

MEMORANDUM

April 6, 2007

TO: The Honorable Chair and Members of The School Board of Miami-Dade County, Florida

FROM: Rudolph F. Crew, Superintendent of Schools 

SUBJECT: LEGISLATIVE UPDATE: PROPERTY TAX REFORM

Attached please find a legislative update on property tax reform prepared by the Board's legislative consultant, Akerman Senterfitt.

Should you have any questions or need additional information, please contact Mr. Alberto M. Carvalho, Associate Superintendent, Office of Intergovernmental Affairs, Grants, Marketing, and Community Services, at 305 995-2532 or Ms. Iraida R. Mendez-Cartaya, Administrative Director, Intergovernmental Affairs and Grants Administration, at 305 995-1497.

RFC/AMC:ldb
M1191

Attachment

cc: School Board Attorney
Superintendent's Cabinet
Ms. Iraida R. Mendez-Cartaya

Fort Lauderdale
Jacksonville
Los Angeles
Madison
Miami
New York
Orlando
Tallahassee
Tampa
Tysons Corner
Washington, DC
West Palm Beach

One Southeast Third Avenue
25th Floor
Miami, Florida 33131-1714
www.akerman.com
305 374 5600 *tel* 305 374 5095 *fax*

Jose F. Diaz
305 755 5828
jose.diaz@akerman.com

MEMORANDUM

TO: Alberto M. Carvalho, Associate Superintendent
Iraida R. Mendez-Cartaya, Administrative Director
Miami-Dade County Public Schools

FROM: Akerman Senterfitt (Abrams, Rodriguez, and Diaz)

DATE: March 23, 2007

SUBJECT: *Legislative Memorandum on Property Tax Reform*

ISSUE

Florida's lawmakers are proposing aggressive solutions to the current property tax problem. How will these changes affect Miami-Dade Public Schools (the "School Board")?

ANALYSIS

FLORIDA'S HOUSE OF REPRESENTATIVES

The Original Plan

On February 21, 2007, Speaker Marco Rubio, along with other House leaders, unveiled a two-tier plan for drastic property tax reform. This initial proposal was designed to cut Floridians' property tax bills by nearly 20 percent this year.¹ The proposal also suggested capping the rate

¹ See Speaker Rubio's Press Release, February 21, 2007 (Other cited sources available upon request).I

of revenue growth for both state and local governments and gave voters the option of abolishing property taxes on homestead properties and replacing it with an increased sales tax. Many municipalities have already been setting emergency workshops to discuss property tax reform and the impact it could have on currently provided projects and services. So far, it seems that school districts are not going to be directly affected by the House proposals.

House Bill 7001 has been proposed by the Government Efficiency and Accountability Council and is being championed by Rep. Attkisson. Originally, by July 1, 2007, lawmakers would force local governments (excluding school boards) to push back their tax revenue to the amount generated by the rolled-back rate in 2000-2001 (taking into account adjustments for growth and inflation). Local governments would have the ability to choose to raise revenues above the capped rate through a unanimous vote of their governing body. The House planned to leave school districts alone because they have been mandated by voters to pay for class-size reductions and are being forced to raise local taxes to qualify for certain state funds. This would mean that under the initial plan, cities and counties across the State would have had to deal with an estimated \$5.77 billion in cuts, based on \$30 billion that is currently collected in property taxes. [The average homestead property owners in Miami-Dade County would have saved \$490; the average non-residential homestead owner would have saved \$912, and the average commercial property owner would have saved \$4,356]. Though a reduction in taxes would create a good will among city residents, and an increase in disposable income that can then be used by residents within the City, an impact might be felt in the competition for dollars that fund the vital services that school districts provide with state dollars.

Second, in a special election later this year, voters would have the option to make the rollback and revenue cap part of the state constitution. This proposed amendment would also cap general revenue for state government. More importantly, voters would have the option to replace property taxes for homesteaded property with a sales tax increase. That amendment would have to be passed by a 2/3 vote of each legislative chamber. Then, 67% of voters would have to approve it. Finally, the proposed amendment would require the unanimous vote of local governments in order to override the cap (but the elimination of homestead property taxes could not be voted on by the local governing body). The change would raise the current 6 percent sales tax to 8.5 percent – which would be the highest in the country. Speaker Rubio's numbers suggest that Miami-Dade County's residents would have saved different amounts of money depending on whether they own homestead (\$2,354), non-residential homestead (\$912), or commercial (\$4,356) property.

