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Ad Valorem Assessments in Florida—Recent Developments

JAMES S. WERSHOW* and EDWARD S. SCHWARTZ**

The Florida Legislature has recently completed a comprehensive reform of its ad valorem assessment system. The authors provide a comprehensive review of the new reforms and briefly outline a carefully considered proposal for further, more effective reform.

I. INTRODUCTION	67
II. STANDARDS FOR ASSESSMENT	68
III. PROCEDURES AVAILABLE TO THE AGGRIEVED TAXPAYER	75
IV. THE TRIM ACT OF 1980	77
V. PROPOSAL FOR A MORE RATIONAL SYSTEM	88

I. INTRODUCTION

The ad valorem taxation system—the taxation of real property in proportion to its assessed value—is the major source of revenue for county, municipal, and other local governments in Florida.¹ In a theoretically perfect ad valorem taxation system, persons who own land served by the community pay more taxes to the community. This justification for the ad valorem tax requires that the tax levied on a parcel of land be proportional to its value.² Because property value is determined through the assessment system,³ the

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1. See FLA. STAT. chs. 192-196, 200 (1981). See generally Wershow, *Recent Developments in Ad Valorem Taxation*, 20 U. FLA. L. REV. 1 (1967).

2. See Wershow, *A British Answer to Ad Valorem Assessment Problems in Florida*, 53 FLA. B.J. 490, 490, 498 n.4 (1979) [hereinafter cited as Wershow, *A British Answer*].

3. Each county, municipality, school district, or other "taxing authority" in Florida calculates its budget requirements independently of the amount of taxable property within its jurisdiction. See FLA. STAT. § 129.03 (1981). The percentage rate of property taxation, known as the millage rate, depends on assessed value. Each taxing authority calculates its annual millage rate by dividing the amount of money it needs to derive from property taxes by the total taxable assessed property value as determined by its property appraiser. *Id.* § 200.065. The tax on each parcel of property is calculated by multiplying the assessed value of each parcel times the millage rate and deducting applicable exemptions. This computation, known as "extending" the assessment rolls, is a duty of the property appraiser. *Id.* § 193.122.

equity of that system is crucial to the equity of the ad valorem taxation system as a whole.

The key equitable standards used in the ad valorem taxation field are "uniform" and "just" valuation. Article VII of the Florida Constitution requires that ad valorem taxation be at a uniform rate within each taxing unit,⁴ and that the legislature prescribe regulations to ensure the just valuation of all land parcels.⁵ Inherent tension exists between these two requirements. Just valuation requires the appraiser to examine individually each parcel of land and the concomitant factors affecting its value, while uniform valuation requires the appraiser to use the same standards for all parcels within the taxing unit.⁶ Legislative mandates have confused further the Florida ad valorem taxation system, leaving the courts to reconcile the conflicting constitutional and statutory directions given to the property appraiser.

II. STANDARDS FOR ASSESSMENT

The numerous interpretations of the term "value" make assessment according to this vague standard difficult. Any attempt to analyze all of the conceptual distinctions in the definition of "value" would be a frustrating and worthless exercise. In *Walter v. Schuler*,⁷ the Florida Supreme Court laid to rest a vast number of variations on the term "value" when it defined the term "just valuation" as it appeared in the Florida Constitution of 1885.⁸ In *Schu-*

4. FLA. CONST. art. VII, § 2. Taxing units include counties, municipalities, and school districts.

5. FLA. CONST. art. VII, § 4. Note that art. VII, § 4(a), allows agricultural land to be "classified by general law and assessed solely on the basis of character or use." This is the constitutional authority for "greenbelt laws," which provide for preferential assessment of land used for bona fide commercial agricultural purposes. See *Straughn v. K & K Land Management*, 326 So. 2d 421, 424 (Fla. 1976); FLA. STAT. § 193.461 (1981); *infra* notes 34-45 and accompanying text.

The Florida Constitution of 1885 also contained requirements of uniform and just valuation:

The legislature shall provide for a uniform and equal rate of taxation, except that it may provide for special rate or rates on intangible property . . . [a]nd shall prescribe such regulations as shall secure a just valuation of all property, both real and personal, excepting such property as may be exempted by law by municipal, education, literary, scientific, religious or charitable purposes.

