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Vicki Weber
James Francis

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TRUTH OR CONSEQUENCES: FLORIDA OPTS FOR TRUTH IN MILLAGE IN RESPONSE TO THE PROPOSITION 13 SYNDROME

STEVE PAJCIC,* VICKI WEBER**, AND JAMES FRANCIS***

I. INTRODUCTION

In July of 1979, Governor Bob Graham announced he had instructed the State Department of Revenue to begin strictly enforcing the legal requirement that property be assessed for ad valorem tax purposes at its fair market value.¹ This proclamation should have surprised no one; the fair market value standard has been the rule in Florida for more than 100 years.² During that time, Florida’s legislative, executive, and judicial branches have all declared that a lesser standard could not be tolerated.³ Yet for a number of reasons, to be explained later in this article, the standard has never been uniformly followed.

Governor Graham’s threat to order the disapproval of inadequate tax assessment rolls, and thereby disrupt the fiscal processes of local governments, compelled the legislature to come to grips with the existing impediments to fair market value assessments. The result was the enactment by the 1980 legislature of ad valorem tax reform legislation popularly known as the “Truth in Millage”

* A.B. 1968, Princeton University; J.D. 1971, Harvard University; Chairman, Committee on Finance & Taxation, Florida House of Representatives; Partner, Pajcic, Pajcic, Dale, & Bald.

** B.S. 1975, J.D. 1978, Florida State University; Staff Attorney, Committee on Finance & Taxation, Florida House of Representatives.

*** B.S. 1970, Valparaiso University; M.A. 1972, Ph.D. 1978, Florida State University; Legislative Economist, Committee on Finance & Taxation, Florida House of Representatives.

¹. See St. Petersburg Times, July 31, 1979, § B, at 1.
³. See Fla. Stat. § 195.0012 (1979); Message by Governor Spessard Holland to the Joint Session of the Florida Legislature (May 14, 1941), reprinted in Fla. H.R. Jour. 745, 748 (Reg. Sess. 1941); Walter v. Schuler, 176 So. 2d 81, 85 (Fla. 1965), respectively.
or “TRIM” bill.4

The purpose of this article is to examine the legislature’s reasons for retaining fair market value as the assessment standard despite wide-spread resistance to the requirement; to identify the existing obstacles to full value assessments; and to discuss the means by which the legislature has, through the TRIM bill, attempted to overcome these obstacles. A review of the often stormy history of property tax assessment is provided to familiarize the reader with the situation as it existed when the 1980 legislature convened.

II. EVOLUTION OF THE FAIR MARKET VALUE STANDARD

A. Uniformity and Equality Among Taxpayers

Since 1868, the Florida Constitution has mandated that the legislature prescribe rules that secure the “just valuation” of property for ad valorem tax purposes,5 and as early as 1869, the legislature required property appraisers to ascertain the “full cash value” of real and personal property.6 Early court decisions construing the purpose of the just valuation and full cash value standards, however, concluded that they were simply intended to secure uniformity and equality among taxpayers and that if assessments were uniform, infraction of the statute did not void an assessment.7 The court was asked to reconsider its uniformity rationale after the Florida Constitution was amended in 1934 to provide a $5,000 exemption from taxes for homestead property.8 The Florida Supreme Court responded that the full cash value standard now required more than uniformity of assessments.9 The court focused upon the impact of assessment levels on the relative value of the

5. Fla. Const. of 1868, art. XII, § 1. Prior constitutions addressed only the need to provide for a uniform and equal tax system. E.g., Fla. Const. of 1865, art. VIII, § 1; Fla. Const. of 1861, art. VIII, § 1; Fla. Const. of 1838, art. VIII, § 1.
6. Ch. 1,713, § 17, 1869 Fla. Laws 5 (current version at Fla. Stat. § 193.011 (1979)). In 1974, tax assessors were renamed property appraisers in an effort to clarify their function and they will be referred to as property appraisers throughout. See Fla. HJR 1907 (1973), adopted at general election, 1974 (codified at Fla. Const. art. VIII, § 1(d)). In 1976, the boards of tax adjustment were renamed property appraisal adjustment boards for the same reason. See ch. 76-133, 1976 Fla. Laws 231 (current version at Fla. Stat. ch. 194 and § 196.194 (1979), as amended by ch. 80-274, §§ 1, 36, 37, 62, 1980 Fla. Laws 1143).
7. See, e.g., Camp Phosphate Co. v. Allen, 81 So. 503, 507 ( Fla. 1919).
8. Fla. HJR 20 (1933), adopted at general election, 1934 (current version at Fla. Const. art. VII, § 6(a)).
$5,000 homestead exemption, and concluded that the effect of assessing property at more or less than its full cash value was to reduce or increase, respectively, the value of the exemption.\textsuperscript{10}

The effect of assessment levels on the real value of the homestead exemption can best be demonstrated by the following example. Assume that Taxpayers A and B own similar pieces of property, each worth $20,000, but only Taxpayer A is entitled to a $5,000 homestead exemption. If both parcels are assessed at 100\% of their value, Taxpayer A will have a tax liability based upon $15,000, and Taxpayer B will owe taxes on $20,000 of value. However, if both parcels are assessed at 50\% of their value, Taxpayer A will pay taxes on $5,000 ($10,000 of assessed value, less the $5,000 exemption), and Taxpayer B will be liable for taxes on $10,000 of value. In the first instance, Taxpayer A pays taxes on 75\% of the value on which Taxpayer B pays. In the second situation, Taxpayer A pays taxes only on 50\% of the value on which Taxpayer B pays. Nothing changed except the level of assessment.

The court recognized that variations in assessment levels altered the value of the homestead exemption and caused a shifting of the tax burden between homestead and nonhomestead property. Consequently, the uniformity of assessments was no longer a valid defense against a taxpayer's claim for relief from overassessment.\textsuperscript{11}

The courts have generally denied relief to taxpayers assessed at fair market value although other taxpayers in the same county are assessed at less than fair market value.\textsuperscript{12} The only exception to this rule applies when a taxpayer can show that the property appraiser has arbitrarily and discriminatorily assessed his property at a higher level than all other property in the county.\textsuperscript{13}

\textbf{B. The Millage Reduction Law}

By 1940, assessments were so low that Florida's total assessed value was less than it had been in 1925.\textsuperscript{14} Governor Spessard Hol-
land sought to encourage accurate assessment and as part of his legislative program proposed Florida's first millage rollback law. This law, enacted by the legislature in 1941, ensured that the tax rate levied for fiscal years 1941-42 and 1942-43 would be reduced from the 1940-41 rate in proportion to the increase in assessment levels from 1940-41 to the current year. For example, if a county property appraiser doubled assessments between 1940-41 and 1942-43, the millage rate levied in that county in 1942-43 would be one-half the rate levied in 1940-41. In this manner, property taxes remained constant despite rising property assessments. Any deviations from the rolled back millage rate had to be approved by the state. Assessments quadrupled under Governor Holland's plan and it was reenacted for two more fiscal years. The millage rollback law expired at the end of fiscal year 1944-45.

C. Fair Market Value Defined

Meanwhile, the courts, while attempting to enforce the full cash value standard, were struggling to describe the requirement. In *Root v. Wood,* the Florida Supreme Court was asked to decide whether a taxpayer had made a proper tax return on his intangible personal property. The intangible tax statute required that taxable value be determined on the basis of full cash value, the same as

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A reading of Governor Spessard Holland's message to the Joint Session of the 1941 Florida Legislature indicates that this reduction in total assessed value was due in part to poor assessment practices. Governor Holland stated, "Full cash valuation is an objective for 1942 and can be attained without hardship on the property owners but instead with savings for most owners. The present ridiculously low level of valuation in many counties has operated to bring entirely under the homestead exemption, properties which are worth as much as thirty or forty thousand dollars, or even more." Message, note 3 supra. See also Henderson v. Leatherman, 163 So. 310, 314 (Fla. 1935), wherein the court took judicial notice of the fact that most land in Florida was assessed at no more than 50% of its full cash value.

15. "Millage" is a term used to describe the amount of the tax levy. A mill is one-tenth of one percent. A one mill levy generates $1.00 in taxes for every $1,000 of assessed value.

16. Ch. 20722, § 54, 1941 Fla. Laws 1965 (expired by its own terms at the end of fiscal year 1942-43).

17. Id.


19. Ch. 22079, § 54, 1943 Fla. Laws 890 (expired by its own terms at the end of fiscal year 1944-45).

20. 21 So. 2d 133 (Fla. 1945).

21. Ch. 15789, § 7, 1931 Fla. Laws 1406 (current version at Fla. Stat. § 199.103 (1979)).
assessment standard long applicable to the valuation of real property. Other valuation terms used in the statute were: "true taxable value," "true and just value," and "valuation for tax purposes." The court declared that these terms were all synonymous with "fair market value," which was defined as "that which a purchaser willing but not obliged to buy, would pay to one willing but not obliged to sell."