Initial Criticisms of the Plan

Some critics are saying that instituting the nation's highest state sales tax would discourage business from moving to Florida, it might scare away tourists, and would eventually chase some economic activity across the borders to Georgia, Alabama, etc. Part-time residents are already complaining about the disparity between their taxes and those of the full-time Florida residents. The problem for them, international investors, and "snowbirds" is that it is very tough for them to mobilize and create a strong lobbying front to represent them in these discussions.² This impacts the already decreasing numbers of families, and thus students, that are entering the

² Iuspa-Abbott, Paola, "South Florida Snowbirds Seek Voice on Issue of Soaring Property Taxes," Sun-Sentinel.com, March 19, 2007.

state of Florida. Lt. Governor Jeff Kottkamp has indicated that Governor Crist is also skeptical of the House's plan to eliminate property taxes on homestead and replace it with a sales tax.³

Recently, a liberal think tank began comparing the House tax reform plan to a measure that was initially passed and later suspended in Colorado because of its negative impact on education, infrastructure, and health care. That group, the Center on Budget and Policy Priorities argues that a sales tax is regressive because it "takes a greater percentage of income from poorer people."⁴ The House GOP has already started to question the credibility of the Washington, D.C. group because of its liberal leanings.

On the other hand, some tax-cut advocate group are also beginning to form. One example, Floridians for Property Tax Reform, is a group composed of homeowners and small business owners.⁵ These advocates, which include Jose Cancela, are pushing for substantive property tax reform.

House Democrat's Plan

On March 8, 2007, House Democrat Jack Seiler proposed the most threatening (to the school board) proposal on property tax reform to date. His plan would have eliminated a school district's ability to assess ad valorem taxes and increased the state sales tax by 2 cents in order to help fund public schools. That plan "mirrors a growing trend across the United States to make public school funding less reliant on taxes imposed on property holders, in favor of taxes paid by

³ Peltier, Michael, "Local Officials Get Disappointing news from State Government," Napelesnews.com, March 23, 2007.

⁴ Kaczor, Bill, "Liberal Group Attacks House GOP Property Tax Plan." Herald-Tribune.com, March 20, 2007.

⁵ Hollis, Mark, "Property Tax Activists Form Statewide Group to Pressure Legislators," Sun-Sentinel.com, March 21, 2007.

a wider spectrum of the population. Seiler said that his proposal could be grafted onto "either the tax plan being pushed by House Republicans, or an alternative... by the chamber's Democrats."⁶

Since then, House Democrats have come up with a plan that they estimate will amount to a \$3.7 billion reduction in property taxes, but would also include a 1-cent increase to the sales tax. The plan does not take Seiler's proposal into consideration, though all must be vigilant to ensure that it does not sneak in later. The consultants at Akerman Senterfitt have already met with Rep. Seiler and he says that he has abandoned his initial plan for the new version that was recently adopted by House Democrats. That plan would alter the homestead exemption by adding an additional amount that is equal to half the median home value within a county. "For example, in Miami-Dade County, the median assessed value of a single-family home is \$226,580, so homeowners would, at a minimum, receive an exemption of \$113,290, plus \$25,000, for a total of \$138,290."⁷ Owners of second homes and rental properties would also gain a new tax break equal to one-quarter the median county value for such dwellings. Renters could get up to a \$100 per month state subsidy as a way to make rental housing more affordable.⁸ Businesses would also get a reduction on the first \$1 million of their property value.⁹

Republican Plan Evolves

After the original plan was criticized, House Republican members went back to the drawing board and came up with a new plan for rolling back taxes. The Palm Beach Post

⁶ Hollis, Mark, "Democratic Legislator: Cut Property Taxes 30\$, Raise Sales Tax 2 Cents," Sun-Sentinel, March 9, 2007.

⁷ Klas, Mary Ellen, "Democrats' Proposal Would Sharply Raise Homestead Exemption," The Miami Herald, March 15, 2007.

⁸ Hollis, Mark, "Florida Lawmakers Want to Help Renters with Cuts in Property Taxes," Sun-Sentinel, March 14, 2007.

