1983

Session Law 83-204

Florida Senate & House of Representatives

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Committee/Floor Tapes

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* Also contains copy of Underhill vs. Edwards, Fla. 2d 129.*
### COMMITTEE RECORDS

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### Senate/House Journals

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#### NOTES

- **2-2-83** - PCB #4 (196-399-1-3) amendment. Citations in 193/122.
- PCB #5 - n/a, C. n/a, etc. in 193/122.
- **3-23-83** - PCB #4 (196-399A-2-3) n/a, etc. in 7-2.
- PCB #5 - n/a, n/a.

- **4-13-83** - PCB #5 - n/a, etc.
  - PCB #4 (196-399C-4-3) n/a, etc. in 3-23.

- **4-26-83** - PCB #5 - no comments.
- **5-4-83**
**Bill Action Record**

Committee on **Finance & Taxation**  

Meeting Time ____________________  

Place ____________________________  

Referred to Subcommittee on  

Subcommittee report:  

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Final vote on bill  

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**Totals**  

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**House of Representatives**

Bill No. ____________________  

Date received ____________________  

Date Reported ____________________  

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## BILL ACTION RECORD

**Committee on Finance & Taxation**

**Meeting Time**

**Place**

**Committee Action:**

- Temporarily passed
- Reconsidered
- Favorable
- Favorable with amendments
- Favorable with committee substitute
- Unfavorable

**Other action:**

### Final vote on bill

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**TOTALS**

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**Date received**

**Date Reported**

**Meeting Time**

**Place**

**Referred to Subcommittee on**

**Subcommittee report:**

- Favorable
- Favorable with amendments
- Favorable with committee substitute
- Unfavorable

**Referred to Subcommittee on**

**Subcommittee report:**

- Favorable
- Favorable with amendments
- Favorable with committee substitute
- Unfavorable
SECTION 2. Section 193.122, Florida Statutes, 1982 Supplement, as amended, is amended to read:

193.122 Certificates of property appraisal adjustment board and property appraiser; extensions on the assessment rolls.--

(1) The property appraisal adjustment board shall certify each assessment roll upon order of the board of county commissioners pursuant to s. 197.0134, if applicable, and again after all hearings required by s. 194.032 have been held. These certificates shall be attached to each roll as required by the Department of Revenue.

(2) After the first certification of the tax rolls by the property appraisal adjustment board, or upon order of the board of county commissioners pursuant to s. 197.0134, the property appraiser shall make all required extensions on the rolls to show the tax attributable to all taxable property. Upon completion of these extensions, and upon satisfying himself that all property is properly taxed, the property appraiser shall certify the assessment roll and file a copy thereof with the clerk of the circuit court.

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

Section 2. Section 193.122, Florida Statutes, 1982 Supplement, as amended, is amended to read:

193.122 Certificates of property appraisal adjustment board and property appraiser; extensions on the assessment rolls.--

(1) The property appraisal adjustment board shall certify each assessment roll upon order of the board of county commissioners pursuant to s. 197.0134, if applicable, and again after all hearings required by s. 194.032 have been held. These certificates shall be attached to each roll as required by the Department of Revenue.

(2) After the first certification of the tax rolls by the property appraisal adjustment board, or upon order of the board of county commissioners pursuant to s. 197.0134, the property appraiser shall make all required extensions on the rolls to show the tax attributable to all taxable property. Upon completion of these extensions, and upon satisfying himself that all property is properly taxed, the property appraiser shall certify the assessment roll and file a copy thereof with the clerk of the circuit court.
appraiser shall certify the tax rolls, and shall within 1 week thereafter publish notice of the date and fact of extension and certification in a periodical meeting the requirements of s. 50.011 and publicly display a notice of the date of certification in the office of the property appraiser. The property appraiser shall also supply notice of the date of the certification to any taxpayer who requests one in writing. These certificates and notices shall be made in the form required by the department and shall be attached to each roll as required by the department by regulation.

(3) When the tax rolls have been extended pursuant to s. 197.0134, the property appraisal adjustment board's second certification shall reflect all changes made by the board together with any adjustments or changes made by the property appraiser. Upon such certification the property appraiser shall recertify the tax rolls with all changes to the collector, and shall provide public notice of the date and fact of recertification pursuant to subsection (2).

