

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Finance and Tax Committee

BILL: SB 4-D

INTRODUCER: Senator Atwater

SUBJECT: Ad Valorem Taxation

DATE: October 15, 2007 REVISED: 10/16/2007

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fournier</u>	<u>Johansen</u>	<u>FT</u>	<u>Fav/1 amendment</u>
2.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
3.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
4.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

SB 4-D implements the following amendments to the State Constitution, contingent on the passage of CS/SJR 2-D or HJR 7001-D by the electors of the state:

- Creates an additional exemption of up to \$25,000 to be applied after the first \$50,000 in value for all levies except school district levies;
- Creates an additional homestead exemption for “first-time Florida homebuyers” for all levies except school district levies;
- Provides portability of the Save Our Homes assessment differential for all levies except school district levies;
- Provides a total ad valorem tax exemption on homestead property owned by eligible low-income seniors.
- Creates a \$25,000 exemption for each tangible personal property return; and
- Allows the Legislature to provide for the assessment of rent-restricted affordable housing real property using actual rental income for all levies except school district levies.

SB 4-D creates s. 200.186, F.S., to limit the authority of counties, municipalities, and special districts to increase ad valorem taxes in fiscal year 2008-09, contingent on the constitutional

amendment being adopted. Local government governing bodies may override the limitations by extraordinary votes or by referenda. However, any county or municipality that levies taxes in excess of the limitation without the required extraordinary vote will forfeit participation in the state's local government half-cent sales tax revenue sharing program. The authority of school districts to levy ad valorem taxes is protected under the bill.

SB 4-D establishes circumstances in which the presumption of correctness which adheres to a property appraiser's assessment is lost in an administrative or judicial action in which a taxpayer challenges an assessment of value of non-homestead property. The bill limits the assessment of improvements to real property owned by a community land trust, and provides a tax exemption for property used to provide affordable housing and owned by a limited partnership where the sole general partner is a not-for-profit corporation, and provides the Department of Revenue with the authority to adopt emergency rules. The department is required to report to the Legislature by March 2008 on administrative issues or data requirements that have arisen from the implementation of this bill, CS/SJR 2-D, or ch. 2007-321, Laws of Florida, and must also report on local governments not in compliance with the millage rate limitations in s. 200.185, F.S..

This bill substantially amends the following sections of the Florida Statutes: 193.017, 193.114, 193.155, 194.301, 196.002, 196.031, 196.161, 196.1978, and 197.252.

This bill creates the following sections of the Florida Statutes: 193.803, 196.078, 196.098, 196.183, and 200.186, and creates several unnumbered sections of Florida law.

This bill provides conforming amendments to the following sections of Florida Statutes: 192.0105, 193.052, 194.011, 195.073, and 195.096.

II. Present Situation:

Constitutional Provisions

Fair Market Value and Just Value – Art. VII, s. 4, State Constitution, requires that all property be assessed at just value for ad valorem taxing purposes. The Florida Supreme Court has construed “just value” to be “fair market value” and “fair market value” to be the amount a purchaser willing but not obliged to buy, would pay to one willing but not obliged to sell. Certain exceptions to just value assessment, such as the “Save Our Homes” limitation and the exception for agricultural land, are constitutionally authorized.

Save Our Homes - In 1992, Florida voters approved an amendment to s. 4, Art. VII of the State Constitution, and popularly known as the “Save Our Homes” amendment . “Save Our Homes” was first applied to the January 1, 1995 assessments when, beginning with the 1994 tax roll, the growth in assessed value of homestead property was limited to the Consumer Price Index or 3 percent, whichever is lower.

As provided by general law, homestead property must be assessed at just value as of January 1 of the year following any change in ownership. New homestead property must be assessed at just value as of January 1 of the first year the property owner establishes homestead. Thereafter, the

property is subject to the Save Our Homes assessment limitation. Also, changes, additions, reductions, and improvements to homestead property are assessed as provided by general law, but after the initial assessment, the property is subject to the Save Our Homes assessment limitation. If homestead status is terminated, the Save Our Homes limitation does not apply and the property is assessed at just value, until a new owner is eligible to claim a homestead exemption.