D. The 1963 Just Value Act

In 1963, the legislature enacted the Just Value Act which replaced the earlier "full cash value" standard with seven criteria to be used by the appraisers in deriving the constitutionally required "just valuation" of property. The Just Value Act also revived the concept of a millage rollback to be used to offset property assessment increases. The Florida Supreme Court, in Walter v. Schuler, found it necessary to interpret the legislature's intent in substituting the just valuation criteria for the prior full cash value standard. The

22. Id. at §§ 11, 10 and 6, respectively.
23. 21 So. 2d at 138.
24. Id. at 137-38.
25. Ch. 63-250, 1963 Fla. Laws 600 (current version at FLA. STAT. § 193.011 (1979)) provides:

The county assessor of taxes of the several counties shall assess all the real and personal property in said counties in such a manner as to secure a just valuation as required by § 1, Art. IX of the state constitution. In arriving at a just valuation, the county assessor of taxes of the several counties shall take into consideration the following factors:

(1) The present cash value of the property;
(2) The highest and best use to which the property can be expected to be put in the immediate future; and the present use of the property;
(3) The location of said property;
(4) The quantity or size of said property;
(5) The cost of said property and the present replacement value of any improvements thereon;
(6) The condition of said property;
(7) The income from said property.

An eighth criterion was added by ch. 67-167, § 1, 1967 Fla. Laws 336. This factor allows the property appraiser to consider the net proceeds from the sale of the property after deducting reasonable selling costs such as commissions, excluding proceeds attributable to payments for household furnishings, and allowing for unconventional or atypical terms of financing that may affect the sales price.

26. This time the legislature allowed the local taxing authorities to increase their tax levies by 10% in the current year over the previous year if the proposed increase was advertised and a public hearing was held. Further increases were allowed in emergency situations. Ch. 63-250, § 8, 1963 Fla. Laws 600 (repealed by ch. 69-286, § 2, 1969 Fla. Laws 1048).
27. 176 So. 2d 81 (Fla. 1965).
property appraiser argued that the enactment was intended to provide the appraisers with more discretion in setting assessments; the taxpayers claimed that this was a means for equating the constitutional requirement of just valuation with a fair market value standard. The court agreed with the taxpayers and ruled that the 1963 Act was "an attempt by the legislature to pin the assessors more firmly to the Constitutional mandate [just valuation]."

The court then established the test for determining the just valuation of property:

[W]e have concluded after earnest study that the sensible way . . . is to adopt the chancellor's idea that "fair market value" and "just valuation" should be declared "legally synonymous" and that such is the best way to arrive at the definition of "X". The former term is a familiar one and it, in turn, may be established by the classic formula that it is the amount a "purchaser willing but not obliged to buy, would pay to one willing but not obliged to sell." 29

One year after Walter v. Schuler, the supreme court again considered the bounds of the property appraisers' discretion in arriving at a just valuation of property. The legislative power to direct the Comptroller to supervise the assessment of property, by establishing measurements of value that the appraisers were required to follow, was challenged in Burns v. Butscher. 30

The court began its opinion by reiterating its warning that "assessments of less than 100% could not be tolerated." 31 The court then noted that only eight counties were currently assessing on the basis of 100% of valuation; the other fifty-nine counties ranged from 99% to 17.54%. 32

The court ruled that the supervisory responsibilities assigned to the Comptroller were proper and did not usurp the constitutional authority granted to the property appraisers. In fact, the court noted that, "[t]he need for such procedure is manifest from the list of counties and respective assessments." 33 The court then re-

28. Id. at 85.
29. Id. at 85-86 (quoting Root v. Wood, 21 So. 2d 133 (Fla. 1945)).
30. 187 So. 2d 594 (Fla. 1966).
31. Id. at 594.
32. Id. at 595.
33. Id. Compare with School Board v. Askew, 278 So. 2d 272 (Fla. 1973) (property appraiser has sole authority to make assessments). See text accompanying note 39 infra, and note 40.
minded the appraisers that their discretion was not without limits:

We now, for the special attention of the 59 assessors who seem not to have brought assessable values up to 100 per cent, repeat from the Walter decision language we thought was clear: "It is apodictic that a percentage of ‘X’ [the true assessable value] cannot be computed without first establishing ‘X’ and the assessors upon reaching the first figure are enjoined not to proceed to the second."

E. The Utilization of Ratio Studies as a Means of Obtaining Uniformity

Despite legislative and judicial efforts, progress in improving assessment practices was slow. A Florida appellate court noted with respect to the 1968 tax rolls that the "differences [in assessed valuations among the counties] were so great as to shock the judicial conscience." These differences were troublesome to a legislature that wanted to provide an equitable education finance program heavily dependent upon the ad valorem tax. Equal education spending could be ensured by distributing state dollars to the counties in inverse proportion to their wealth; but when a county underassessed its property, that county received more than its fair share of equalized education funds.

The 1969 legislature developed a plan to resolve this problem. It enacted legislation that required an annual audit of assessment levels in each county. The results of these assessment studies were then to be utilized by the state in the distribution of education funds. The legislature hoped to equalize education funding and improve assessment practices by withholding state funds from those counties that continued to underassess property.

The studies were never utilized as the legislature planned. In 1973, the Florida Supreme Court ruled in the case of School Board

34. 187 So. 2d at 596.
37. Id. The assessment studies compared the average countywide assessment level for all classes of property with the required assessment level of 100% of fair market value.
38. Memorandum to members of the Florida House of Representatives from Representative Jim Reeves, chairman of the Select Revenue Study Committee, regarding implementation of the ratio studies (Dec. 29, 1970) (copy on file at House Finance & Taxation Committee, 204 House Office Bldg., Tallahassee, Fla. 32304).
v. Askew, that the state could not allow the Department of Revenue to approve the property appraisers' tax rolls and then substitute the Auditor-General's assessments for those of the property appraisers when distributing education funds. The court found this practice to be an unconstitutional usurpation of the powers of duly elected constitutional officers.

F. The 1973 Property Assessment Administration and Finance Law

The School Board decision was rendered at the start of the 1973 legislative session where it created much consternation. The result of this assessment "crisis" was the enactment of the Property Assessment Administration and Finance Law, which attempted to improve local assessment practices by providing for uniform assessment standards and technical assistance to the property appraisers.

The 1963 millage rollback law, which had been repealed in 1969, was also reenacted in 1973. Billed as "Truth in Taxation," it required the property appraiser to certify to the taxing authorities a millage rate which, when applied to the current assessment roll, would provide the same tax revenues as were levied in the prior year. Taxing authorities desiring to increase revenues were required to advertise the proposed tax hike, conduct a public hearing on the proposed increase, and adopt an ordinance or resolution

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39. 278 So. 2d 272 (Fla. 1973).
40. In a letter addressed to Governor Reubin Askew, House Speaker Terrell Sessums claimed that the School Board decision had "seriously impaired our Legislature's ability to properly allocate state funds, particularly to cause the substantial equalization of public school financing." He stated the legislature's intent to devote its primary time and attention to the "present crisis." Correspondence addressed to Governor Reubin Askew from House Speaker Terrell Sessums (Apr. 16, 1973) (copy on file at the House Finance & Taxation Committee, 204 House Office Bldg., Tallahassee, Fla. 32304).
providing for the new millage rate.44

Progress under the 1973 law, which was not substantially altered until 1980 with passage of the TRIM bill, was undetectable. Assessment levels remained low and disparities in assessment levels among the counties continued to exist.45

In 1978, Governor Bob Graham was elected after vigorously campaigning for tax reform.46 By 1979, the legislature was reevaluating the state's role in property assessment administration. The International Association of Assessing Officers was hired to study Florida's assessment program, and specifically to evaluate the feasibility of the state's just valuation standard.47 A Select Subcommittee on Ad Valorem Tax Administration was created in the house of representatives to study the obstacles to fair market value assessments, and to develop a plan for achieving uniformity among both the various counties and the taxpayers within a county.48

III. OBSTACLES TO FAIR MARKET VALUE ASSESSMENTS

A. Taxpayer Resistance

Taxpayer resistance to fair market value assessment has long been a major impediment to improving assessment practices. While the assessment of property is an administrative function performed by the property appraiser, and the decision to levy a certain millage rate against that assessment is a political one, these two activities are frequently confused in the mind of the average taxpayer. This is unfortunate but not surprising in view of the fact that the taxpayer has traditionally been provided with a personal

44. Id.

45. In 1972, the Auditor General's figures showed a statewide average assessment level of 79%. Comparable figures for 1977 published by the Department of Revenue indicated a statewide average assessment level of 79%. In 1972, the Auditor General reported 7 counties assessing at over 90%; 29 counties at 80% to 89%; 20 counties at 70% to 79%; 9 counties at 60% to 69%; and 2 counties below 60%. In 1977, the Department showed 8 counties above 90%; 29 counties at 80% to 89%; 20 counties at 70% to 79%; 6 counties at 60% to 69%; and 4 counties below 60%. See DEPARTMENT OF REVENUE, FLORIDA AD VALOREM VALUATIONS AND TAX DATA (1972 & 1977) (statewide assessment level computed as a value weighted mean).