(4) An appeal of a property appraisal adjustment board decision pursuant to s. 194.032(6)(a)1. or 2. by the property appraiser shall be filed prior to certification of the tax roll under subsection (2), or if the roll was extended pursuant to s. 197.0134, within 30 days of certification under subsection (1). The roll may be certified by the property appraiser prior to an appeal being filed pursuant to s. 194.032(6)(a)3., but such appeal shall be filed within 20 days after receipt of the decision of the department relative to further judicial proceedings.
(5) The department shall promulgate regulations to ensure that copies of the tax rolls are distributed to the appropriate officials and maintained as part of their records for as long as is necessary to provide for the orderly collection of taxes. Such regulations shall also provide for the maintenance of the necessary permanent copies of such rolls.

(6) The property appraiser may extend millage as required in subsection (2) against the assessment roll and certify it to the tax collector even though there are parcels subject to judicial or administrative review pursuant to s. 194.032(6)(a). Such parcels shall be certified and have taxes extended against them in accordance with the decisions of the property appraisal adjustment board or the property appraisers valuation if the roll has been extended pursuant to s. 197.0134, except that payment of such taxes by the taxpayer shall not preclude the taxpayer from being required to pay additional taxes in accordance with final judicial determination of an appeal filed pursuant to s. 194.032(6)(a).

(7) Each assessment roll shall be submitted to the executive director of the department in the manner and form prescribed by the department within 1 week after extension and certification to the tax collector and again after recertification to the tax collector, if applicable. When the provisions of s. 193.1145 are exercised, the requirements of this subsection shall apply upon extension pursuant to s. 193.1145(3)(a) and again upon reconciliation pursuant to s. 193.1145(8)(a).
A bill to be entitled
An act relating to circuit courts; amending s. 194.171, Florida Statutes, 1982 Supplement, relating to the jurisdiction of the circuit court in property tax cases; deleting provisions relating to the payment of certain taxes deposited with the court; providing an effective date

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

Section 1. Section 194.171, Florida Statutes, 1982 Supplement, is amended to read:

194.171 Circuit court to have original jurisdiction in tax cases.--

(1) The circuit courts have original jurisdiction at law of all matters relating to property taxation. Venue is in the county where the property is located

(2) No action shall be brought to contest a tax assessment after 60 days from the date the assessment being contested is certified for collection under s. 193.122(2).

(3) Before a taxpayer may bring an action to contest a tax assessment, he shall pay to the collector the amount of the tax which he admits in good faith to be owing. The collector shall issue a receipt for the payment, and the taxpayer shall file the receipt with his complaint.

(4) No action to contest a tax assessment may be maintained, and any such action shall be dismissed, unless all taxes on the property assessed in years after the action is brought, which the taxpayer in good faith admits to be owing, are paid before they become delinquent.
(5) The requirements of subsections (2), (3), and (4) are jurisdictional. No court shall have jurisdiction in such cases until after the requirements of both subsections (2) and (3) have been met. A court shall lose jurisdiction of cases where the taxpayer has failed to comply with the requirements of subsection (4). The clerk of the circuit court shall, after deducting his statutory fees, pay to the collector all taxes which have been admitted to be due and have been deposited in the registry of the court in connection with pending actions to contest tax assessments.

Section 2. This act shall take effect October 1, 1983.

********************************************

HOUSE SUMMARY

Provides that the circuit court has no jurisdiction over an action by a taxpayer to contest a tax assessment until he meets certain requirements and provides that the court shall lose jurisdiction if the taxpayer fails to pay certain taxes. Deletes provisions relating to the payment by the clerk of the court to the tax collector of taxes deposited in the court registry.

CODING. Words in struck through type are deletions from existing law, words underlined are additions.
A bill to be entitled
An act relating to taxation, adding s. 194.171(6), Florida Statutes, 1982 Supplement;
providing that payment of tax not be deemed an
admission that such tax is due and not
prejudice the taxpayers' right to challenge
such tax; providing an effective date.

Be It Enacted by the Legislature of the State of Florida.

Section 1. Subsection (6) is added to section 194.171,
Florida Statutes, 1982 Supplement, to read:

194.171 Circuit court to have original jurisdiction in
tax cases.--

(6) Payment of a tax shall not be deemed an admission
that the tax was due and shall not prejudice the right of a
taxpayer to bring a timely action challenging such tax and
seeking a refund.

Section 2. This act shall take effect upon becoming a
law.