Purpose of the Save Our Homes Amendment - In *Smith v. Welton*,¹ the First District Court of Appeal said:

The purpose of the amendment is to encourage the preservation of homestead property in face of ever increasing opportunities for real estate development, and rising property values and assessments. The amendment supports the public policy of this state favoring preservation of homesteads. Similar policy considerations are the basis for the constitutional provisions relating to homestead tax exemption, exemption from forced sale, and the inheritance and alienation of homestead.

Impact of Save Our Homes - In the twelve years since Save Our Homes was first implemented, its impact on the assessed value of property has far exceeded original expectations. In 1997, the third year of assessment limitations, Save Our Homes reduced the just value of homestead property by 3 percent. In 2006, Save Our Homes reduced the just value of homestead property by more than 38 percent or \$405 billion, which equals about 25 percent of the statewide total taxable value of real property.

Homestead Exemption – Art. VII, s. 6, subsection (a), State Constitution, provides that every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another person legally or naturally dependent upon the owner, shall be exempt from taxation up to the assessed value of five thousand dollars. Subsection (b) provides that only one exemption shall be allowed to any individual or family unit. Subsections (c) and (d) provide that under certain conditions the homestead exemption is \$25,000, which is, in fact, the effective homestead exemption. Subsection (f) provides that, by local option, an additional homestead exemption of up to \$50,000 is available to low-income seniors, and subsection (g) provides an ad valorem tax discount for homestead property owned by disabled veterans who were Florida residents at the time they entered military service. In 2006, there were 4,368,937 homesteads in Florida, and the homestead exemption reduced the 2006 tax roll by \$108.9 billion, or 17 percent.

Additional Homestead Exemption for the Elderly – Art. VII, s. 6, subsection (f), authorizes the Legislature to allow counties or municipalities to grant, by ordinance and for the purpose of their respective tax levies, an additional homestead tax exemption of up to \$50,000 to resident homeowners who are 65 years of age and whose household income, as defined by general law,

¹ 710 So. 2d 135, 137 (Fla. App. 1998)

does not exceed \$20,000, adjusted for inflation.² In 2006, 53 counties and 158 municipalities implemented the additional homestead exemption authorized under this section.

Ad valorem Tax Authority and Millage Rates- Art. VII, s. 1, subsection (a), reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real estate. Art. VII, s. 9, subsection (b) authorizes local governments to levy ad valorem taxes subject to the following limitations:

- 10 mills for county purposes,
- 10 mills for municipal purposes,
- 10 mills for school purposes,
- 1 mill for water management purposes, except in Northwest Florida where the limit is .05 mill, and
- Millage authorized by law and approved by voters for special districts.

Taxes levied for not longer than a two-year period for the payment of bonds and taxes are not subject to the millage limitations³ when the taxes are authorized by a vote of the electors.

Tangible Personal Property – Art. VII, s. 1, also grants exclusive authority to local governments to levy ad valorem taxes on tangible personal property,⁴ and establishes requirements that the state legislature and local governments must follow when levying and administering ad valorem property taxes. It requires that all ad valorem taxation be at a uniform rate within each taxing district⁵ and that property must be assessed at just value unless the Constitution provides for a different assessment standard.⁶ Tangible personal property is singled out for special treatment by the following constitutional provisions:

SECTION 1. Taxation; appropriations; state expenses; state revenue limitation.--

(b) Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes, as defined by law, shall be subject to a license tax for their operation in the amounts and for the purposes prescribed by law, but shall not be subject to ad valorem taxes.

SECTION 3. Taxes; exemptions.--

(b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.

(d) By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to

² For 2007, the maximum eligible income is \$24,214.

³ Art. VII, s. 9, State Constitution.

⁴ Sections 1(a) and 9(a), Art. VII, State Constitution.

⁵ Section 2, Art. VII, State Constitution.

⁶ Section 4, Art. VII, State Constitution.

exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years.