FLA. CONST. of 1885, art. IX, § 1.

6. See *Wershow, Ad Valorem Assessment in Florida—The Demand for a Viable Solution*, 25 U. FLA. L. REV. 49 (1972).

7. 176 So. 2d 81 (Fla. 1965).

8. See FLA. CONST. of 1885, art. IX, § 1. The current Florida Constitution, adopted in 1968, also includes the term "just valuation." The Florida Supreme Court still uses the

ler property appraisers in Duval County were assessing property at forty percent of its fair market value. This was contrary to the Florida statute requiring that property be assessed at its full cash value.⁹ The court defined "just valuation" based on the full cash value statute:

[W]e regard the [statute] as an attempt by the legislature to pin the assessors more firmly to the Constitutional mandate. The result of such a construction is not to deprive these officers completely of their discretion for there is bound to be some tolerance in the execution of their task as they receive, weigh and evaluate varying information on the subject from different sources they consider reliable, but this opinion is designed to put at rest the procedure of setting assessable values at a percentage of "X."¹⁰

The unknown quantity "X" is the property value upon which the tax assessment is based. The supreme court concluded that "'fair market value' and 'just valuation' should be declared 'legally synonymous' and that [fair market value] is the best [standard to use in arriving] at the definition of 'X.'"¹¹ The court adopted the classic definition of fair market value: "the amount [that] a 'purchaser willing but not obliged to buy, would pay to one willing but not obliged to sell.'"¹²

The following year, in *Burns v. Butscher*,¹³ the Supreme Court of Florida stated that appraisers must assess property at one hundred percent of its fair market value. The one hundred percent requirement paralleled a regulation promulgated by the state comptroller pursuant to his authority under section 192.31 of the Florida Statutes.¹⁴ The court held that the requirement of full market value assessment did not infringe upon the constitutional duties of tax assessors because their duties are prescribed by law.¹⁵ Moreover, the law states that the comptroller must prescribe measurements of value consistent with those fixed by law. The court

Schuler test. See, e.g., *Spooner v. Askew*, 345 So. 2d 1055, 1059 (Fla. 1976).

⁹ FLA. STAT. § 193.021 (1965) (current version at FLA. STAT. § 193.011(1) (1981)).

¹⁰ 176 So. 2d at 85.

¹¹ *Id.* at 85-86.

¹² *Id.* at 86; *accord* *Root v. Wood*, 155 Fla. 613, 21 So. 2d 133 (1945).

¹³ 187 So. 2d 594 (Fla. 1966).

¹⁴ FLA. STAT. § 192.31 (1965) (repealed 1971) permitted the comptroller to establish and promulgate standard measures of value for use by assessors "not inconsistent with those standards provided by law."

¹⁵ FLA. CONST. of 1885, art. VIII, § 6, provided that assessors' "duties shall be prescribed by law."

warned tax assessors that the comptroller has the constitutional authority to investigate the conduct of tax assessors in the execution of their duties, and to recommend their removal from office for willful failure to exercise their functions properly.¹⁶ The role of the comptroller under section 192.31 was upheld by the court as a constitutional application of the legislative power¹⁷ to "provide for uniform and equal rate of taxation."¹⁸

Florida courts have applied the one hundred percent of fair market value assessment test repeatedly since *Burns*.¹⁹ The *Burns* decision did not, however, end the controversy about what actually constitutes just valuation. First, property appraisers (previously called tax assessors)²⁰ are constitutional officers. This status gives them abundant discretion, and cloaks their actions with a presumption of correctness.²¹ Second, section 193.011 of the Florida Statutes sets forth seven factors other than present cash value or fair market value that the appraiser must consider in arriving at just valuations for normal properties.²² Some of these factors, such

16. 187 So. 2d at 596.

17. *Id.*

18. See FLA. CONST. of 1885, art. IX, § 1.

19. See, e.g., *Spooner v. Askew*, 345 So. 2d 1055, 1059 (Fla. 1976); *Deltona Corp. v. Bailey*, 336 So. 2d 1163, 1167-68 (Fla. 1976).