******************************************************

SENATE SUMMARY

Provides that payment of a tax is not an admission that
the tax was due and does not prejudice the right of a
taxpayer to challenge the tax and seek a refund.
I. SUMMARY:

A. Present Situation:

Subsection 194.171(1), F.S., states that circuit courts have original jurisdiction in all matters relating to property taxation. Subsections (2), (3) and (4) state conditions under which suits may be brought and maintained. Subsection (2) states that if more than 60 days have elapsed since the property appraiser has certified the tax roll for the collection of taxes a taxpayer can not bring an action to contest an assessment. Subsection (3) states that before a taxpayer can bring an action to contest an assessment he must pay all taxes which he in good faith admits to be owing. Subsection (4) states that in order to maintain an action in court the taxpayer must pay, before they become delinquent, subsequent taxes on the property which he in good faith admits to be owing.

Subsection (5) contains obsolete language dealing with law suits pending at the time this section was first enacted.

B. Effect of Proposed Changes:

The current subsection (5) of s. 194.171, F.S., is deleted and a new subsection (5) is added. The new subsection states that the requirements of subsections (2), (3), and (4) are "jurisdictional."

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Because courts would no longer have jurisdiction over cases in which a taxpayer did not file within 60 days of the certification of the tax roll or did not pay taxes which in good faith were admitted to be owing, a taxpayer's ability to bring an action involving issues directly relating to these restrictions would be limited.

B. Government:

The court would no longer have jurisdiction over property tax cases in which a taxpayer failed to bring action within 60 days after the certification of the tax roll or did not pay taxes admitted in good faith to be owing.

III. COMMENTS:

The Florida Supreme Court has held that subsection (2) of s. 194.171, F.S., is a jurisdictional statute of nonclaim. Coe v. ITT Community Development Corporation, 362 So.2d 8 (Fla. 1978).
I. SUMMARY:

A. Present Situation:

Section 194.171(4), F.S., states that "no action to contest a tax assessment may be maintained unless all taxes in the property which the taxpayer in good faith admits to be owing are paid before they become delinquent."

In Willig v. Blake, 358 So. 2d 871, the taxpayer had paid the entire tax due and at the same time filed a lawsuit challenging the tax. The Third District Court of Appeal ruled in 1978 that, since the statute required the payment of the amount admitted to be due and the taxpayer had paid such amount in full, it should be presumed that the taxpayer admitted that the full amount was due. The court thus denied the taxpayer a hearing in his lawsuit.

B. Effect of Proposed Change:

This bill would add a new subsection (6) to s. 194.171, F.S., stating that payment of a tax shall not be deemed an admission that the tax was due and shall not prejudice the right of the taxpayer to timely file a court action to challenge the tax.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Taxpayers seeking ad valorem tax refunds through the courts even though the tax has already been fully paid will have a much clearer authority to do so.

B. Government:

None

III. COMMENTS:

This act would take effect upon becoming a law.

IV. AMENDMENTS:

#1 by Finance, Taxation & Claims:

This amendment makes it clear that the action challenging the tax must be timely filed within the 60 days permitted pursuant to s. 194.171(2), F.S.
The Committee on FT&C recommended the following amendment which was moved by Senator Dunn and adopted:

Amendment

On page ..., line ..., insert after "refund":

, within the time prescribed in subsection (2).
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST
1. Beggs
2. Beggs
3. 

STAFF DIRECTOR

REFERENCE
1. FT&C
2. J.Civ.
3. 

ACTION

SUBJECT: BILL NO. AND SPONSOR:
Circuit Courts
SB 1176 by
Senator Maxwell

I. SUMMARY:

A. Present Situation:

Subsection 194.171(1), F.S., states that circuit courts have original jurisdiction in all matters relating to property taxation. Subsections (2), (3) and (4) state conditions under which suits may be brought and maintained. Subsection (2) states that if more than 60 days have elapsed since the property appraiser has certified the tax roll for the collection of taxes a taxpayer cannot bring an action to contest an assessment. Subsection (3) states that before a taxpayer can bring an action to contest an assessment he must pay all taxes which he in good faith admits to be owing. Subsection (4) states that in order to maintain an action in court the taxpayer must pay, before they become delinquent, subsequent taxes on the property which he in good faith admits to be owning.

Subsection (5) contains obsolete language dealing with law suits pending at the time this section was first enacted.