48. Subcommittee records on file at the House Finance & Taxation Committee, 204 House Office Bldg., Tallahassee, Fla. 32304.
notice advising him of any increase in his property assessment approximately four months in advance of receiving his tax bill.**No personal notice regarding the decision of the taxing authority to levy a specified millage rate against this assessment has ever been required.

The inevitable reaction to focusing the taxpayer's attention on the assessment process has been the exertion of taxpayer pressure upon the property appraiser to keep assessments low. The property appraiser, who traditionally is an elected officer, has typically responded to the demands of his electorate by assessing property at less than the required fair market value. The need to redirect taxpayer attention to the budget processes during which the tax rate is set, had been clearly recognized by the legislature, but the "Truth in Taxation" law effective since 1973 did not adequately accomplish this goal.

B. The State's Failure to Adequately Supervise Assessment Practices

The state's inadequacy in supervising the assessment process had long been a second obstacle to achieving fair market value assessments. In 1975, the responsibility for conducting in-depth reviews of assessment rolls was transferred from the Auditor General to the Department of Revenue (the Department). The Department was funded to perform an in-depth study in one-fourth of the counties each year. All counties continued to be subject to the Department's annual post-audit review.

49. Ch. 76-234, § 1, 1976 Fla. Laws 534 (current version at ch. 80-274, § 36, 1980 Fla. Laws 1143 (to be codified at Fla. Stat. § 194.011)).

50. See Informal Opinion of the Attorney General to Representative Charles W. Boyd (Feb. 14, 1978) which discusses the propriety of a property appraiser's use of public funds to mail to taxpayers notices that warn of higher taxes to result from the state's enforcement of the just valuation standard (copy on file with House Finance & Taxation Committee, 204 House Office Bldg., Tallahassee, Fla. 32304). See also Efforts by the Property Appraisers Association of Florida to amend the state constitution to provide a 65% assessment level. St. Petersburg Times, Aug. 7, 1980, § B, at 2, col. 1.

It should be noted that not every county has an elected property appraiser. Article VIII, § 1(d) of the Florida Constitution authorizes the abolition of this elected office under certain conditions. To date only Dade County has chosen to abolish this elective office and provide for the appointment of the appraiser. See art. III, § 3.04-B, The Home Rule Amendment and Charter, Metropolitan Dade County, Florida.


review was traditionally less detailed and less sophisticated than the in-depth review, the Department took the position that it "could not, and should not, issue orders that could result in tax roll disapproval unless the order [was] based on comprehensive data gathered through an in-depth study." The potential for tax roll disapproval was limited to one-quarter of the counties each year.

The Department was also reluctant to disapprove a tax roll in counties in which it had conducted an in-depth study. Attempts to disapprove a tax roll frequently resulted in litigation and in such cases, the property appraiser, as a constitutional officer, was clothed with a presumption of correctness with respect to his determination of just value. The Department’s ability to overcome this presumption depended upon its collection and evaluation of statistically reliable data. Numerous and divergent assessment systems and inadequate data collection and evaluation by the Department produced in-depth studies of questionable value and seriously impaired the Department’s ability to adequately review local assessment practices.

The Department’s efforts to force a property appraiser to correct defects in a disapproved tax roll were further hindered by local government’s cry of “fiscal chaos.” Since taxes could not be collected on a disapproved assessment roll, local governments were forced either to borrow money or to curtail services when the property appraiser refused, or was unable, to comply with the Department’s order and the local tax roll was disapproved.

In Slay v. Department of Revenue the Florida Supreme Court considered the financial hardship created in Holmes County when

53. Correspondence addressed to Representative Gwen Margolis, Chairwoman of the Ad Valorem & Local Government Subcommittee, House Committee on Finance & Taxation, from Mr. Roy Parrish, Jr., Director of Division of Ad Valorem Tax, Department of Revenue (Mar. 20, 1979) (copy on file at House Finance & Taxation Committee, 204 House Office Bldg., Tallahassee, Fla. 32304).
54. Id.
55. See, e.g., Slay v. Department of Revenue, 317 So. 2d 744 (Fla. 1975); Schultz v. Department of Revenue, No. 80-4102-20 (Fla. Cir. Ct. Pinellas County 1980); Jones v. Department of Revenue, No. 79-2531-CA-01“A” (Fla. Cir. Ct. Escambia County 1979).
57. See Office of the Auditor General, Performance Audit, Administration of Ad Valorem Tax Laws, Department of Revenue 5 (Mar. 12, 1980).
59. See Slay v. Department of Revenue, 317 So. 2d 744 (Fla. 1975); State v. McNayr, 133 So. 2d 312 (Fla. 1961).
60. 317 So. 2d 744 (Fla. 1975).
its 1974 tax roll was disapproved. In July of 1975, the 1974 tax bills had not yet been prepared. In view of this interruption of revenues to the local government, the court directed the circuit court to provide any necessary equitable relief, including, "the grant of authority to issue tentative 1974 real property tax notices and to collect 1974 real property taxes on the basis of the existing but invalid 1974 tax roll."  

In such a situation, the Department of Revenue had no authority to compel the property appraiser to correct his disapproved roll and reconcile it with the tentative roll. Adjustments to the tax roll were generally delayed until the next year.  

C. State Funding Formulas: Subsidizing Underassessment  

Florida's revenue sharing laws contained a third disincentive to fair market value assessments. Two state funding formulas, one providing for the distribution of education dollars and the other apportioning municipal revenue sharing monies, actually rewarded underassessment.  

In 1947, the state assumed an active role in the funding of public education. At that time, the legislature recognized that an education funding program heavily reliant upon the local property tax would produce inequities among the various counties. In those counties with a relatively high tax base and a relatively low student population, the amount that could be expended per pupil would be much greater than could be spent in those counties with less valuable property or with a larger student population. In an effort to minimize such inequities, the legislature established a state equalization program designed to distribute state education dollars in such a manner as to ensure a minimum per pupil funding level in all counties.  

The concept of state equalization can work if everyone knows who is rich and who is poor. However, when a property appraiser

61. Id. at 747.
62. State v. McNayr, 133 So. 2d 312 (Fla. 1961); Jones v. Department of Revenue, No. 79-2531-01 "A" (Fla. Cir. Ct. Escambia County 1979).
underassesses property, this naturally makes his county appear to be poorer than it really is. As a result, counties assessing at higher levels are forced to subsidize counties assessing at lower levels.

This same problem is inherent in the municipal revenue sharing formula. That plan apportions state revenues to the cities in inverse proportion to their wealth. If a municipality's wealth is understated because of low assessments, it receives greater benefits in the form of additional state funds.

When the 1969 legislature attempted to utilize the Auditor General's ratio studies in the distribution of state funds, it was trying to avoid this perverse result. This legislative solution was invalidated by the Florida Supreme Court's ruling that assessment ratio studies could not constitutionally be used to overrule a property appraiser's determination of just value.66 The inequities inherent in these funding formulas continued to exist.

IV. FRACTIONAL ASSESSMENTS AS AN ALTERNATIVE

In view of these obstacles to fair market value assessments, it is not surprising that many people have recently questioned the desirability of retaining this assessment standard.67 During the November 1979 Special Legislative Session, several plans for assessing property at some fraction of fair market value were considered.68 Adoption of a fractional assessment standard would require modification of some existing tax laws. To avoid the shifting of the tax burden among different classes of taxpayers, the homestead exemption would need to be adjusted in proportion to the change in

67. In 1979, the Governor's Tax Reform Commission recommended that the constitution be amended to allow the legislature to impose a fractional assessment standard. THE GOVERNOR'S TAX REFORM COMMISSION RECOMMENDATIONS 12 (Oct. 1979). On November 21, 1979, the legislature was called into special session to consider amending the constitution to authorize fractional assessments. Proclamation of the Governor (Nov. 21, 1979). In December of 1979, the Property Appraisers Association of Florida initiated a petition drive to amend the constitution to provide a 65% assessment level. This effort failed when the appraisers did not obtain the required signatures. St. Petersburg Times, Aug. 7, 1980, § B, at 2, col. 1.
68. See Proposed Committee Bill 1-C by the House Finance & Taxation Committee (Nov. 1979) (which provided for assessments at 80% of fair market value); Fla. HJR 22-C (1979) (which gave the legislature the flexibility to establish the legal assessment standard); Fla. SJR 25-C (1979) (which provided for assessments at 50% of fair market value); Fla. CS for SJR 25-C (1979) (which allowed the legislature to set the legal standard at not less than 50% or more than 80% of fair market value). See also Proceedings of the Conference Committee meeting on December 3, 1979, during which assessment standards of 65%, 75% and 87% were discussed. Fla. S. Ways & Means Committee, tape recording of proceedings (Dec. 3, 1979) (on file with committee).
assessment levels. Current constitutional millage caps on schools, counties and cities would have to be adjusted so local governments would not lose their ability to generate tax revenues. But if these adjustments for fractional assessments were made, then assuming ideal circumstances, a uniform and equitable tax system might be expected. The problem with a fractional assessment standard is the lack of ideal circumstances.