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

(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.

Tangible personal property not excluded by the above provisions is subject to ad valorem taxation.⁷ In 2006, 1.3 million tangible personal property tax returns were filed with a total taxable value of \$103.7 billion. The 997,109 returns with taxable amounts less than \$25,000 accounted for only \$4.5 billion of the total taxable value.

Statutory Provisions

Determining Millage Rates - Chapter 200, F.S., provides the process by which local governments determine the ad valorem tax millage rates each year. Section 193.023, F.S., requires property appraisers to complete their assessments of all property by July 1 each year. To determine the millage rate for the new tax roll, the property appraiser must first calculate the rolled-back millage rate for each taxing authority. The rolled-back rate is the millage rate that will provide the same property tax revenue as was levied during the prior year if applied to the new taxable values of properties taxed in the prior year. When property values increase, the rolled-back rate is lower than the prior year's millage rate. New construction and other population-driven changes affecting the tax roll being prepared are not included in the rolled-back rate calculation.

While the property appraiser completes assessments, each taxing authority prepares a tentative budget and computes a proposed millage rate necessary to fund that tentative budget. The property appraiser mails to each taxpayer a notice of proposed taxes (the "truth in millage" or TRIM notice) based on the millage rate proposed by each taxing authority. If the taxing authority is proposing a millage rate greater than the rolled-back rate, it must advertise a "Notice Of Proposed Tax Increase" in the local newspaper. Even if the new millage rate is the same as or lower than the prior year millage rate, but higher than the rolled-back rate, it must be called a tax increase and advertised as such. This is because when the rolled-back rate is exceeded, the taxes paid on pre-existing properties increase from the prior year.

Limitations on Maximum Millage Rates, Methodology, Penalties - Section 200.185, F.S., as created by ch. 2007-321, Laws of Florida, establishes a methodology for local taxing authorities, other than school districts, to calculate the maximum millage rates for fiscal years 2007-08 and 2008-09, and provides that the maximum millage rate limits may be overridden by extraordinary

⁷ Section 193.052, F.S. requires that tax returns be filed for tangible personal property in the county where the property is located. The Department of Revenue is directed to promulgate rules to ensure that all railroad and utility property is properly returned in the appropriate county. However, the evaluating or assessing of utility property in each county is the duty of the property appraiser. Department of Revenue form DR-405 requires that a separate return must be filed by a taxpayer for each location in the county, except for owners of vending machines, propane tanks and similar free-standing property at many locations, who may submit a single return.

votes of the governing bodies or by referenda. For fiscal year 2007-08, the maximum millage rate for most cities and counties is less than their rolled-back rate, with the size of reduction determined by how much their per capita ad valorem tax revenue increased from fiscal year 2001-02 to fiscal year 2006-07. Cities and counties of special financial concern as well as those with low historic revenue growth are allowed to levy the rolled-back rate by majority vote. For fiscal year 2008-09, the maximum millage rate for each local taxing authority except school districts is the rolled-back rate, adjusted for growth in Florida per capita personal income. However, if the millage rate levied in 2007-08 exceeded the maximum millage rate that could have been levied by a majority vote, the rolled-back rate must be based on the revenue that would have been raised at the majority vote rate, not the higher rate levied by an extraordinary vote.

Paragraphs (d) and (e) of s. 200.165(13), F.S.⁸, provide a procedure by which the ad valorem tax revenue limitations imposed by s. 200.185, F.S., are enforced. Any county or municipality that exceeds the maximum total ad valorem tax revenue authorized, and does not remedy the non-compliance as required by law, must forfeit the distribution of local government half-cent sales tax revenues during the 12 months following a determination of noncompliance by the Department of Revenue.

The major source of revenue that the state shares with local governments is the state sales tax.⁹ Under the Local Government Half-cent Sales Tax Program, counties and municipalities receive approximately 8.9 percent of sales tax collections and receive collections of the state portion of the communications services tax remitted by dealers within each county. In fiscal year 2006-07, counties and municipalities received \$1,687.6 million from this program. Distributions to each eligible county and municipality are based on the taxes collected in each county and then apportioned between the county government and the cities based on population.