B. Effect of Proposed Changes:

The current subsection (5) of 194.171, F.S., is deleted and a new subsection (5) is added. The new subsection states that the requirements of subsections (2), (3), and (4) are "jurisdictional." That is, even though subsection (1) states that circuit courts have jurisdiction in all matters relating to property taxation, they would lose that jurisdiction if the taxpayer did not bring the action within 60 days of the certification of the tax roll and did not pay all taxes admitted in good faith to be owing.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Because courts would no longer have jurisdiction over cases in which a taxpayer did not file within 60 days of the certification of the tax roll or did not pay taxes which in good faith were admitted to be owing, a taxpayer's ability to bring an action involving issues directly relating to these restrictions (e.g., a taxpayer bringing an action after 60 days citing extenuating circumstances that prevented him from filing within the allotted time) would be limited.

B. Government:

The court would no longer have jurisdiction over property tax cases in which a taxpayer failed to bring action within 60 days
after the certification of the tax roll or did not pay taxes
admitted in good faith to be owing.

III. COMMENTS:

New language states that "no court" shall have jurisdiction when
the requirements of ss. 194.171(2), (3), or (4), F.S., are not met.
The title of s. 194.171, F.S., refers to the jurisdiction of
circuit courts. It is unclear whether the new language limits the
jurisdiction of all courts or just circuit courts.

This act would take effect on October 1, 1983.

IV. AMENDMENTS:

None
A bill to be entitled
An act relating to circuit courts; amending s.
194.171, Florida Statutes, 1982 Supplement,
relating to the jurisdiction of the circuit
court in property tax cases; deleting
provisions relating to the payment of certain
taxes deposited with the court; providing an
effective date.

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

Section 1. Section 194.171, Florida Statutes, 1982
Supplement, is amended to read:

194.171 Circuit court to have original jurisdiction in
tax cases.--

(1) The circuit courts have original jurisdiction at
law of all matters relating to property taxation. Venue is in
the county where the property is located.

(2) No action shall be brought to contest a tax
assessment after 60 days from the date the assessment being
contested is certified for collection under s. 193.122(2).

(3) Before a taxpayer may bring an action to contest a
tax assessment, he shall pay to the collector the amount of
the tax which he admits in good faith to be owing. The
collector shall issue a receipt for the payment, and the
taxpayer shall file the receipt with his complaint.

(4) No action to contest a tax assessment may be
maintained, and any such action shall be dismissed, unless all
taxes on the property assessed in years after the action is
brought, which the taxpayer in good faith admits to be owing,
are paid before they become delinquent.

CODING: Words in struck through type are deletions from existing law; words underlined are additions.
(5) The requirements of subsections (2), (3), and (4) are jurisdictional. No court shall have jurisdiction in such cases until after the requirements of both subsections (2) and (3) have been met. A court shall lose jurisdiction of cases where the taxpayer has failed to comply with the requirements of subsection (4). The clerk of the circuit court shall, after deducting his statutory fee, pay to the collector all taxes which have been admitted to be due and have been deposited in the registry of the court in connection with pending actions to contest tax assessments.

Section 2. This act shall take effect October 1, 1983.

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HOUSE SUMMARY

Provides that the circuit court has no jurisdiction over an action by a taxpayer to contest a tax assessment until he meets certain requirements and provides that the court shall lose jurisdiction if the taxpayer fails to pay certain taxes. Deletes provisions relating to the payment by the clerk of the court to the tax collector of taxes deposited in the court registry.

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
I. SUMMARY:

A. Present Situation:

Subsection 194.171(1), F.S., states that circuit courts have original jurisdiction in all matters relating to property taxation. Subsections (2), (3) and (4) state conditions under which suits may be brought and maintained. Subsection (2) states that if more than 60 days have elapsed since the property appraiser has certified the tax roll for the collection of taxes a taxpayer can not bring an action to contest an assessment. Subsection (3) states that before a taxpayer can bring an action to contest an assessment he must pay all taxes which he in good faith admits to be owing. Subsection (4) states that in order to maintain an action in court the taxpayer must pay, before they become delinquent, subsequent taxes on the property which he in good faith admits to be owing.

Subsection (5) contains obsolete language dealing with lawsuits pending at the time this section was first enacted.

