.

7 (8) The notice must also ~~shall further~~ read:

	Market	Assessed	Exemp-	Taxable
	Value	Value	tions	Value
11 Your Property				
12 Value Last				
13 Year	\$.....	\$.....	\$.....	\$.....
14 Your Property				
15 Value This				
16 Year	\$.....	\$.....	\$.....	\$.....

18 If you feel that the market value of your property is  
 19 inaccurate or does not reflect fair market value, or if you  
 20 are entitled to an exemption that is not reflected above,  
 21 contact your county property appraiser at ...(phone number)...  
 22 or ...(location)....

23 If the property appraiser's office is unable to resolve  
 24 the matter as to market value or an exemption, you may file a  
 25 petition for adjustment with the Value Adjustment Board.  
 26 Petition forms are available from the county property  
 27 appraiser and must be filed ON OR BEFORE ...(date)....

29 (9) The reverse side of the form shall read:

EXPLANATION

593-2324C-07

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\*COLUMN 1--"YOUR PROPERTY TAXES LAST YEAR"  
This column shows the taxes that applied last year to your property. These amounts were based on budgets adopted last year and your property's previous taxable value.

\*COLUMN 2--"YOUR TAXES IF PROPOSED BUDGET CHANGE IS MADE"  
This column shows what your taxes will be this year under the BUDGET ACTUALLY PROPOSED by each local taxing authority. The proposal is NOT final and may be amended at the public hearings shown on the front side of this notice.

\*COLUMN 3--"YOUR TAXES IF NO BUDGET CHANGE IS MADE"  
This column shows what your taxes will be this year IF EACH TAXING AUTHORITY DOES NOT INCREASE ITS PROPERTY TAX LEVY. These amounts are based on last year's budgets and your current assessment. The difference between columns 2 and 3 is the tax change proposed by each local taxing authority and is NOT the result of higher assessments.

ASSESSED VALUE means:

For homestead property: value as limited by the State Constitution;

For agricultural and similarly assessed property: classified use value;

For all other property: market value.

\*Note: Amounts shown on this form do NOT reflect early payment discounts you may have received or may be eligible to receive. (Discounts are a maximum of 4 percent of the amounts shown on this form.)

(10) The bottom portion of the notice shall further read in bold, conspicuous print:

593-2324C-07

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"Your final tax bill may contain non-ad valorem assessments which may not be reflected on this notice such as assessments for roads, fire, garbage, lighting, drainage, water, sewer, or other governmental services and facilities which may be levied by your county, city, or any special district."

(11)(a) If requested by the local governing board levying non-ad valorem assessments and agreed to by the property appraiser, the notice specified in this section may contain a notice of proposed or adopted non-ad valorem assessments. If so agreed, the notice shall be titled:

NOTICE OF PROPOSED PROPERTY TAXES  
AND PROPOSED OR ADOPTED  
NON-AD VALOREM ASSESSMENTS  
DO NOT PAY--THIS IS NOT A BILL

There must be a clear partition between the notice of proposed property taxes and the notice of proposed or adopted non-ad valorem assessments. The partition must be a bold, horizontal line approximately 1/8 -inch thick. By rule, the department shall provide a format for the form of the notice of proposed or adopted non-ad valorem assessments which meets the following minimum requirements:

- 1. There must be subheading for columns listing the levying local governing board, with corresponding assessment rates expressed in dollars and cents per unit of assessment, and the associated assessment amount.

593-2324C-07

1           2. The purpose of each assessment must also be listed  
2 in the column listing the levying local governing board if the  
3 purpose is not clearly indicated by the name of the board.

4           3. Each non-ad valorem assessment for each levying  
5 local governing board must be listed separately.

6           4. If a county has too many municipal service benefit  
7 units or assessments to be listed separately, it shall combine  
8 them by function.

9           5. A brief statement outlining the responsibility of  
10 the tax collector and each levying local governing board as to  
11 any non-ad valorem assessment must be provided on the form,  
12 accompanied by directions as to which office to contact for  
13 particular questions or problems.

14           (b) If the notice includes all adopted non-ad valorem  
15 assessments, the provisions contained in subsection (10) may  
16 ~~shall~~ not be placed on the notice.

17           Section 6. Truth in spending.--For the purpose of  
18 providing truth in spending, local governments shall  
19 electronically post all revenues received and all expenditures  
20 made on the local government's official website if one is  
21 available, or on the county government's official website in  
22 all other cases. For the purpose of this section, the term  
23 local government includes counties, municipalities, school  
24 districts, water management districts, and any special  
25 district that has authority to levy ad valorem taxes or non-ad  
26 valorem assessments. By October 1, 2007, the Department of  
27 Revenue shall develop a uniform format that permits local  
28 governments to produce and report revenue and expenditure data  
29 on a substantially similar basis and that is highly comparable  
30 among the local governments. The uniform format must contain  
31 the standard categories of revenues and expenditures used by

593-2324C-07

1 local governments in the annual financial report submitted to  
2 the Department of Financial Services under s. 218.32, Florida  
3 Statutes.

4 (1) The local governments shall begin electronically  
5 posting all revenues received and expenditures made during the  
6 previous fiscal year in a format that is accessible without  
7 charge to any individual who has Internet access using  
8 standard web-browsing software and in accordance with the  
9 following schedule:

10 (a) By December 31, 2009, and annually thereafter, any  
11 county, municipality, or school district that has a population  
12 of 300,000 or more on April 1, 2007, as reported by the Office  
13 of Economic and Demographic Research under s. 186.901, Florida  
14 Statutes, and all water management districts.