Presumption of Correctness in Assessment of Value Challenges - Section 194.301, F.S., provides a presumption of correctness to the assessed value determined by the property appraiser in any administrative or judicial action in which a taxpayer an ad valorem tax assessment of value. The presumption of correctness is lost if the taxpayer can show by a preponderance of the evidence that the appraiser failed to properly consider the eight criteria in designated in s. 193.011, F.S., or if the appraiser's assessment is arbitrary.

Community Land Trusts - In an effort to provide affordable homeownership opportunities for Florida's workforce, local governments donate land, or the money to purchase land, to charitable, tax exempt housing organizations known as community land trusts, which then build homes on the property. The community land trusts sell the homes, but not the land, to income-eligible buyers. The purchase price of the homes is affordable because the buyers do not pay for the land. The homeowners receive a 99-year ground lease interest in the land and pay a nominal monthly fee to the community land trust for the use of the land. After the initial acquisition, resale is limited to a formula contained in the ground lease that restricts the market price of the homes to ensure continuous affordability.

⁸ Amended by ch. 2007-321, Laws of Florida, enacted during the 2007B Special Session.

⁹ Florida has three main revenues which it shares with local governments: motor fuel tax, cigarette tax, and sales tax revenues.

According to the Revenue Estimating Conference, as of 2007 there are 17 community land trusts in Florida that are operational or in the incorporation stage, and 13 more under discussion. In Monroe County, the Middle Keys Community Land Trust allows improvements to appreciate by the lesser of 3 percent year or the rate of annual growth in median income in the Keys.

Affordable Housing - The Florida Housing Finance Corporation (corporation), formerly the Florida Housing Finance Agency, is the primary state entity responsible for encouraging the construction of affordable housing in Florida. The corporation operates several housing programs financed with state and federal dollars, and state funding is provided from documentary stamp tax revenues which are distributed to the State Housing Trust Fund and then used for the various corporation programs. The 2005 Legislature capped the distribution of documentary stamp tax revenues effective July 1, 2007, and in the 2007-2008 fiscal year, the State Housing Trust Fund is eligible to receive a maximum of \$243 million.

Income Requirements for 4-person households (s. 420.0004, F.S.)

- Extremely-low-income: (ELI) Not greater than 30 percent of the state median annual adjusted household income.
- Very-low-income: (VLI) Not greater than 50 percent of the state median annual adjusted household income.
- Low-income: (LI) Not greater than 80 percent of the state median annual adjusted household income.
- Moderate-income: (MI) Not greater than 120 percent of the state median annual adjusted household.
- Workforce housing: (WH) Not greater than 140 percent of the area median income, adjusted for household size. (150 percent for areas of critical state concern)

Area	ELI	VLI	LI	MI	WH
Clay/Duval/ St. Johns/ Nassau	\$ 18,100	\$ 30,150	\$ 48,250	\$ 72,360	\$ 84,420
Collier	\$ 20,950	\$ 34,900	\$ 55,850	\$ 83,760	\$ 97,720
Glades	\$ 13,250	\$ 22,050	\$ 35,300	\$ 52,920	\$ 61,740
Lake/Orange/ Osceola/ Seminole	\$ 17,200	\$ 28,700	\$ 45,900	\$ 68,880	\$ 80,360

Monroe	\$ 18,300	\$ 30,500	\$ 48,800	\$ 73,200	\$ 91,500
Palm Beach	\$ 19,300	\$ 32,200	\$ 51,500	\$ 77,280	\$ 90,160
Walton	\$ 13,650	\$ 22,750	\$ 36,400	\$ 54,600	\$ 63,700

2006 Gap Between Buying Power and Median Sales Price by County for Homesteaded Single Family Homes under the Community Workforce Housing Innovative

The Shimberg Center at the University of Florida is responsible for developing and maintaining the statewide data on housing needs and production and operating an information clearinghouse on housing program. The Center also coordinates state housing initiatives with local government and federal programs. The following information is from the Shimberg Center and is compiled using county property appraiser data provided by the Department Revenue:

County	Median Annual Income for a Family of Four	Buying Power (Income x 3)	Median Sales Price	Gap Between Buying Power and Sales Price
Broward	\$ 60,600	\$ 181,800	\$ 339,000	\$ 157,200
Hillsborough	\$ 54,400	\$ 163,200	\$ 252,500	\$ 89,300
Monroe	\$ 61,000	\$ 183,000	\$ 525,000	\$ 342,000
Palm Beach	\$ 64,400	\$ 193,200	\$ 399,000	\$ 205,800
St. Lucie	\$ 54,600	\$ 163,800	\$ 249,000	\$ 85,200
Seminole	\$ 57,400	\$ 172,200	\$ 284,000	\$ 111,800
Walton	\$ 45,500	\$ 136,500	\$ 285,000	\$ 148,500
Statewide Average	\$ 54,800	\$ 164,400	\$ 251,200	\$ 86,800

III. Effect of Proposed Changes:

PROPERTY TAX REFORM – Statutory implementation of Constitutional Changes

Save Our Homes – The bill amends s. 193.155, F.S., to:

- Provide that up to \$1 million of the Save Our Homes differential may be transferred by a current homestead property owner when purchasing a new homestead. **The transferred differential does not apply to school taxes.**
 1. If the new homestead is more valuable than the prior homestead, the full value of the differential may be transferred, up to \$1 million.
 2. If the new homestead is less valuable than the prior homestead, the amount of the transferred differential is reduced in proportion to the difference in value of the new homestead to the prior homes, up to \$1 million.
- Provide for portability when two or more persons otherwise eligible to have their homestead properties assessed individually establish a single new homestead – the assessed value is limited to the reduction that would have resulted from a portability calculation based on any one of the eligible properties.
- Provide for the proportionate transfer of the Save Our Homes differential when two or more persons abandon a jointly owned homestead property and each person establishes a new homestead. Each person is entitled to a reduction in value for the new homestead based on their ownership interest in the prior homestead.

Homestead Exemption – The bill amends s. 196.031, F.S., to double the existing homestead exemption by providing an additional exemption of up to \$25,000 to be applied after the first \$50,000 in value. **This exemption does not apply to school taxes.**

“First-Time Florida Homebuyer” – The bill creates s. 196.078, F.S., to provide an additional homestead exemption for first-time Florida homebuyers equal to 25 percent of the just value of their homestead, up to a maximum of 25 percent of the prior year’s median just value of homesteads in the county. The value of the exemption is reduced each year by the amount of the homestead’s Save Our Homes differential and disappears at zero. **This exemption does not apply to school taxes.**

Homestead Property Total Ad Valorem Tax Exemption for Low-Income Seniors – The bill creates s. 196.098, F.S., to provide a total ad valorem tax exemption for homestead property owned by low-income seniors, defined as persons 65 and older, whose household income from all sources is less than \$23,604. The income limit will be adjusted annually by the consumer price index. **This exemption applies to all taxes.**

Tangible Personal Property Ad Valorem Tax Exemption – The bill creates s. 196.183, F.S., to provide for an ad valorem tax exemption for tangible personal property up to \$25,000. This exemption applies to appurtenances such as carports, sunrooms, and porches on all mobile homes.

Presumption of Correctness in Assessment of Value Challenges – The bill amends s. 194.301, F.S., to provide that except for homestead property, the presumption of correctness adhering to a property appraiser’s assessment is lost in an administrative or judicial action where a taxpayer challenges an ad valorem tax assessment of value made on or after January 1, 2008, and the percentage change in just value of the challenged parcel, exclusive of new construction, is greater than the percentage change for the category of property in which the parcel is included. The bill provides that the percentage change for a category of property, excluding new

construction, must be based on the percentage change in just value from the prior year to the current year of all parcels within that category for both years. For purposes of the section, categories of property are established.