20. 1976 Fla. Laws ch. 76-133 (amending scattered sections of FLA. STAT. chs. 193-196, 200 (1975)) changed the name of the "tax assessor" to "property appraiser." The functions of the office remained the same.

21. *District School Bd. v. Askew*, 278 So. 2d 272, 275 (Fla. 1973) (assessments invalid only if assessor is arbitrary, assessment discriminates against one taxpayer, or assessor makes a material and prejudicial error of law) (citing *Powell v. Kelly*, 223 So. 2d 305, 307 (Fla. 1969)).

22. FLA. STAT. § 193.011 (1981). The factors are:

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

(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, taking into consideration any applicable local or state land use regulation and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium prohibits or restricts the development or improvement of property as otherwise authorized by applicable law;

(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; and

(8) The net proceeds of the sale of the property as received by the seller,

as the location and condition of the property, are quite intangible. The property appraiser's broad discretion combined with the many diverse factors that he legitimately can consider inhibits an aggrieved taxpayer's ability to attack any particular assessment as deviating from the just value standard.

The most troublesome standard in section 193.011 is the one that requires appraisers to consider the property's "highest and best use" in their appraisal of value.²³ Examining the property's highest and best use often fails to yield a fair market value assessment because a large amount of land is not devoted to its most profitable use. Using property for agriculture instead of residential development is a prime example of this phenomenon.²⁴ There is a distinct possibility that the property appraiser may interpret the words "highest and best use . . . in the *immediate future*"²⁵ to justify overassessing lands based on speculative future use. The Florida Supreme Court has held, however, that even a "highest and best use" cannot be speculative, but instead must be based on the property's immediately expected future use.²⁶ As Judge White of the District Court of Appeal, Second District, said in his dissent in *Lanier v. Tyson*:

Assessed valuations of land based on estimates of its highest and best potential, as distinguished from present bona fide use, are bound to be largely conjectural; and when an assessor, contrary to legislative intent and direction, determines that land despite its present use has a truly higher present value because of its potential for some other "higher" purpose, he indulges in unwarranted speculation and does violence to the constitutional and statutory objective of just valuation.²⁷

after deduction of all of the usual and reasonable fees and costs of the sale, including the costs and expenses of financing, and allowance for unconventional or atypical terms of financing arrangements. When the net proceeds of the sale of any property are utilized, directly or indirectly, in the determination of just valuation of realty of the sold parcel or any other parcel under the provisions of this section, the property appraiser, for the purposes of such determination, shall exclude any portion of such net proceeds attributable to payments for household furnishings or other items of personal property.

Id.

23. *Id.* § 193.011(2).

24. For a discussion of the preferential assessment of agricultural lands, see *infra* notes 34-45 and accompanying text.

25. FLA. STAT. § 193.011(2) (1981) (emphasis added).

26. *Straughn v. Tuck*, 354 So. 2d 368, 371-72 (Fla. 1977); see *Lanier v. Overstreet*, 175 So. 2d 521, 524 (Fla. 1965).

27. *Lanier v. Tyson*, 147 So. 2d 365, 379 (Fla. 2d DCA 1962) (White, J., dissenting).

Another problem with the highest and best use standard is the effect of a development moratorium on the highest and best use of property. Section 193.011(2) requires the appraiser to consider the effect of a development moratorium on the highest and best use of the property assessed. In the procedurally bizarre cases of *Atlantic International Investment Corp. v. Turner I*²⁸ and *II*,²⁹ the same court reached opposite conclusions about whether a delay in developing a subdivided parcel due to the rejection of permit applications constituted a "moratorium" within the meaning of section 193.011(2). The taxpayer in the two cases had subdivided his land, expecting to develop and sell the subdivisions. In 1974 the Department of Pollution Control denied the taxpayer's application for a permit to build roads and drainage ditches.³⁰ The Department asserted that these structures would increase water pollution in the area. In 1977, after a three-year delay in the project, the taxpayer finally resolved his permit problems. The property appraiser valued the property in both 1976 and 1977 as though the subdivisions were immediately salable, disregarding the administrative moratorium that delayed construction. The taxpayer sued the appraiser for wrongful assessments in both years.