A. Magnifying Assessment Errors

It has frequently been noted that the assessment of property is not a perfect science. There is evidence which indicates that assessment becomes even less of a perfect science when assessment levels are reduced.

Data published by the 1977 Census of Governments suggest that assessment uniformity deteriorates as assessment levels decline. This appears to be true regardless of whether the lower assessment level is a result of administrative underassessment or of the state's adoption of a legal fractional assessment standard.

69. FLA. CONST. art. VII, § 9, limits counties, school districts and municipalities to 10 mills each for their respective purposes.


71. In 1976, 20 states were legally required to assess property on the basis of fair market value. TAXABLE PROPERTY VALUES AND ASSESSMENTS/SALES PRICE RATIOS, supra note 70, at 281. Twelve of these states were among the 20 states with relatively uniform assessments. The uniformity of assessments within a class of property is commonly measured by a statistic known as the "coefficient of dispersion." INTERNATIONAL ASSOCIATION OF ASSESSING OFFICERS, REPORT OF STUDY OF ASSESSMENT ISSUES FOR FLORIDA ADVISORY COUNCIL ON INTER-GOVERNMENTAL RELATIONS 37 (1979) [hereinafter cited as REPORT]. This standard measures the average deviation of individual assessment ratios from an overall ratio for that class of property. A low coefficient of dispersion indicates relatively uniform assessments; a high coefficient of dispersion suggests the need to improve assessment practices. These 20 states had a coefficient to dispersion better than the United States average of 22%. Historically, a coefficient of dispersion of 20% has been deemed the minimum acceptable for uniform assessing.

An examination of the relationship between assessment roll equity and assessment levels for the 38 states that require uniform assessments at a specific level revealed that those with high average assessment levels tended to be those with high equity.

Correlation refers to relative similarity in variation or change between two variables. A correlation coefficient is a statistical measure which expresses in a single number the extent to which any two variables are correlated. Correlation coefficients range from +1 (meaning perfect positive correlation between two variables) to -1 (perfect inverse or opposite correlation). A correlation coefficient of zero indicates no similarity in the pattern of variation between the two variables.

As shown in the table below, the strongest correlation occurred (inversely) between coefficients of dispersion and actual (average) assessment levels for the 38 states. Since an increased coefficient of dispersion indicates more inequities in an assessment roll, negative
A sensible explanation of this positive relationship between the signs for correlating coefficients on the right side of the table indicate that inequity diminishes as the measure described on the left side increases.

CORRELATION COEFFICIENTS FOR SELECTED ASSESSMENT ROLL STATISTICS FOR 38 STATES
1977 Data

<table>
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<th>Variable Correlated with</th>
<th>Coefficient of Dispersion</th>
<th>Coefficient of Correlation</th>
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</thead>
<tbody>
<tr>
<td>Actual Assessment Level</td>
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<td>-.77</td>
</tr>
<tr>
<td>Relative Difference Between Actual Level and Legal Level</td>
<td></td>
<td>.70</td>
</tr>
<tr>
<td>Absolute Difference Between Actual Level and Legal Level</td>
<td></td>
<td>.31</td>
</tr>
<tr>
<td>Legal Assessment Level</td>
<td></td>
<td>-.29</td>
</tr>
</tbody>
</table>

From the above data, it is evident that two factors tend to characterize a roll with relatively few inequities: first, the roll has an average assessment level close to fair market value, and second, the roll has an average assessment level close to the legal valuation requirement.

Clearly, these factors are synonymous if the legal standard is 100%. But because systems exist where the legal standard is some fraction of fair market value, it is important to determine which factor is more important. (Correlation coefficients do not indicate relative importance where two or more causal relationships exist.)

Regression analysis was employed to determine the relative contribution of actual assessment levels (A) and differences between the assessment level and the legal standard (D) in explaining differences in equity between tax rolls.

The results were as follows, where

\[ E = \text{coefficient of dispersion} \]
\[ A = \text{actual assessment level} \]
\[ D = \text{relative difference between legal standard and actual assessment level}. \]

(1) \[ E = 35.76 - .2679A \]
(t value) \( 6.48 \)
Standardized \[ \text{Coefficient} = -0.7692 \]
\[ R^2 = 0.577 \]

(2) \[ E = 13.26 + .2610D \]
(t value) \( 5.33 \)
Standardized \[ \text{Coefficient} = 0.7035 \]
\[ R^2 = 0.478 \]

(3) \[ E = 26.42 - .1881A + .1303D \]
(t values) \( 3.73 \), \( 2.43 \)
Standardized \[ \text{Coefficient} = -0.5400, 0.3513 \]
\[ R^2 = 0.638 \]

In equation (3) the combined effect of both factors (A and D) accounted for nearly 64% of the variation in coefficient dispersion (E) for the 38 states, with actual assessment level contributing half again as strongly to the overall explanatory power of the model as relative difference (standardized or beta coefficient of -.54 versus .35). Assessment level by itself explained a greater proportion of total variation in equity (58% in equation 1) than did the
undervaluation of property and the lack of assessment uniformity has been offered:

That drastic underassessment should tend to produce greater inequality of assessment is readily explainable. In his assessment of houses the assessor is less likely to be concerned with deviations from the norm in terms of hundreds of dollars, when he is assessing at a small fraction of full value, than he would be with deviations in terms of thousands of dollars, when assessing at a large fraction of full value, although percentage-wise the first deviation may be much larger. The house owner, likewise, is likely to be less alert to inequalities of assessment when his house is assessed at only a small fraction of its value.72

B. Assessment Equity: The Role of the Taxpayer

The taxpayer's participation in the assessing process is critical to the attainment of uniform assessments. While the average taxpayer may not appreciate the significance of the statistical analysis used to measure the uniformity of assessments, he does possess some knowledge of the value of his property. When the assessment standard is 100% of fair market value, the taxpayer is expected to protest an assessment of 120% of fair market value. It is less likely that the taxpayer will be as concerned about a 24% assessment when the legal standard is 20% of fair market value. Yet the extent to which the taxpayer is overassessed is the same in both cases.

Taxpayer review of assessments is essential to the elimination of inequities. When the taxpayer fails to recognize an inequitable assessment, this review process breaks down.

C. The Property Appraiser's Response to a Fractional Assessment Standard

Another less than ideal circumstance attending fractional assessments becomes apparent when one attempts to predict the property appraisers' response to such a standard. Will they assume that their current rolls are at 100% of value and simply apply the relative difference variable alone (48% in equation 2). T values proved all coefficients to be statistically significant.

This supports the hypothesis that in practice a market value assessment standard is more effective than a fractional standard in promoting equity.

lected assessment fraction to those rolls? Will they select those parcels currently assessed at a rate higher than the fractional rate and reduce the assessments on those parcels while the remaining parcels continue to be assessed at their existing levels? Or will they determine the fair market value of all parcels and then multiply the assessments by the fractional assessment standard?

Should the property appraisers choose either of the first two options, they would aggravate existing inequities in the tax structure. Selection of the third option would indicate that there is no rational justification for accepting a fractional assessment standard. If the property appraisers are capable of determining fair market value, why complicate the assessment procedure by multiplying that value by a fraction?

D. Legislative Reaffirmation of the Fair Market Value Standard

Adoption of a fractional assessment standard posed several problems and it offered no ascertainable benefits. Uncertainty about the effect of a fractional assessment standard resulted in the legislature's inability to agree upon an acceptable assessment level.\(^7^3\) Meanwhile, a comprehensive evaluation of Florida's property assessment system had concluded that the fair market value standard was feasible.\(^7^4\) For these reasons, the legislature rejected fractional assessments and reaffirmed its support of the fair market value standard.\(^7^5\)

V. TRIM: THE MEANS FOR ACHIEVING FAIR MARKET VALUE ASSESSMENTS

Due to the history of Florida's assessment problems, a simple declaration of support for the fair market value standard would have been a meaningless gesture without substantial reform of the existing assessment laws. The TRIM bill is Florida's response to the need for such reform.\(^7^6\)

The 1980 law contains a number of major changes related to the administration of property assessments. Efforts have been made to

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73. See Proceedings of the Conference Committee, note 68 supra.
74. REPORT, supra note 71, at 45.
75. See Proceedings of the Conference Committee, note 68, supra, and ch. 80-274, §§ 5, 17, 1980 Fla. Laws 1143 (§ 5 to be codified at FlA. STAT. § 193.1145; § 17 not to be codified).
contain property taxes and to prevent a shifting of the tax burden as assessments increase. The assessment review process has been improved, state supervision of assessment procedures has been strengthened, and a procedure for resolving the education funding problems that result from intercounty assessment inequities has been established. Perhaps most importantly, full disclosure to the taxpayer of property tax information has been mandated.