B. Effect of Proposed Changes:

The current subsection (5) of 194.171, F.S., is deleted and a new subsection (5) is added. The new subsection states that the requirements of subsections (2), (3), and (4) are "jurisdictional." That is, even though subsection (1) states that circuit courts have jurisdiction in all matters relating to property taxation, they would lose that jurisdiction if the taxpayer did not bring the action within 60 days of the certification of the tax roll and did not pay all taxes admitted in good faith to be owing.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Because courts would no longer have jurisdiction over cases in which a taxpayer did not file within 60 days of the certification of the tax roll or did not pay taxes which in good faith were admitted to be owing, a taxpayer's ability to bring an action involving issues directly relating to these restrictions (e.g., a taxpayer bringing an action after 60 days citing extenuating circumstances that prevented him from filing within the allotted time) would be limited.

B. Government:

The court would no longer have jurisdiction over property tax cases in which a taxpayer failed to bring action within 60 days
after the certification of the tax roll or did not pay taxes admitted in good faith to be owing.

III. COMMENTS:

New language states that "no court" shall have jurisdiction when the requirements of ss. 194.171(2), (3), or (4), F.S., are not met. The title of s. 194.171, F.S., refers to the jurisdiction of circuit courts. It is unclear whether the new language limits the jurisdiction of all courts or just circuit courts.

This act would take effect on October 1, 1983.

IV. AMENDMENTS:

None
| Final vote on bill | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays |
|-------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| ALLEN             |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| CARPENTER         |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| CLEMENTS          |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| DRAGE             |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| DUDLEY            |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| EASLEY            |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| GUSTAFSON         |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| HAWKINS, M.E.     |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| JOHNSON, BOB      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| LIBERTI           |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| LOGAN             |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| MACKENZIE         |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| MARTINEZ          |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| MILLS             |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| MITCHELL          |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| MORGAN            |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| OGDEN             |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| PAJICIC           |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| SPAET             |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| STEWART           |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| THOMPSON          |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| TOBIASSEN         |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| WATT              |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| WETHERELL         |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| READY, V.-Ch.     |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| KUTUN, Chairman   |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| **TOTALS**        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
Section 194.171, Florida Statutes, 1982 Supplement, is amended to read:

194.171 Circuit court to have original jurisdiction in tax cases.—

1. The circuit courts have original jurisdiction at law of all matters relating to property taxation. Venue is in the county where the property is located.

2. No action shall be brought to contest a tax assessment after 60 days from the date the assessment being contested is certified for collection under s. 193.122(2), or after 60 days from the date said assessment is recertified under s. 193.122(3) if a petition contesting the assessment had not received final action by the property appraisal adjustment board prior to extension of the roll under s. 197.0134.

3. Before a taxpayer may bring an action to contest a tax assessment, he shall pay to the collector not less than the amount of the tax which he admits in good faith to be owing. The collector shall issue a receipt for the payment, and the taxpayer shall file the receipt with his complaint.

4. Payment of a tax shall not be deemed an admission that the tax was due and shall not prejudice the right of a taxpayer to bring a timely action as provided in subsection (2) to challenge such tax and seek a refund.

5. No action to contest a tax assessment may be maintained, and any such action shall be dismissed, unless all taxes on the property assessed in years after the action is brought, which the taxpayer in good faith admits to be owing, are paid before they become delinquent.
The clerk of the circuit court shall, after deducting his statutory fee, pay to the collector all taxes which have been admitted to be due and have been deposited in the registry of the court in connection with pending actions to contest tax assessments.

Section 3. Section 197.0134, Florida Statutes, 1982 Supplement, is amended to read:

197.0134 Extension of roll during adjustment board hearings.--

(1) Notwithstanding the provisions of s. 193.122, the board of county commissioners may, upon request of the tax collector and by majority vote, order the roll to be extended prior to completion of property appraisal adjustment board hearings, if completion thereof would otherwise be the only cause for a delay in the issuance of tax bills beyond November 1. For any parcel for which tax liability is subsequently altered as a result of board action, the tax collector shall resolve the matter by following the same procedures used for correction of errors. However, approval by the Department of Revenue shall not be required for refund of overpayment made pursuant to this section.

(2) No tax certificate and no warrant shall be issued under s. 197.116 or s. 197.086 with respect to delinquent taxes on real or personal property for the current year if a petition currently filed with respect to such property has not received final action by the property appraisal adjustment board.