In *Atlantic International Investment I*, a judicial panel from the District Court of Appeal, First District, on loan to the Fifth District, held that the 1976 assessment was incorrect. The borrowed panel reasoned that the legislature had intended the moratorium provisions of section 193.011(2) to apply to administrative delays, as well as to permanent prohibitions against land development.³¹ In *Atlantic International Investment II*, the normal judicial panel for the Fifth District retreated from the decision of the borrowed panel, holding that the property appraiser acted within his permissible discretion in disregarding the administrative moratorium.³² If the property appraiser's discretion includes determining whether or not an administrative delay must be recognized when valuing property, then section 193.011(2) may be rendered virtually meaningless.³³

28. 381 So. 2d 719 (Fla. 5th DCA 1980).

29. 383 So. 2d 919 (Fla. 5th DCA 1980).

30. *Atlantic Int'l Inv. I*, 381 So. 2d at 720.

31. *Id.* at 723.

32. 383 So. 2d at 921-22.

33. The burden of proof is on the taxpayer to show that an appraiser accorded too much weight to the highest and best use standard in relation to the other enumerated assessment standards. *Bath Club, Inc. v. Dade County*, 394 So. 2d 110 (Fla. 1981); *FLA. STAT. § 194.032(6)(c)* (1981).

A property appraiser must depart from the usual standards of just valuation when assessing agricultural lands. The Florida Constitution grants to the Legislature the authority to provide for special classification and preferential assessment of agricultural lands.³⁴ Section 193.461 of the Florida Statutes (known as the "greenbelt" statute), promulgated pursuant to this constitutional grant of authority, grants preferential assessment to any parcel of land used for "bona fide agricultural purposes." Subsection (3)(b) in turn delineates the factors that appraisers may consider in determining when land is being used for bona fide agricultural purposes.³⁵ In *Czagas v. Maxwell*³⁶ the District Court of Appeal, Fifth District, held that property appraisers must consider *all* of the enumerated factors in determining agricultural classification. In *Czagas* an appraiser denied agricultural classification to a parcel of property because it had too few acres. Because size is only one factor to consider, the Fifth District remanded the case to the trial court for consideration of the other factors.³⁷

Once the taxpayer has properly applied for agricultural classification³⁸ and has established a "bona fide agricultural purpose," the appraiser uses the special factors enumerated in section 193.461(6)(a) to assess the value of the land.³⁹ The criterion of the

34. FLA. CONST. art. VII, § 4(a).

35. FLA. STAT. § 193.461(3)(b) (1981). Agricultural purposes are broadly defined to include all forms of farm production. *Id.* § 193.461(5). FLA. STAT. § 193.461(3)(b) states: "Bona fide agricultural purposes" means good faith commercial agricultural use of the land. In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:

1. The length of time the land has been so utilized;
2. Whether the use has been continuous;
3. The purchase price paid;
4. Size, as it relates to specific agricultural use;
5. Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices;
6. Whether such land is under lease and, if so, the effective length, terms, and conditions of the lease; and
7. Such other factors as may from time to time become applicable.

36. 393 So. 2d 645 (Fla. 5th DCA 1981).

37. *Czagas* also involved a sale of land for more than three times its assessed value. See *infra* notes 42-45 and accompanying text. The court stated that purchase price was merely another factor to be considered.

38. FLA. STAT. § 193.461(3)(a) (1981) requires that taxpayers file applications for agricultural classification annually on or before March 1. Failure to make timely application results in forfeiture of rights to agricultural classification for that year. See *Daniel v. Lynn*, 393 So. 2d 52 (Fla. 2d DCA 1981).