A. Truth in Millage

Any plan for attaining fair market value assessments would be incomplete unless it addressed the problem of taxpayer resistance to increased assessments. As long as the taxpayer views an increase in his assessment as an increase in his taxes, efforts by elected property appraisers to enforce a fair market value standard will be thwarted.

A legislative inquiry into the operation of Florida's Property Appraisal Adjustment Boards revealed the extent to which this misperception existed in Florida. Public dissatisfaction with the boards prompted the House Select Subcommittee on Ad Valorem Tax Administration to hold public hearings at various locations around the state. It soon became apparent that the major public complaint—the failure of the boards to respond to demands for lower property taxes—was misdirected. Many taxpayers who did not disagree with their assessments were angered when their petitions for tax relief were denied by the boards. These taxpayers did not understand that the boards' function is to ensure equitable assessments. The boards, like the property appraisers, have no authority to deal with the overall level of property taxes.

In an effort to dispel the notion that higher assessments necessarily result in higher taxes, the legislature developed a taxpayer information program. Dubbed "Truth in Millage" by Governor

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77. Hearings held in Key West, Fla., on Sept. 25, 1979; Miami, Fla., on Sept. 26, 1979; and Clearwater, Fla., on Oct. 11, 1979 (tape recordings on file at the House Finance & Taxation Committee, 204 House Office Bldg., Tallahassee, Fla. 32304).
79. Fla. Stat. § 194.032 (1979), as amended by ch. 80-274, §§ 1, 9, 37, 1980 Fla. Laws 1143. Of course, when the members of the Property Appraisal Adjustment Board are sitting as members of the various taxing authorities, they do have authority over the level of taxation.
80. Ch. 80-274, §§ 2, 6, 9, 1980 Fla. Laws 1077 (to be codified at Fla. Stat. §§ 129.01(2), 129.03, 195.087(2), 197.072, 200.065, 200.069, 218.23(1), 218.32(2), 218.34(6), 237.041, 237.051,
Graham, the plan is designed to shift taxpayer concern over the level of taxes away from the assessment process and toward the local budgetary processes where millage rates are set.

A taxpayer's property tax bill is a function of two factors: the value of his property and the millage rate adopted by the local taxing authority to fund its budgetary needs. When the millage rate is multiplied against the property assessment, the taxpayer's liability is established. It is only natural that a taxpayer believes he has more control over his individual assessment than he does over the local government's millage rate. Therefore, when he opposes an increase in his tax liability, he is likely to do so by resisting an assessment increase and ignoring the function of the millage rate.

Through the TRIM bill, the legislature has attempted to alert taxpayers to the importance of the millage rate and to encourage them to view it as the factor over which they have the most control. This has been done by replacing the previous notice of an increased assessment with a notice of proposed property taxes. The old notice warned the taxpayer that his property valuation had been increased but provided him no information regarding his ultimate tax liability. He therefore frequently presupposed a tax increase. The new personal notice provides the taxpayer with his prior year's assessment and current assessment, but it emphasizes the local taxing authorities' role in the taxing process. The notice shows the taxpayer's property taxes in the preceding year, his taxes for the current year if no budget changes are made, and his taxes for the current year under the proposed budgets and millage rates of the taxing authorities. Taxpayers are thereby provided the information necessary to distinguish between assessment increases and tax hikes. The notice discloses the date, time, and location of public hearings on the local governments' proposed budgets and taxes. It also encourages the taxpayer to participate in the

237.091(4), 373.503(5), 373.536(5)).

81. Of course, to the taxpayer it may still seem easier to fight his individual property assessment than to fight the countywide budget.

82. Ch. 80-274, § 26, 1980 Fla. Laws 1143, as amended by ch. 80-261, § 6, 1980 Fla. Laws 1077 (to be codified at Fla. Stat. § 200.069). In an effort to ensure that all taxpayers receive adequate tax information, the TRIM bill specifies the contents of the notice of proposed property taxes and of the newspaper advertisement required on the proposed tax increase and/or budget hearing. The forms for the notice of proposed taxes are prepared by the Department of Revenue and distributed to the local property appraisers.

83. Ch. 76-234, § 1, 1976 Fla. Laws 534 (current version at ch. 80-274, § 36, 1980 Fla. Laws 1143 (to be codified at Fla. Stat. § 194.011)).

Disclosure of tax information under the earlier Truth in Taxation law was not as complete as that called for in the new law. Local taxing authorities were required to give public notice only if they chose to levy a millage rate in excess of that certified by the property appraiser as the rate which would provide the same amount of tax revenue as was levied in the prior year. An aberration in the formula for computing this certified millage rate allowed taxing authorities to understate a proposed tax increase by two percent. The notice was avoided entirely if the tax increase was less than two percent. The school boards, who generally levied the highest millage rate among the taxing entities, were exempt from the notice mandate.

The new law mandates a public notice of intent to adopt a tax rate in all instances by all taxing authorities. Local authorities that propose to increase property taxes by adopting a rate in excess of the certified or rolled back rate are required to advertise the percent increase proposed. Taxing entities that do not seek to increase their tax revenues must still advertise their budget hearings.

As with the notice required under the old law, the percentage increase described is the increase in tax dollars, not the increase in the millage rate. Some local officials have recently complained that the advertisement is misleading because it portrays a large prop-

85. Id., see facsimile of notice provided in § 26.
87. Ch. 78-228, § 1, 1978 Fla. Laws 674 (current version at Fla. Stat. § 200.065(1) (1979), as amended by ch. 80-274, § 25, 1980 Fla. Laws 1143) provided that the property appraiser shall use only 98% of the taxable value within the jurisdiction of the taxing authority when computing that authority's certified or rolled back millage rate. Prior to 1978, the notice understated the tax increase by 5% because the property appraisers used only 95% of the taxable value when calculating the certified millage rate. See ch. 73-172, § 13, 1973 Fla. Laws 331 (current version at Fla. Stat. § 200.065(1) (1979), as amended by ch. 80-274, § 25, 1980 Fla. Laws 1143).
90. Id. To maximize taxpayer opportunity to participate in the budget process, the legislature has required local governments to hold their public hearings on Saturdays or after 5 p.m. on weekdays. School boards and county commissions are prohibited from holding hearings on the same day. All other taxing authorities are precluded from meeting on those days during which the school board or the county commission is considering its budget and tax rate. Id.
TRUTH IN MILLAGE

Property tax increase despite a small millage increase or no millage increase at all. This attempt by local officials to blame rising property taxes on increasing assessments and thereby "share" the responsibility for tax hikes with the property appraisers is precisely the problem the TRIM disclosure provisions seek to resolve.

Although the prior law prohibited a taxing authority from exceeding its certified millage rate in the absence of compliance with the notice and hearing procedures, the means for enforcing this law were never developed. Under the 1980 law, a taxing authority that fails to comply with the disclosure requirements becomes ineligible to participate in the state revenue sharing program.

The TRIM bill requires local governments to simultaneously adopt their budgets and tax rates. In previous years, the budget was adopted prior to the time that the local government was required to advertise a proposed tax hike. Once the budget was established, the millage rate necessary to fund it was virtually a foregone conclusion. A taxpayer who wished to participate in the tax process faced the formidable task of securing the taxing authority's agreement to reopen the budget process. This is no longer true. The taxpayer can now voice his opposition to a tax increase at a public hearing where spending decisions are made.

All taxing authorities are required to hold a minimum of two hearings prior to the adoption of their budgets and tax rates. The personal notice of proposed taxes precedes the first hearing at which a tentative budget and tax rate are adopted. Thereafter, a newspaper advertisement advises taxpayers of the second hearing where the final budget and tax rate are established. By virtue of the two hearings, taxpayers who wish to participate in the process are assured an opportunity to do so. They need not fear that their efforts will be undermined by the taxing authority's haste to adopt

91. See Cocoa Today, Aug. 9, 1980, § B, at 1, col. 3.
93. Ch. 80-274, § 39, 1980 Fla. Laws 1143 (to be codified at Fla. Stat. § 218.23(1)).
94. Id. § 25, as amended by ch. 80-21, § 2, 1980 Fla. Laws 1077 (to be codified at Fla. Stat. § 200.065).
96. Ch. 80-274, § 25, 1980 Fla. Laws 1143, as amended by ch. 80-261, § 2, 1980 Fla. Laws 1077 (to be codified at Fla. Stat. § 200.065). Because the fiscal year for school boards begins earlier than it does for other local entities, school boards must begin budget hearings before the notice of proposed property taxes is prepared. Therefore, their first meeting is preceded by a newspaper advertisement and their second meeting occurs after the notice of proposed taxes is distributed. Id.
a final budget.

Once the final budgets are adopted, the tax collectors are responsible for preparing the tax bills and the notices that explain the final actions of the various taxing authorities. In prior years, the tax collectors have been required to provide the taxpayers with a "printed statement that shall clearly designate and separately identify the rate of taxation to be levied for the use of the county and school board and the total rate of taxation for all other taxing authorities in the county." The TRIM bill replaces this notice with a statement that clearly shows the taxpayers which taxing authorities have increased taxes and which ones have not.