Community Land Trusts: The bill substantially amends s. 193.017, F.S., to provide for the assessment of structural improvements on lands owned by a community land trust and used to provide affordable housing. The bill defines “community land trust” as a nonprofit entity that qualifies as a charitable entity under s. 501(c)(3) of the Internal Revenue Code and which has as one of its purposes the acquisition of land to be held in perpetuity for the primary purpose of providing affordable housing. The bill codifies in statute the responsibility of a community land trust to convey structural improvements located on specifically identified parcels of land belonging to the land trust to persons who qualify for affordable housing under the income limits of s. 420.0004, F.S., or workforce housing under the income limits of s. 420.5095, F.S.

The structural improvements are each subject to a ground lease of at least 99 years, and the lease contains a formula limiting the amount for which the improvement may be resold. The land trust retains the first right to purchase at the time of resale. When determining just value of the structural improvements, a property appraiser must assess the improvement based on the sale price paid by a willing buyer to a willing seller which is limited by the formula contained in the ground lease.

Workforce and Affordable Rental Housing – The bill creates s. 193.803, F.S., to provide for the classification of eligible property as workforce and affordable rental housing property, and creates an application process for classification and a methodology to assess such classified property. **However, the methodology for assessing classified rental property is not applicable to ad valorem taxes levied by school districts.** Properties eligible for classification include:

- Projects that are funded and rent-restricted by the U.S. Department of Housing & Urban Development’s Section 8 program and that provide affordable housing for eligible persons meeting low, moderate, or middle income limits.
- Rental properties that house multiple families, commercial fishing workers, farm workers, homeless persons, or the elderly, and that are funded and rent-restricted by the Florida Housing Finance Corporation under the State Apartment Incentive Loan Program; the HOME Investment Partnership Program; and the Community Workforce Housing Innovative Pilot Program.
- Rental properties under the State Housing Initiatives Partnership Program which provides funds to local governments as an incentive to create partnerships to produce and preserve affordable homeownership and multifamily housing.
- Properties that are rent-restricted under s. 42 of the Internal Revenue Code of 1986; the HOME Investment Partnership Program under the Cranston-Gonzalez National Affordable Housing Act, or the Federal Home Loan Bank’s Affordable Housing Program.

- Multifamily residential rental property of 10 units or more which provide housing for persons meeting the extremely-low, very-low, low, or moderate income limits established in s. 420.0004, F.S., and which are subject to a land use agreement or other agreement which must be recorded in the official public records of the county in which the property is located, and which restricts the use of the property to affordable rental housing for a period of at least 20 years.

Certain classified rental property must be assessed under the income approach using the actual net operating income. Properties that have received a low-income housing tax credit from the Florida Housing Finance Corporation must be assessed under the income approach using the actual net operating income and applying the following:

- The tax credits granted and the financing generated by the tax credits may not be considered as income.
- The actual rental income from rent-restricted units in each property must be used by the property appraiser.
- Any costs paid with tax credits and with additional financing proceeds received under ch. 420 may not be included as income.

SB 4-D provides for the recapture of taxes for failure to notify the property appraiser of a change in use, status, or condition of the property, or if the property appraiser determines that for any year within the prior 10 years, the property owner was not entitled to the workforce or affordable rental housing classification. The property owner is subject to taxes otherwise due and owing, along with 15 percent interest per annum and a 50 percent penalty on the additional taxes due.

The bill amends s. 196.1978, F.S., to clarify that community land trust property that is restricted for use as affordable housing and subject to a ground lease of 99 years, and property owned by non-profit corporations who must also be charitable entities under s. 501(c)(3) of the Internal Revenue Code and which is used to provide affordable housing to persons meeting the income limits under s. 420.0004, F.S., are exempt from ad valorem taxes. An ad valorem tax exemption is created for properties providing affordable housing to persons meeting the income limits of s. 420.0004, F.S., if such properties are owned by limited partnerships where the sole general partner is a nonprofit corporation qualified as a charitable entity under s. 503(c)(3) of the Internal Revenue Code.