39. Section 193.461(6)(c) lists the exclusive factors that the appraiser shall consider

"highest and the best use" is not listed among the agricultural assessment factors. This reflects the policy behind the "greenbelt" statute: to encourage farmers to keep their land for agricultural use even though that same land would be more profitable if used for other commercial endeavors.⁴⁰ If agricultural land could be taxed on the basis of its highest and best use, then the state would, in effect, be taxing farmers for not selling out to developers. Greenbelt statutes such as section 193.461 are therefore necessary to keep farmers on the land.⁴¹

One interesting problem in this area is the classification of property in the hands of a purchaser who buys property previously used for agricultural purposes for an amount far in excess of its assessed value. In *Department of Revenue v. Goembel*,⁴² a taxpayer purchased land for an amount more than three times its agricultural assessment. This triggered section 193.461(4)(c) of the Florida Statutes, which provides that if a taxpayer buys agriculturally classified land for a price more than three times its agricultural assessment, then he is rebuttably presumed to have discontinued the bona fide agricultural use.⁴³ The taxpayer may rebut the presumption with proof of "special circumstances." The District Court of Appeal, Fifth District, following a previous decision of the Florida Supreme Court,⁴⁴ held that special circumstances could be

when evaluating agricultural property:

1. The quantity and size of the property;
2. The condition of said property;
3. The present market value of said property *as agricultural land*;
4. The income produced by said property;
5. The productivity of land *in its present use*;
6. The economic merchantability of the agricultural product; and
7. Such other *agricultural* factors as may from time to time become applicable.

FLA. STAT. § 193.461(6)(a) (1981) (emphasis added).

40. In *St. Joe Paper Co. v. Adkinson*, 400 So. 2d 983 (Fla. 1st DCA 1981), the court held that lakefront property was properly classified as agricultural even though the land "would in all probability be desirable for other uses." *Id.* at 986. Although it was part of a large tract yielding merchantable timber, the court would have designated the lakefront as nonagricultural property if it had not also yielded timber.

41. See Wershow, *Ad Valorem Taxation and Its Relationship to Agricultural Land Tax Problems in Florida*, 16 U. FLA. L. REV. 521 (1964).

42. 382 So. 2d 783 (Fla. 5th DCA 1980).

43. FLA. STAT. § 193.461(4)(c) (1981). This section only applies when a *completed* sale has occurred, rather than when a contract for future sale has been signed. Therefore, an agricultural user entering into a contract for the sale of agricultural use land for commercial development does not raise the presumption that he is not holding the land for "bona fide agricultural purposes." The statute also applies to a purchaser of property. *Fogg v. Broward County*, 397 So. 2d 945 (Fla. 4th DCA 1981).

44. *Straughn v. K & K Land Management*, 326 So. 2d 421 (Fla. 1976).

proved simply by continuing to use the land for a bona fide agricultural purpose. Therefore, the fact that the taxpayer continued to use the land as a citrus grove was sufficient proof of special circumstances to rebut the presumption of discontinued agricultural use, entitling him to a refund of the additional taxes paid because the appraiser had denied agricultural land classification. Additionally, the fact that the citrus grove was unprofitable was not determinative of classification, but merely was one factor to be considered.⁴⁵

Cases such as *Straughn*, *Goembel*, and *Czagas* demonstrate that because property appraisers have broad discretion in applying the assessment standards, the standards themselves offer little hope of ensuring that property appraisers assess justly, uniformly, and equally.

III. PROCEDURES AVAILABLE TO THE AGGRIEVED TAXPAYER

In addition to prescribing standards of assessment, the Florida Legislature has also enacted procedures by which taxpayers or the state itself may seek review of assessments. The state agency that supervises the activities of property appraisers is the Department of Revenue. The Department may bring actions to ensure that officials properly administer the tax laws of Florida.⁴⁶ The Department may prescribe rules and regulations for the assessment and collection of taxes.⁴⁷ It may establish standard measures of value consistent with those provided by law.⁴⁸ It promulgates instruction manuals for the property appraisers and other tax officials.⁴⁹ Most importantly, the Department annually reviews the assessment roll of each county,⁵⁰ and periodically conducts an indepth statistical review of the county's assessment rolls.⁵¹

Section 194.032 of the Florida Statutes prescribes the procedure for hearing taxpayers' complaints about property assessments. Taxpayers in each county take their complaints to a "property appraisal adjustment board," a five-person panel composed of

45. The proposition that a bona fide agricultural use need not be a profitable one first appeared in *Matheson v. Elcock*, 173 So. 2d 164 (Fla. 3d DCA), *cert. discharged*, 184 So. 2d 889 (Fla. 1965); *accord Czagas v. Maxwell*, 393 So. 2d 645 (Fla. 5th DCA 1981).