⁹ Garcia, Jason and Kennedy, John, "Trying to Save Idea, Rubio to Offer Tweaks." Orlando Sentinel, March 15, 2007.

reported that this re-vamping came days after Senator Mike Haridopolos first informed Speaker Rubio that there was little support for the original plan in the Senate. The agreed changes could lessen the impact of the original rollback plan and have more realistic roll-backs that meet 2003-2004 levels (three years later than originally proposed). Under an amendment passed in the Policy & Budget Council, Rural counties, children's services councils, and hospital taxing districts would now be exempt, just like schools boards. Businesses would also get a \$25,000 exemption for tangible property, such as office equipment. Each of those changes is contingent on the tax swap also being approved. Another possibility is that the House "might abandon the cut completely in favor of a Senate plan to change the way properties are assessed."¹⁰ "The one area where all sides appear in sync is over establishing a uniform method for the state's 67 counties to assess the value of property for tax purposes."¹¹ The House Committee on State Affairs approved a bill that would require commercial property values to be based on income generated. Properties would be valued based on how they are used, as opposed to how they could be used. An across-the-board proposal of this nature would impact the school board by decreasing the ad valorem taxable property values.

Latest House Republican Update

On March 21, 2007, the House unveiled yet another property tax suggestion – local control. The bill, titled PCB 07-01, allows each county in Florida could decide on one of two tax proposals.¹² First, they could opt to eliminate all homesteads, as originally planned, and increase

¹⁰ Bender, Michael C. and Kam, Dara, "House's Property Tax Reform Halted as Parties Offer Changes, New Versions." Palm Beach Post, March 15, 2007.

¹¹ Kleindienst, Linda and Hollis, Mark, "Push to Cut Property Taxes Falters as Legislators Clash Over Proposals." Sun-Sentinel.com, March 15, 2007.

¹² Leary, Alex, "House Tells Voters: You Pick." Tampabay.com, March 22, 2007.

the sales tax by as much as 2.5 percent. The second option would be to allow roll-backs to 2003-2004 levels; saving homestead owners about 45% on their tax bills. One problem with these plans is that counties would then begin competing amongst themselves for residents and business based on which option they choose. Another problem is that the one common component of the two options is that all the property taxes used to fund schools would "cease to exist" and would be replaced by a 1 percent sales tax increase. The House feels that the sales tax increase would replace all the monies lost in school property taxes. Additionally, both plans call for savings for non-homestead property owners.

The Florida Association of Counties is still concerned about the new plan. In fact, they have asked the House to delay the vote that is supposed to take place today in front of the House Policy and Budget Council. "But lawmakers remained resolved to advance their plan to the floor, despite stalwart opposition from Democrats and a lukewarm Senate."¹³

Proposed House Budget

On March 13, 2007, House Republicans unveiled their public schools budget. The Miami Herald reported that the new budget "includes \$1.2 billion more than this year's plan, a 6.5 percent increase. But to get the full increase, local schools boards will have to raise taxes." The House's \$19.3 billion dollar budget for districts relies on nearly \$9 billion in property taxes while the rest comes from state money. The message that this plan sends is that the state continues to expect school districts to generate more and more funds from local property taxes despite the recommended cuts for municipalities and counties.

¹³ Deslatte, Aaron, "Counties Still Opposed House Tax Plan." Tallahassee Democrat, March 22, 2007.

GOVERNOR CRIST'S PLAN

Governor, Charlie Crist, has several proposals that would also affect current property tax schemes. These proposals include capping growth for non-homesteaders, creating personal property exemptions for businesses, establishing portability for the Save Our Homes program, and doubling the homestead exemption. Each of these ideas has its own set of consequences that will affect the way that the School Board generates and spends its tax dollars.

1.) Capping Growth: The Governor is suggesting placing a 3% (or the rate of inflation, whichever is lower) cap on the rate that non-homestead property assessments can grow each year (this does not include a roll back to previous taxable levels as the House plan does). This would reduce revenue to cities, counties and school districts by almost \$3 billion within five years;(*)¹⁴

2.) Business Exemptions: If a business has less than \$25,000 in tangible personal property, then it would be exempt from paying taxes on that property. This suggestion has been adopted by the new House plan. This would slash revenues for municipalities by \$200 million a year, and apply to approximately 83% of all businesses that currently conduct business in Florida;(*)