Limitations on Maximum Millage Rates for Fiscal Year 2008-2009 – The bill creates s. 200.186, F.S., to provide that counties, cities, and special districts may increase tax revenues by the growth in Florida per capital personal income, but the increase must be based on the 2007-2008 tax revenue minus the override amount, if any. With a 2/3 vote, the governing body of the taxing jurisdiction may levy a millage rate in excess of the maximum millage rate calculated under the bill if the excess is not more than 67 percent of the difference between the rolled-back rate calculated under s. 200.065, F.S., and the maximum millage rate calculated under the bill. With a unanimous vote or referendum, the governing body may levy any rate.

Any county or municipality that exceeds the maximum total ad valorem tax revenue authorized, and does not remedy the non-compliance as required by law, must forfeit the distribution of local

government half-cent sales tax revenues during the 12 months following a determination of noncompliance by the Department of Revenue.

The revenue limitations apply to each taxing jurisdiction. The maximum revenue allowed for a county is the sum of the taxes levied at the maximum millage rate by each dependent district in the county and each MSTU, plus the taxes levied by the county at its maximum millage rate. The maximum revenue allowed for a municipality is the sum of the taxes levied at the maximum millage rate by every dependent district in the municipality, plus the taxes levied by the municipality at its maximum millage rate. An individual jurisdiction within a county or municipality may exceed its rate if the total does not exceed the county or city maximum revenue limits.

The sections of SB 4-D that require revenue reductions in 2008-2009, provide for additional homestead exemptions, create an ad valorem tax exemption for low-income elderly, provide for portability of Save Our Homes, and provide for the assessment of affordable housing rental property based on rental income are contingent upon approval by the voters and will take operate retroactively to January 1, 2008, should the amendments be approved. Provisions of SB 4-D relating to the presumption of correctness, assessment of community land trust property and structural improvements, and Department of Revenue rulemaking authority take effect January 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does require cities and counties to expend funds or limit their authority to raise revenues or receive state-shared revenues as specified by s. 18, Art. VII, State Constitution, which provides that:

Section 18. Laws requiring counties or municipalities to spend funds or limiting their ability to raise revenue or receive state tax revenues.

(b) Except upon approval of each house of the legislature by two-thirds of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority existed on February 1, 1989.

(c) Except upon approval of each house of the legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the percentage of a state tax shared with counties and municipalities as an aggregate on February 1, 1989.

The bill contains provisions relating to additional homestead exemptions, providing for portability of the Save Our Homes limitation, creating a homestead property ad valorem tax exemption for low-income seniors, and providing for the assessment of affordable housing rental property, which all limit the authority of municipalities and counties to raise revenues in the aggregate. The bill also provides circumstances in which a county or municipality that does not comply with the revenue limitations of the bill will forfeit the distribution of local government half-cent sales tax revenues.

In addition, the bill contains provisions revising the presumption of correctness standard that adheres to a property appraiser's assessment of value which may reduce revenues received by counties, municipalities, and special districts when assessing properties in the categories affected by the changes to the standard. Finally, the bill limits the authority of local governments to increase ad valorem taxes by specifying that in fiscal year 2008-2009, the millage rate is the rolled-back rate plus growth in Florida per capita income, except that prior year revenues used in the calculation of the limitation must be reduced by the amount collected from a millage rate approved in fiscal year 2007-2008 that is in excess of the allowable maximum rate. Cities, counties, and special districts may not increase tax rates to offset reductions in the tax base without an extraordinary vote.

It should be noted that many of the provisions affecting local government revenues are included as amendments to the State Constitution in SJR 2-D and HJR 7001-D and are contingent upon passage of one of those amendments.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

In 2006, the Legislature's Office of Economic and Demographic Research (EDR) contracted with Walter Hellerstein, W. Scott Wright, and Charles C. Kearns of Southerland Asbill & Brennan LLP, for a legal analysis of the most commonly referenced legislative proposals regarding property taxes. The report focused primarily on the federal constitutional issues raised by the proposed alternatives to the Save Our Homes amendment, which limits property tax assessment increases on homestead property. The study did not examine specifically the portability provisions implemented in this bill. The key findings were that portability may provide opportunities for legal challenge based on the Commerce Clause, the "Interstate" Privileges and Immunities Clause, and the Right to Travel provisions of the United States Constitution. If portability is implemented and later held to be unconstitutional, the discrimination or burden it created would have to be eliminated on a prospective basis and remedied through meaningful backward-looking relief on a retrospective basis which could entail either a refund or other remedy that cures the discrimination, e.g., taxing the previously favored class on a retroactive basis.