15 (b) By December 31, 2010, and annually thereafter, any  
16 county, municipality, or school district that has a population  
17 of at least 50,000 but fewer than 300,000 on April 1, 2007, as  
18 reported by the Office of Economic and Demographic Research  
19 under s. 186.901, Florida Statutes.

20 (c) By December 31, 2011, and annually thereafter, any  
21 county, municipality, or school district that has a population  
22 of fewer than 50,000 on April 1, 2007, as reported by the  
23 Office of Economic and Demographic Research under s. 186.901,  
24 Florida Statutes, and all special taxing districts,  
25 independent taxing districts, and any other taxing authority  
26 created by state law, a political subdivision, or referendum.

27 (2) The local governments shall also prepare a summary  
28 report of all revenues and expenditures electronically posted  
29 which shall be made available to the residents within the  
30 jurisdiction of the respective local government by mail,  
31 newspaper advertisement, or in an electronic format posted on

593-2324C-07

1 the appropriate website in accordance with the following  
2 schedule:

3 (a) By February 1, 2010, and annually thereafter, the  
4 local governments subject to paragraph (1)(a).

5 (b) By February 1, 2011, and annually thereafter, the  
6 local governments subject to paragraph (1)(b).

7 (c) By February 1, 2012, and annually thereafter, the  
8 local governments subject to paragraph (1)(c).

9 Section 7. Transparency in local government  
10 budgets.--For the purpose of providing transparency in local  
11 government budgets, each local government shall provide  
12 electronic access to its budget information. For the purposes  
13 of this section, the term local government includes counties,  
14 municipalities, school districts, water management districts,  
15 and any special district that has authority to levy ad valorem  
16 taxes or non-ad valorem assessments. Not later than the date  
17 the notice of proposed property taxes and non-ad valorem  
18 assessments required under s. 200.069, Florida Statutes, is  
19 mailed, the local government shall electronically post its  
20 anticipated revenues, proposed budget, and tentative millage  
21 rate on the local government's official website, if one is  
22 available, or on the county government's official website in  
23 all other cases. Within 10 days after the adoption of the  
24 budget, the local government shall electronically post its  
25 adopted budget and millage rate. All county government  
26 official websites shall have a link to the websites of local  
27 governments within the county's jurisdiction.

28 Section 8. Transparency in local government  
29 contracting.--For the purpose of providing transparency in  
30 local government contracting, local governments shall  
31 electronically post all contracts that are public records on

593-2324C-07

1 the local government's official website, if one is available,  
 2 or on the county government's official website in all other  
 3 cases. For the purposes of this section, the term local  
 4 government includes counties, municipalities, school  
 5 districts, water management districts, and any special  
 6 district that has authority to levy ad valorem taxes or non-ad  
 7 valorem assessments. School district employment contracts are  
 8 exempt from this section. The contracts shall be posted in  
 9 accordance with the following schedule:

10       (1) By November 1, 2007, any county, municipality, or  
 11 school district that has a population of 300,000 or more on  
 12 April 1, 2007, as reported by the Office of Economic and  
 13 Demographic Research under s. 186.901, Florida Statutes, and  
 14 all water management districts, shall electronically post  
 15 contracts of \$25,000 or more executed on or after October 1,  
 16 2007.

17       (2) By November 1, 2008, any county, municipality,  
 18 water management district, or school district that has a  
 19 population of at least 50,000 but fewer than 300,000 on April  
 20 1, 2007, as reported by the Office of Economic and Demographic  
 21 Research under s. 186.901, Florida Statutes, shall  
 22 electronically post contracts of \$15,000 or more executed on  
 23 or after October 1, 2008.

24       (3) By November 1, 2009, any county, municipality, or  
 25 school district that has a population of fewer than 50,000 on  
 26 April 1, 2007, as reported by the Office of Economic and  
 27 Demographic Research under s. 186.901, Florida Statutes, and  
 28 all special taxing districts, independent taxing districts,  
 29 and any other taxing authority created by state law, a  
 30 political subdivision, or referendum, shall electronically  
 31 post contracts of \$5,000 or more executed on or after October

593-2324C-07

1 1, 2009.

2           Section 9. By January 31, 2008, staff of the Senate  
3 and the House of Representatives shall conduct a study and  
4 submit a report to the President of the Senate and the Speaker  
5 of the House of Representatives relating to the administrative  
6 process for appealing property tax assessments provided in  
7 part I of chapter 194, Florida Statutes. Staff shall conduct  
8 the necessary research and shall develop detailed  
9 recommendations for legislation to improve the accessibility,  
10 fairness, efficiency, and disclosure of all levels of this  
11 process, including recommendations relating to forms, manuals,  
12 guidelines, training materials, checklists, other types of  
13 documentation, training activities, and taxpayer outreach at  
14 all levels of the appeal process.

15           Section 10. The sum of \$50,000 in nonrecurring funds  
16 is appropriated from the General Revenue Fund to the  
17 Department of Revenue for costs incurred in assisting  
18 legislative staff in gathering, compiling, and analyzing data  
19 needed to prepare the report reviewing the administrative  
20 process for appealing property tax assessments.

21           Section 11. This act shall take effect July 1, 2007.  
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