Section 4. This act shall take effect July 1, 1983, and shall apply to assessment rolls and taxes levied thereon for 1983 and each year thereafter.
By Representatives Ogden and Easley

A bill to be entitled

An act relating to circuit courts; amending s. 194.171, Florida Statutes, 1982 Supplement, relating to the jurisdiction of the circuit court in property tax cases; deleting provisions relating to the payment of certain taxes deposited with the court; providing an effective date.

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

Section 1. Section 194.171, Florida Statutes, 1982 Supplement, is amended to read:

194.171 Circuit court to have original jurisdiction in tax cases.--

(1) The circuit courts have original jurisdiction at law of all matters relating to property taxation. Venue is in the county where the property is located.

(2) No action shall be brought to contest a tax assessment after 60 days from the date the assessment being contested is certified for collection under s. 193.122(2).

(3) Before a taxpayer may bring an action to contest a tax assessment, he shall pay to the collector the amount of the tax which he admits in good faith to be owing. The collector shall issue a receipt for the payment, and the taxpayer shall file the receipt with his complaint.

(4) No action to contest a tax assessment may be maintained, and any such action shall be dismissed, unless all taxes on the property assessed in years after the action is brought, which the taxpayer in good faith admits to be owing, are paid before they become delinquent.
(5) The requirements of subsections (2), (3), and (4) are jurisdictional. No court shall have jurisdiction in such cases until after the requirements of both subsections (2) and (3) have been met. A court shall lose jurisdiction of cases where the taxpayer has failed to comply with the requirements of subsection (4). The clerk of the circuit court shall, after deducting his statutory fees, pay to the collector all taxes which have been admitted to be due and have been deposited in the registry of the court in connection with pending actions to contest tax assessments.

Section 2. This act shall take effect October 1, 1983.

********** HOUSE SUMMARY **********

Provides that the circuit court has no jurisdiction over an action by a taxpayer to contest a tax assessment until he meets certain requirements and provides that the court shall lose jurisdiction if the taxpayer fails to pay certain taxes. Deletes provisions relating to the payment by the clerk of the court to the tax collector of taxes deposited in the court registry.
April 6, 1983

Honorable Gwen Margolis
Chairman, Finance, Taxation
and Claims Committee
Senate Office Building
The Capitol
Tallahassee, Florida 32301

Dear Gwen:

During the past several years I have been involved in a considerable amount of tax litigation. I am enclosing with this letter a proposed bill designed to correct an inequity created by a decision in the Third District Court of Appeal which flies in the face of clearly established legislative policy.

It has long been the law in Florida and most other states that illegal taxes which are paid involuntarily are subject to reimbursement upon bringing an appropriate action. Taxes are considered to be "involuntarily" paid when there is a significant sanction for their nonpayment. The law never required, as some persons mistakenly believed, that the tax be paid with a written protest. The Legislature has eliminated even the need for "involuntariness" by providing in Sections 195.106 and 214.13 et seq for refunds of overpaid taxes in all circumstances.

In the case of property taxes, Section 194.171 requires that the taxpayer remit the amount of tax admitted in good faith to be owing prior to bringing an action. In the case of Willig v. Blake, 358 So.2d 871 (3d DCA 1978), the taxpayer paid the entire tax and, at the same time, filed a lawsuit challenging the tax. The District Court of Appeal held that, since the statute required the payment of the amount admitted to be due and since the taxpayer had made the full payment, he was presumed to have admitted that the full amount was due and he could not collect any refund unless his payment was made with an expressed protest. The decision is clearly contrary to the expressed legislative intent that illegal taxes should be refunded and that technical obstacles to such refund should not be placed in the taxpayers' path. The decision creates an unfair burden for the average taxpayer who pays his tax in good faith despite a legitimate belief that it is illegal and who does not enjoy the same advantage as a large corporation.
of having a legal staff available to keep him apprised of legal intricacies.

The enclosed bill would overcome the problem created by the Willig case by simply stating that payment of a tax is not an admission that it is due and does not prejudice the right of the taxpayer to bring a timely action to challenge it.

In virtually every case in which I have challenged an illegal tax, the taxing authority has seized upon the technicality created by the Willig case to attempt to evade repayment even though the tax was concededly illegal. If the Willig case is not overcome by legislation such as that which I am recommending, taxing authorities will be encouraged to levy illegal taxes with no fear of refund since very few taxpayers know enough to pay under written protest.

Thank you for your consideration.

Sincerely,

Barry Richard

BSR: cj m

Enclosure