B. Property Tax Containment

Taxpayer participation in the local tax process was viewed by the legislature as the most desirable means for ensuring that the state's full value assessment drive did not yield substantial property tax increases. The legislature feared, however, that the anticipated dramatic rise in assessments would produce immediate problems with which the taxpayer was not equipped to cope.

The Department of Revenue has projected a statewide average assessment increase of 47.3% in 1980. This follows five years of average assessment increases of less than five percent. Once full valuation is attained, the rate of assessment increases can be expected to stabilize. In the meantime, the legislature has forced local governments to carefully examine the impact of increased assessments prior to making their taxing and spending decisions.

For fiscal year 1980-81, the legislature has limited counties, cities and special taxing districts to an eight percent increase in property taxes. However, the actual allowable increase is somewhat more than eight percent because four exceptions to the limitation are provided: taxes on recently constructed property; tax revenues nec-

100. See Summary of HB 4-D and SB 18-E prepared by House Committee on Finance & Taxation, at 9 (copy on file with committee) [hereinafter Summary].
103. Ch. 80-274, § 24, 1980 Fla. Laws 1143 (not to be codified).
necessary to fund court-mandated fixed capital outlay projects; tax revenues necessary to fund new programs mandated, but not funded, by the state; and tax revenues from foregone tax increases in the three preceding years. The legislative cap can be exceeded only if the increase is approved by an extraordinary vote of the governing body.\footnote{104}

Two different interpretations of the tax exception for foregone tax increases have been proposed. Some taxing entities have claimed that this provision entitles them to recapture all dollars that could have been generated by the certified millage rates in 1977-78 and 1978-79, and the maximum millage rate allowed in 1979-80, when a five percent cap was enacted by the legislature.\footnote{105} However, the sponsor of the amendment that provided this exception has stated that the intent was not to allow recapture of foregone tax dollars. Rather, the intent was to place local taxing units in the same position concerning their millage rates they would have occupied had they levied the earlier certified millage rate or the maximum increased millage rate.\footnote{106} In other words, taxing entities that reduced taxes in 1977-78 or 1978-79, or increased taxes by less than five percent in 1979-80, would not be penalized in the current year simply because they had levied a lower millage rate in prior years.

A similar legislative restraint is applicable to school boards in fiscal year 1980-81.\footnote{107} Millage levied by school boards generally consists of two separate levies. One, known as the "required local effort" rate, is specified by the state and must be levied if the county desires to receive state funds under the provisions of the Florida Education Finance Program which uses state dollars to augment local property tax revenues and to equalize education spending statewide.\footnote{108} The second school levy, known as the "discretionary" rate, is a permissive levy established by the local school board and is used to supplement the county's equalized education funds.\footnote{109} A temporary property tax cap is applicable to this

\begin{itemize}
\item \footnote{104}{Id.}
\item \footnote{105}{Telephone Interview with Ms. Alice Whitson, Attorney for the Florida League of Cities (Oct. 15, 1980).}
\item \footnote{106}{Telephone Interview with Senator Alan Trask (Oct. 8, 1980).}
\item \footnote{107}{Ch. 80-274, § 60, 1980 Fla. Laws 1143 (not to be codified).}
\item \footnote{108}{FLA. STAT. § 236.02(6) (1979).}
\item \footnote{109}{Ch. 74-227, § 8, 1974 Fla. Laws 608 (current version at ch. 80-274, § 45, 1980 Fla. Laws 1143 (to be codified at FLA. STAT. § 236.25)) limited school districts to a total nonvoted millage levy of eight mills. The difference between the eight mills and the required local effort millage is the millage that may be levied for discretionary purposes.}
\end{itemize}
discretionary millage.

In fiscal year 1980-81, school boards are generally held to an increase of eight percent over the revenue produced by 1.6 mills in fiscal year 1979-80.\textsuperscript{110} As with other taxing authorities, school boards exclude tax revenues from newly constructed property when computing the allowable increase. With an extraordinary vote of the school board, the eight percent limitation can be increased to ten percent. The ten percent cap can be exceeded by an extraordinary vote if it is necessary to ensure that the rate of the education funding increase per pupil for that school district is equal to the statewide average increase. In no event is a district permitted to levy a discretionary millage rate in excess of 1.6 mills.\textsuperscript{111}

The levy of any discretionary millage unbalances education funding because property rich counties can generate more tax dollars per mill than poorer counties. In recent years the legislature has controlled the degree of unbalance by prohibiting local school boards from levying more than 1.6 mills in discretionary taxes.\textsuperscript{112} But if this same millage rate was applied against a greatly expanded tax base, it would generate additional discretionary tax revenues and further unbalance education funding. The legislature attempted to prevent this situation by permanently limiting the discretionary millage rate to twenty-five percent of the required local millage rate.\textsuperscript{113} When the one year cap of eight percent expires, this twenty-five percent limitation will apply to discretionary education taxes.

The 1980 law provides a different method for controlling property taxes generated by the state required local effort millage. In recent years, the legislature has required a local levy of 6.4 mills as a prerequisite to participation in the Florida Education Finance Program.\textsuperscript{114} In the absence of legislative action, this millage requirement would have assured a significant property tax hike statewide due entirely to rising assessments. A lower specified millage rate based upon the Department of Revenue's early assess-

\textsuperscript{110} Ch. 80-274, § 60, 1980 Fla. Laws 1143 (not to be codified).

\textsuperscript{111} Id.

\textsuperscript{112} The eight mill limit described in note 109 supra, minus the required local effort levy of 6.4 mills all owed a maximum discretionary levy of 1.6 mills.

\textsuperscript{113} Ch. 80-274, § 45, 1980 Fla. Laws 1143 (to be codified at Fla. Stat. § 236.25(1)).

\textsuperscript{114} Ch. 79-212, § 1, item 315, 1979 Fla. Laws 911 (not codified), set a lower rate of 5.15 mills; ch. 78-401, § 1, item 353A, 1978 Fla. Laws 1100, and ch. 77-465, § 1, item 349, 1977 Fla. Laws 1899 (not codified), established required local effort at 6.4 mills.
ment estimates also posed a potential problem: if assessment increases fell short of the projected level, a reduction in education funding would automatically result.

To prevent either occurrence, the legislature chose to avoid establishing a fixed millage rate for required school taxes and instead specified in the general appropriations bill the aggregate dollar amount to be raised by the property tax. The Commissioner of Education is now responsible for computing the required local millage rate that will yield the amount stipulated by the legislature.

For fiscal year 1980-81, the legislature established $750 million as the amount that the local school districts must contribute to the Florida Education Finance Program. If this amount is not realized because the Department of Revenue approves tax rolls with lower assessments than previously estimated, the difference needed to attain $750 million will be made up from the Working Capital Fund—the state’s “rainy day” reserve account.

Another natural consequence of rising assessments is the erosion of the real value of the homestead exemption. The push for fair market value assessments was expected to result in a significant shift in the property tax burden from nonhomestead classes of property to homestead property.

In March of 1980, the electorate approved an increase from $5,000 to $25,000 in the homestead exemption for school taxes. This change was expected to provide the average homeowner with a tax savings of over $100. The legislature realized that most of this tax relief would be cancelled by property assessment increases.

To ensure that homeowners would receive the expected tax re-

115. Ch. 80-274, § 44, 1980 Fla. Laws 1143 (to be codified at FLA. STAT. § 237.081(4)).
116. Id. The Commissioner bases his determination of the required millage rate upon data provided by the Department of Revenue. Such data consist of actual valuations provided by the property appraisers, or estimates of taxable value made by the Department if actual data is not available by the deadline for providing such information to the Commissioner. Id.
117. Ch. 80-411, § 1, item 52, 1980 Fla. Laws 1674 (not to be codified).
118. Id.
119. House Finance & Taxation Committee, Erosion and Reinstatement of the Homestead Exemption (copy of analysis on file with committee).
120. Fla. SJR 1-B (1979), adopted at special election, March 1980 (to be codified at FLA. CONST. art. VII, § 6).
121. The 1979 legislature appropriated $220.3 million for property tax relief for homesteads. That provided approximately $114 in tax relief to the average homeowner. Ch. 79-212, § 1, item 315, 1980 Fla. Laws 911 (not to be codified); ch. 79-332, § 9, 1980 Fla. Laws 1730 (not to be codified).
122. House Finance & Taxation Committee, note 119 supra.
lief, the 1980 legislature proposed another hike in the homestead exemption. In October of this year, the voters approved a proposed amendment to the constitution which incrementally increases from $5,000 to $25,000 the homestead exemption for property taxes other than school levies. The exemption amount is $15,000 in 1980, $20,000 in 1981, and $25,000 thereafter. As with the $25,000 exemption from school taxes, a homeowner must meet a five-year residency requirement to be eligible for the increased exemption.