The “First-time Florida homebuyer” exemption and the double homestead exemption implemented in this bill may mitigate some or all of the issues identified in the legal analysis of portability.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Property Tax Reform Impacts:

4-year Total Impact - \$11.018 billion
4-year School District Total Impact - \$ 2.074 billion

	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
Homesteads:	(\$1.755 billion)	(\$2.126 billion)	(\$2.445 billion)	(\$2.746 billion)
25K Additional Exemption after 1 st 50K	(\$876 million)	(\$888 million)	(\$900 million)	(\$907 million)
Portability	(\$184 million)	(\$445 million)	(\$666 million)	(\$899 million)
1 st Time Homebuyers	(\$65 million)	(\$149 million)	(\$221 million)	(\$264 million)
Low-Income Seniors Exemption	(\$629 million)	(\$643 million)	(\$658 million)	(\$675 million)
Non-Homesteads:	(\$222 million)	(\$268 million)	(\$274 million)	(\$279 million)
Affordable Housing	(\$45 million)	(\$46 million)	(\$47 million)	(\$48 million)
Working Waterfronts	-	(\$44 million)	(\$46 million)	(\$49 million)
TPP – 25K Exempt	(\$177 million)	(\$179 million)	(\$181 million)	(\$182 million)
Preponderance of Evidence	(\$87 million)	(\$177 million)	(\$271 million)	(\$369 million)
Elected Property Appraisers	-	-	-	-
TOTAL IMPACTS	(\$2.064 billion)	(\$2.571 billion)	(\$2.989 billion)	(\$3.393 billion)
<i>School Districts Impacts</i>	<i>(\$442 million)</i>	<i>(\$492 million)</i>	<i>(\$543 million)</i>	<i>(\$597 million)</i>

B. Private Sector Impact:

The additional homestead exemptions, the Save Our Homes portability provisions, the ad valorem tax exemption for low-income seniors, the \$25,000 tangible personal property exemption, and the affordable housing rental property exemptions contained in CS/SJR 2-D and HJR 7001-D and implemented in SB 4-D will all reduce tax burdens for owners of all types of real and tangible personal property. All county, municipality, and special district ad valorem tax levies will be reduced by the provisions of the bill. However, all school district levies are unaffected by the portability provisions and the new exemptions created under the bill, with the exception of the low-income senior exemption and the exemption for community land trust and affordable housing properties held by charitable entities.

C. Government Sector Impact:

All counties, cities, and special districts will lose ad valorem tax revenues from the additional exemptions created in CS/SJR 2-D or HJR 7001-D and implemented by SB 4-D. To the extent that counties, cities, and special districts do not override the revenue caps imposed by the maximum millage rate provisions in the bill, local governments will have lower revenues than under current law and will likely limit or reduce spending. School district levies are protected from the portability provisions and certain new exemptions created in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

B. Amendments:

Barcode #412888 by the Committee on Finance and Tax and Senator Carlton
Revises the total ad valorem tax exemption for eligible low-income seniors by limiting the exemption to the first \$100,000 of assessed value. Eligible seniors may continue to receive up to \$50,000 in the local option homestead tax exemptions.

The amendment reduces the low-income senior impact to:

FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
(\$ 327 million)	(\$333 million)	(\$339 million)	(\$346 million)

The amendment reduces the impact on schools to:

FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
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(\$ 303 million)	(\$348 million)	(\$395 million)	(\$444 million)
(WITH TITLE AMENDMENT)			

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