3.) Portability: This suggestion would basically allow homesteaded property owners to take the discount that they have on their current homes and apply it to any other home they choose to move to in Florida. Many argue that this fails constitutional muster under an equal protection analysis. Recently, a group of Alabama residents with homes in Florida have filled a class-action lawsuit asking the state courts to declare Florida's Save Our Homes property-

¹⁴ All financial estimates in these four points come from: Deslatte, Aaron, "Tax Deal Could be Tough Sale," Tallahassee.com. February 25, 2007 available at <http://www.tallahassee.com>.

assessment cap as unconstitutional. If enacted, a portability scheme would have an estimated impact of \$200 million a year, growing to \$1 billion in lost revenue for municipalities within five years – no impact on schools boards have been suggested as of yet;(*) and

4.) Doubling the Homestead Exemption: Governor Crist wants every city and county to hold a referendum during the 2008 presidential primary, as to whether or not the homestead exemption should be doubled to \$50,000 per household. Only cities and counties would absorb this financial hit, again amounting to over \$1 billion dollars.(*) Though these hits do not directly impact school districts, the competition for dollars would increase as a result of less dollars.

THE FLORIDA'S SENATE

Initial Reluctance

Until recently, the Florida Senate was much more guarded with its plans for property tax reform. Yet, Sen. Mike Haridopolos, chairman of the Committee on Finance and Tax said that the House's sales tax proposal "looks like a winning idea because it could stimulate economic activity by freeing up residents' tax dollars."¹⁵ But, he also added that he was concerned about the burden a sales tax increase would put on the state's poorer residents and renters. He said that he expected to unveil a Senate package in mid-March after wrapping up statewide hearings on property taxes with a hearing in Daytona Beach. The Daytona Beach New Journal estimated that the "Senate proposal could be a mixture of the House package and the one proposed by Governor Charlie Crist." The Senate hosted more than a dozen public hearings on property tax reform during the month of February.

¹⁵ See Miller, James, "Local Leaders say proposed tax overhaul irresponsible," [newjournalonline.com](http://www.newjournalonline.com), February 24, 2007 at www.news-journalonline.com.

Senate Property Tax Plan

On Wednesday, March 14, 2007, the first Senate property tax reform plan was released. The plan was presented at a Senate Community Affairs Committee workshop and even then, Sen. Haridopolos said "we don't want to move forward without all the information in front of us."¹⁶ Senate Bills 508 (Fasano) and 722 (Atwater) would change the way that properties are assessed by property appraisers. The proposed bills would delete any reference to "highest and best use" in the Florida Statutes and substitute them with "present use of the property." This plan is a version of what Palm Beach County has been advocating for since the beginning of session. Senate Majority Leader Daniel Webster has said that the Senate does not want to dismantle the Save Our Homes initiative. Governor Crist has already said that he applauds the Senate's efforts to value property at a more realistic level.¹⁷

Senate Democrat's Plan

The Senate Democrats were expected to release their property tax plan on March 21, 2007, but they decided to indefinitely postpone it after some lawmakers failed to sign on.¹⁸ Early rumblings indicated that there would be no sales tax increase under the Democrat's formulation. The rumor is that the plan will mirror the House Democrats' proposal to increase the homestead exemption by adding half the average value of a county's homestead properties. Renters and second-home owners would get either a 10% reduction, cap, or \$10,000 exemption (depending on who you ask). Senate Minority Leader Steve Geller and Sen. Haridopolos have both said that they want to make taxes more reasonable for landlords and commercial property owners.

¹⁶ Kaczor, Bill, "Senate Taking Slow Approach to Property Tax Reform," Herald Tribune, March 14, 2007.

¹⁷ Dunkelberger, Lloyd, "Senate Pushes Tax Reform Plan," Herald Tribune, March 14, 2007.

¹⁸ Kam, Dara, "Bipartisan Plan on Tax Reform Looking Dicey." Palm Beach Post.com, March 21, 2007.

The plan might also include some inter-county portability schemes. These are all speculations which will be clarified in the very near future.

Right now, this property appraiser suggestion seems to be the one gaining the most steam. The only bill that has specifically targeted school districts has been Rep. Seiler's plan which, to date, has not been adopted by anyone. Governor Crist's proposal to cap the growth of all ad valorem taxes could have an impact on school boards, but it is only a hypothetical option at this point. As these plans develop, we will continue to monitor their progress and inform you of their status.