The increased homestead exemption is not applicable in any county until the Department of Revenue certifies that the county's assessment roll is in substantial compliance with the fair market value assessment standard. This prerequisite to tax relief serves three purposes. It provides an additional incentive for full value assessments; it prevents an erosion of the local tax base that would otherwise occur if assessments stayed constant but previously taxable property became exempt; and it protects nonhomestead classes against a reverse shifting of the tax burden that would automatically occur if local governments increased millage rates to compensate for a reduction in the tax base.

The legislature also made the increased exemption contingent upon the state's retention of the fair market value standard. The future adoption of a fractional assessment standard would result in a reversion to the $5,000 exemption.

C. Assessment Review

While the legislature hoped to eliminate undue taxpayer concern about fair market value assessments, it also recognized the need to provide taxpayers with a forum for protesting truly inequitable assessments. In a series of statewide hearings, legislators heard testimony from frustrated taxpayers who complained that the existing forum—the county property appraisal adjustment board—was

124. Id.
125. Ch. 80-274, § 10, 1980 Fla. Laws 1143 (to be codified at Fla. Stat. § 196.031(3)). The constitutionality of the five-year residency requirement is currently being challenged in a class action filed in Orlando in the United States District Court for the Middle District of Florida. Osterndorf v. Turner, No. 80-529-Orl-Civ-R (M.D. Fla., filed Oct. 8, 1980).
126. Id.
badly in need of reform.\textsuperscript{128}

During the legislative hearings on the assessment review process, taxpayers and property appraisers alike identified problems with the existing procedures. The inability to gain access to relevant assessment information, the selection of special masters, the procedural requirements relative to board hearings, and the lack of visibility with respect to the boards' decisions were some of the major problems identified and later addressed in the TRIM bill.\textsuperscript{129}

The basic structure of the assessment review process was not altered by the 1980 legislature. The property appraisal adjustment boards, comprised of three county commissioners and two school board members, will continue to hear taxpayer complaints regarding property assessments and exemptions. Hearings held by the boards must generally conform to the procedures prescribed by the Administrative Procedure Act. After hearing testimony, the boards make findings of fact and conclusions of law and render written decisions on the taxpayer petitions. The boards are authorized to employ special masters for the purpose of taking testimony and making recommendations to the board. The circuit courts provide the review of the boards' decisions.\textsuperscript{130}

Under the provisions of the TRIM bill, however, a taxpayer who considers his assessment unfair can discover on what basis the appraiser determined the value of his property.\textsuperscript{131} Likewise, a property appraiser can expect to obtain certain assessment information from the taxpayer. If his request for information is denied, the appraiser can prevent the taxpayer from later using that information in any proceeding before the property appraisal adjustment board.\textsuperscript{132}

Changes were made in the procedures for selecting special masters. Previously, special masters were appointed by the board from a "list of those qualified individuals residing in the county who [were] willing to serve as special masters."\textsuperscript{133} The 1980 law deletes

\begin{itemize}
\item \textsuperscript{128} See note 77 and accompanying text \textit{supra}.
\item \textsuperscript{129} Summary, note 100 \textit{supra}.
\item \textsuperscript{130} \textsc{Fla. Stat.} §§ 194.011, .015, .032 (1979), \textit{as amended} by ch. 80-274, §§ 1, 9, 36, 37, 1980 Fla. Laws 1143 provide for assessment review by county property appraisal adjustment boards.
\item \textsuperscript{131} Ch. 80-274, § 1, 1980 Fla. Laws 1143 (to be codified at \textsc{Fla. Stat.} § 194.032). The taxpayer can request a copy of his property record card when he files a petition with the property appraisal adjustment board. \textit{Id}.
\item \textsuperscript{132} \textit{Id}.
\item \textsuperscript{133} Ch. 76-234, § 3, 1976 Fla. Laws 534 (current version at \textsc{Fla. Stat.} § 194.032(4) (1979), \textit{as amended} by ch. 80-274, § 1, 1980 Fla. Laws 1143).
\end{itemize}
the county residency requirement which was thought to serve no useful purpose and to severely restrict smaller counties that may require outside expertise in particularly complex assessment problems.

Also, the earlier law did not define "qualified individuals," but made the county clerk responsible for annually notifying "such individuals or their professional associations" of the opportunities to serve as special masters. The 1980 amendments require a special master to be either an attorney knowledgeable in the area of ad valorem taxation, or a member of a professionally recognized real estate appraiser organization with a minimum of five years of experience in property valuation. To avoid the appointment of a special master who has a potential conflicting interest, the 1980 law precludes a special master from representing a taxpayer before the board during a year in which he serves that board.

The 1980 amendments also extend the time limit for filing petitions with the board from seventeen days to thirty days after the notice of proposed taxes is mailed, and taxpayers are now allowed to be represented before the board by an agent other than an attorney. The intent of this change was to allow taxpayers to utilize the expertise of professional appraisers in this quasi-judicial process.

The 1980 amendments specifically authorize the boards to consider assessments on comparable properties and to hear testimony from condominium associations and mobile home associations when considering a contested assessment of a condominium or mobile home. Presumably the boards already had this authority, but the amendments clarify this point.

A significant change made by the 1980 law was the abolition of the requirement that taxpayers appear before the board prior to initiating an action in circuit court to contest an assessment or exemption determination. While the circuit court review is in the

134. Id.
135. Id.
137. Id.
138. Id. § 36 (to be codified at Fla. Stat. § 194.011).
139. Id. § 1 (to be codified at Fla. Stat. § 194.032).
140. See Fiscal Note prepared by House Committee on Finance & Taxation for HB 1606 (on file with committee). The relevant provision of HB 1606 was incorporated in Ch. 80-274, § 1, 1980 Fla. Laws 1143 (to be codified at Fla. Stat. § 194.032).
142. Id.
form of a de novo hearing.\textsuperscript{143} the courts have required taxpayers to exhaust their administrative remedies prior to seeking relief in circuit court.\textsuperscript{144}

In previous years, actions taken by the property appraisal adjustment boards received little attention. The 1980 legislature determined that the public deserved notification of these decisions since they indirectly affect the tax burdens of all taxpayers.\textsuperscript{145} Therefore, the 1980 amendments require the boards to give public notice of their final decisions.\textsuperscript{146} For six separate classes of property notice of the following must be given: (1) the number of parcels for which the board granted exemptions when the appraiser did not; (2) the number of parcels for which exemption-related petitions were filed; (3) the number of parcels for which the board reduced the appraiser's assessment; (4) the number of parcels for which assessment-related petitions were filed; (5) the net change in taxable value as a result of the board's actions; and (6) the net shift in the tax burden as a result of the board's actions.\textsuperscript{147} This enhanced visibility is intended to make the boards more accountable to the general public and thereby ensure a more deliberative and equitable review process.\textsuperscript{148}

\textbf{D. Enhanced State Review of Assessment Rolls}

While review of individual assessments is the responsibility of county property appraisal adjustment boards, the overall review of the county assessment rolls is the job of the Department of Revenue.\textsuperscript{149} A legislative evaluation of the Department's role in recent years revealed problems. Absent strict state enforcement of the just value standard, the Department could anticipate only voluntary compliance by the local property appraisers. Such cooperation was not always forthcoming.\textsuperscript{150}

\begin{footnotesize}
\begin{enumerate}
\item \textsuperscript{143} FLA. STAT. § 194.032(6) (1979).
\item \textsuperscript{144} See Stiles v. Brown, 177 So. 2d 672 (Fla. 1st Dist. Ct. App. 1965), aff'd, 182 So. 2d 612 (Fla. 1966).
\item \textsuperscript{145} See Summary, supra note 100, at 1.
\item \textsuperscript{146} Ch. 80-274, § 37, 1980 Fla. Laws 1143 (to be codified at FLA. STAT. § 194.032).
\item \textsuperscript{147} Id.
\item \textsuperscript{148} See Summary, supra note 100, at 1.
\item \textsuperscript{149} FLA. STAT. § 195.002 (1979).
\item \textsuperscript{150} See, e.g., DEPARTMENT OF REVENUE, FLORIDA AD VALOREM VALUATIONS AND TAX DATA 127 (1976).
\end{enumerate}
\end{footnotesize}
The legislature recognized the need to promote greater confidence in the Department's studies. In the absence of reliable data, the Department was hesitant to disapprove a tax roll; if it did disapprove a roll, there was a likelihood that the court would not uphold the disapproval; and if the court did sanction a disapproval based upon unreliable data, the state would have accomplished nothing toward the goal of achieving equity in the property tax.\(^{151}\)

The obvious method for promoting confidence in the Department's assessment studies was to improve the quality of the studies. The legislature attempted to achieve this result with the 1980 law.