46. FLA. STAT. § 195.092(1) (1981).

47. *Id.* § 195.027(1).

48. *Id.* § 195.032.

49. *Id.* § 195.062.

50. *Id.* § 193.114(5).

51. *Id.* § 195.096. For a detailed analysis of the Department's review of county assessment rolls, see *infra* text accompanying notes 80-85.

three members of the county commission, one of whom must be the chairman of the board, and two county school board members.⁵² The board must have a quorum consisting of three members to meet, at least one of whom must represent the school board.⁵³ In effect, each county has its own local review board that monitors the actions of the county property appraiser.

The board hears complaints from taxpayers and appraisers. But a municipal government has no authority to appear before the board to contest an agricultural classification by the property appraiser.⁵⁴ Further, the property appraisal adjustment board may alter a property assessment regardless of whether the petition alleged a lack of equality or uniformity between the taxpayer's property and similarly situated property.⁵⁵

The procedure for appearing before the property appraisal adjustment board is contained in sections 194.011 through 194.032 of the Florida Statutes.⁵⁶ A taxpayer must file a petition challenging his assessment within thirty days after the property appraiser mailed the assessment notice.⁵⁷ The clerk of the property appraisal adjustment board⁵⁸ prepares a schedule of appearances and notifies each petitioner of his appearance no less than five days before the date set.⁵⁹ Petitioners may have an attorney present at the hearing and may be required to testify under oath.⁶⁰ A verbatim record of the proceedings must be made and documentary evidence must be preserved.⁶¹ Generally, the hearing is conducted in accordance with Florida's Administrative Procedure Act.⁶² If the taxpayer is not satisfied with the decision of the property appraisal adjustment board, he may appeal to a circuit court⁶³ according to the procedures prescribed in section 194.171.⁶⁴

Because the circuit courts have original jurisdiction over prop-

52. FLA. STAT. § 194.015 (1981).

53. *Id.*

54. 1973 FLA. ATT'Y GEN. ANN. REP. 498 (No. 073-294).

55. 1972 FLA. ATT'Y GEN. ANN. REP. 592 (No. 072-349).

56. FLA. STAT. §§ 194.011-.032 (1981).

57. *Id.* § 194.011(3)(d).

58. The Clerk of the County Commission serves as the Clerk of the Property Appraisal Adjustment Board. *Id.* § 194.015.

59. *Id.* § 194.032(2).

60. *Id.* § 194.032(3).

61. *Id.*

62. *Id.* §§ 120.50-.73.

63. *Id.* § 194.032(6)(b).

64. *Id.* § 194.171.

erty tax matters,⁶⁵ a taxpayer may choose to contest a tax assessment in those courts instead of appealing to a property appraisal adjustment board. Even if the taxpayer initiated an administrative action, he may seek relief in the courts before exhausting his administrative remedies.⁶⁶ To seek judicial review, the taxpayer must pay to the collector an amount that he in good faith admits to be owing.⁶⁷ Otherwise, his case will be dismissed.⁶⁸ Additionally, the taxpayer must commence the action in the circuit court within sixty days from the date the contested assessment was certified for collection.⁶⁹

IV. THE TRIM ACT OF 1980

The search for a system of valuation that provides both fair and just valuation for the individual taxpayer and uniformity among property appraisal adjustment boards is exceedingly difficult. Each county has its own appraiser and adjustment board. Supervision by the courts and the Department of Revenue cannot reverse the development of a different system of assessment in each of Florida's sixty-seven counties. This decentralized system is unable to provide uniformity among counties and rarely provides uniform and just valuations within a single county. Moreover, this system also wastes time and money. The broadest legislative attempt to remedy the problems of ad valorem taxation in Florida was the Truth-in-Millage (TRIM) Act.⁷⁰

Because there are no cases construing the TRIM Act, interpretation of some of its sections can only be speculative. A comparison of the statutes both before and after the TRIM Act amendments

65. *Id.* § 194.171(1).

66. *Id.* § 194.032(3). This section states that "nothing herein shall preclude an aggrieved taxpayer from contesting his assessment in the manner provided by § 194.171, whether or not he has initiated an action pursuant to this section."