A major weakness in the Department's studies resulted from its inability to review a tax roll in any county more frequently than once every four years. In a period of rapidly increasing property values, a four-year revaluation cycle cannot hope to secure fair market value assessments. In response to this problem, the 1980 legislature mandated a two-year review cycle and appropriated $800,000 to the Department for implementation of this program.\(^{152}\)

To ensure the Department's ability to accurately identify inequities in assessment rolls, the 1980 amendments specify particular areas to be studied.\(^{153}\) Assessment levels for a minimum of eight designated real property classes must now be determined by the Department. Separate assessment ratio statistics must be developed for land and for improvements. The Department is directed to utilize certain statistical measures in the conduct of its studies. Evaluation of local procedures for granting institutional property tax exemptions and agricultural use classifications is mandated.\(^{154}\)

To assure the Department's compliance with these requirements, the 1980 law provides for a performance audit of the Department

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\(^{151}\) See text accompanying notes 51-61 supra.
\(^{152}\) Ch. 80-274, §§ 18, 20, 1980 Fla. Laws 1143 (to be codified at Fla. Stat. § 195.096).
\(^{153}\) Ch. 80-274, § 18, 1980 Fla. Laws 1143 (to be codified at Fla. Stat. § 195.096).
\(^{154}\) Id.
by the Auditor General once every three years.166

The opportunity for an appraiser to correct inequities revealed by the Department's study has been maximized. In previous years, the Department was required to notify an appraiser of defects in his assessment roll in January, and provide him more detailed information in an administrative order issued in March.166 An appraiser's ability to correct problems prior to submitting his tax roll in July was hindered by the time constraint. The 1980 amendments advance by two months the Department's schedule for notifying an appraiser of defects in his roll. Appraisers will now be notified of defects in their tax rolls by November 15th, and will receive administrative orders from the Department prior to January 1st.167

Property appraisers who do not comply with the Department's orders are still subject to disapproval of their rolls.168 Any appraiser who is responsible for two roll disapprovals during a four-year period is now subject to a performance review proceeding.169 A three-member performance review panel, appointed by the Governor, is responsible for investigating the circumstances of the roll disapprovals. If the panel determines that the appraiser's performance has been unsatisfactory, the appraiser becomes ineligible for the $2,000 salary supplement provided to appraisers who participate in the state appraiser certification program conducted by the Department.160 The period of ineligibility continues for a minimum of one year, after which the appraiser must requalify for the certification.161

E. Interim Rolls: Averting Fiscal Chaos in the Roll Disapproval Process

As of this year, a property appraiser amenable to correcting defects in his assessment roll can properly do so without fear of delaying the local budgetary processes. A major reform measure in the TRIM bill is the provision for an interim tax roll.162 Under the

155. Id.
160. Ch. 80-377, § 7, 1980 Fla. Laws 1529 (to be codified at Fla. Stat. § 145.10(2)).
provisions of this law, a local taxing authority can bring a civil action in the circuit court to obtain an order for implementation of an interim assessment roll if the property appraiser has not timely submitted his roll to the Department of Revenue, or if all or part of the submitted roll is disapproved by the Department. If the circuit court concludes that "a delay in the final determination of assessments will substantially impair the ability of the authority to finance its activities," it may order the use of the last approved roll if the current roll is delayed, or the use of the current roll although it has been submitted and disapproved. In those cases where the property appraiser and the county governing body agree to utilize an interim roll, no judicial action is required.\textsuperscript{164}

Taxes levied against the interim roll are provisional and subject to reconciliation once the final roll is approved.\textsuperscript{165} The reconciliation contemplates an adjustment of millage rates so that the aggregate taxes collected by the taxing authorities remain unchanged, although liabilities of individual taxpayers may change as a result of the recomputation. Taxpayers who were relatively underassessed on the interim tax roll will receive supplemental bills; those who were relatively overassessed will receive refunds. Reconciliation can be waived by the circuit court if it is determined not to be in the best interest of the public. An implication of this decision to waive reconciliation is the loss of the increased homestead exemption for nonschool taxes during that taxable year since the exemption increase is not applicable to a tax roll that has not been approved by the Department.\textsuperscript{166}

Assessments on an interim tax roll are temporary and not subject to review by the property appraisal adjustment board. A taxpayer who objects to an interim assessment may informally confer with the property appraiser, or may seek judicial review of his assessment, but board hearings are not convened until a final assessment roll is approved.\textsuperscript{167} A recently discovered shortcoming in the TRIM bill, though, is its failure to specify the means for notifying taxpayers, in counties with interim rolls, that a final roll has been approved and assessment objections will be entertained by the board. This issue should be addressed during the next legislative session.

\begin{flushleft}
\textsuperscript{163} \textit{Id.}
\textsuperscript{164} Ch. 80-261, § 1, 1980 Fla. Laws 1077 (to be codified at FLA. STAT. § 193.1145(1)).
\textsuperscript{165} Ch. 80-274, § 5, 1980 Fla. Laws 1143 (to be codified at FLA. STAT. § 193.1145).
\textsuperscript{166} \textit{Id.} § 10 (to be codified at FLA. STAT. § 196.031(3)).
\textsuperscript{167} \textit{Id.} § 5 (to be codified at FLA. STAT. § 193.1145).
\end{flushleft}
F. Revised Procedures for Assessment Roll Litigation

Since 1973, the law has provided for an administrative review of the Department’s decision to approve or disapprove a tax roll. The intent in establishing a three-member Assessment Administration Review Commission was to provide a forum of special expertise to consider the highly technical issues relative to assessment equity; however, local governments could bypass the Commission by claiming fiscal chaos and seeking equitable relief in the circuit courts. This failure to utilize the Commission resulted in a legislative decision to abolish it.

The 1980 law returns to the circuit courts original jurisdiction of these matters. Venue lies in the circuit court in Leon County for actions brought by property appraisers or local taxing authorities to contest state actions relative to roll disapproval or the determination of assessment levels. For actions brought by the Department of Revenue to enforce the tax laws venue is in the county in which the property appraiser's duties are to be performed.

G. Equalization of Education Funding

Despite its best efforts to attain uniform full value assessments, the legislature realized that it was unrealistic to expect perfect intercounty assessment equity. Nonetheless, it also determined that such inequity should no longer be permitted to disrupt the state's efforts to ensure equality in educational funding among school districts.

The TRIM bill eliminates the existing incentive to undervalue property and thereby receive a larger share of state education dollars. Beginning in fiscal year 1982-83, the required local millage rate for each school district will be adjusted by an equalization factor. Counties assessing at a level below the statewide average level will be required to levy a higher millage rate, and counties

169. Id.
170. Only one case was ever filed with the Assessment Administration Review Commission and it was later withdrawn before hearing. See Slay v. Department of Revenue, 317 So. 2d 744 (Fla. 1975).
171. Ch. 80-274, § 7, 1980 Fla. Laws 1143 (not to be codified).
172. Id. §§ 6, 8 (to be codified at Fla. Stat. §§ 195.092, 193.114(7)).
173. Id. § 6 (to be codified at Fla. Stat. § 195.092).
174. Id. § 17 (not to be codified).
175. Id. § 21 (to be codified at Fla. Stat. § 236.081(4)).
assessing at a level higher than the statewide average level will levy a lower millage rate. The adjusted levy is designed to generate the tax revenues that would have been raised by the unadjusted millage rate if the county’s assessment level equaled the statewide average level.

The Department of Revenue is responsible for determining the county and statewide average assessment levels to be utilized for equalization. In the event of litigation which results in a finding that the Department’s determination of a county’s assessment level is not based upon sufficient evidence, the county is presumed to have an assessment level equal to the statewide average level.

To avoid the constitutional problems encountered under the 1969 ratio studies law, the 1980 legislature proposed an amendment to the Florida Constitution to specifically allow the use of state ratio studies in the distribution of state funds.

VI. CONCLUSION

Property tax inequities that have persisted and evolved for over a century are not easily corrected, but neither can they be ignored. The TRIM bill is expected to accomplish much toward the goal of ensuring an equitable property tax. Full disclosure of tax information should reduce taxpayer resistance to full value assessments and focus attention upon political spending decisions. Enhanced state supervision of local assessment practices should promote uniformity of assessments among the counties. Modification of the state education funding formula should finally ensure equal education spending.

As with any comprehensive legislation addressing a complex subject, the TRIM bill is not perfect. It contains a series of compromises that was necessary to attain the support and cooperation of the various officials who are responsible for implementing Florida’s property tax laws.

Nonetheless, early reports indicate that the new law is working. Despite rising assessments, the number of petitions filed with the county property appraisal adjustment boards has actually decreased in many counties, yet local budget hearings are attracting

176. Id.
177. Id.
178. See text accompanying notes 35-39 supra.
record crowds. In Dade County petitions dropped from 9,500 in 1979-80 to 2,500 for 1980-81, while the Metro Commission moved its budget hearing from the county building to the civic center to accommodate the crowd.\textsuperscript{180} In Orange County 1,000 assessment appeals were filed, less than half the number submitted during the last year that assessments were noticeably increased in that county, yet over 1,200 taxpayers attended the county budget hearing.\textsuperscript{181}

These early reports are encouraging. Hopefully, Florida has finally devised the means for preserving a good tax that has long suffered from a bad image.

\textsuperscript{180} See Miami Herald, Oct. 5, 1980, § A, at 1, col. 2.