67. *Id.* § 194.171(3). The taxpayer must comply with this section even if he is in circuit court appealing a decision of the property appraisal adjustment board. *See id.* § 194.032(6)(b).

68. *Id.* § 194.171(5).

69. *Id.* § 194.171(2). In *Williams v. Law*, 368 So. 2d 1285 (Fla. 1979), the Supreme Court of Florida held that an "appeal" brought by a property appraiser in a circuit court is an original action since the legislature "intended to grant the property appraiser the right to challenge the legality of a decision . . . by the same means accorded the taxpayer." *Id.* at 1287; *see supra* notes 65-66 and accompanying text. Therefore, § 194.171(2) is not unconstitutional because the 60-day limitation for seeking judicial review of a decision of the Board of Tax Adjustment prescribed in FLA. CONST. art. V, § 2(a) applies to appeals, not to original actions. 368 So. 2d at 1287-88.

70. 1980 Fla. Laws ch. 80-274 (codified in scattered sections of FLA. STAT. chs. 129, 192-197, 199, 200, 205, 218, 228, 236, 237, 320, 371, 373).

and a historical review of the problems of Florida ad valorem taxation may, however, reveal the legislative intent underlying the law's enactment.

An important procedural effect of the TRIM Act is that the property appraiser's discretion has been diminished because the degree of supervision that the Florida Department of Revenue and the Governor may exercise over property appraisers has been increased. Under prior law and the TRIM Act, the executive director of the Department of Revenue, after sending a notice of alleged defective appraisal methods to any property appraiser, may require him to justify or correct his appraisal methods.⁷¹ The notice must specify the nature of the defects, the classes of property improperly assessed, and the requirements of the Department for obtaining approval of the current year's assessment roll.⁷² The appraiser must respond to the executive director within fifteen days after receiving the notice, either stating that he will comply with the requirements or requesting a conference.⁷³ In either case, the executive director issues an administrative order to the appraiser specifying the necessary remedial steps.⁷⁴

The TRIM Act clarifies and expands the authority of the Department of Revenue to enforce its administrative orders. Upon receipt of the administrative order, the appraiser must now notify the Department of his intention to comply with the order or the basis for his intended noncompliance. This requirement gives the Department of Revenue an opportunity to meet with the property appraiser in a good faith attempt to resolve conflicts before instituting an action.⁷⁵ Under the old law the appraiser did not have to respond to the administrative order, forcing the Department to "wait and see" before commencing an action for noncompliance.⁷⁶ The amendments to section 195.097 also clarify the methods that the Department of Revenue may use in supervising the preparation of the subsequent assessment rolls by the offending appraiser. The previous version of section 195.097 stated that the Department's methods of supervision included, but were not limited to, statistical studies on the roll; no other methods were enumerated.⁷⁷

71. FLA. STAT. § 195.097 (1979) (amended 1980).

72. *Id.* § 195.097(1) (1981).

73. *Id.* § 195.097(2).

74. *Id.*

75. *See id.* § 195.092(3).

76. *Compare* FLA. STAT. § 195.097(3) (1979) *with* FLA. STAT. § 195.097(3) (1981).

77. *See* FLA. STAT. § 195.097(3) (1979) (amended 1980).

The TRIM Act delegates the Department's supervisory authority to the Division of Ad Valorem Tax and specifies several powerful and intrusive methods that may be used to supervise appraiser compliance with administrative orders. These methods include interviews with the appraiser's personnel or consultants and on-site inspections of the appraiser's assessment operations.⁷⁸ During the period of supervision, the executive director may also require the appraiser to certify in writing the steps being taken to comply with the administrative order.⁷⁹

The TRIM Act also reduces the property appraiser's discretion by specifying more precise and objective standards for the Department of Revenue to use in its regular reviews of assessment rolls. In addition to requiring the property appraisers to annually submit all assessment rolls to the Department of Revenue for approval,⁸⁰ Florida law provides for regular statistical "in-depth reviews" of the assessment rolls for each county.⁸¹ The purpose of these statistical "in-depth reviews" is to enable the Department of Revenue to determine whether property appraisers are consistently departing from the just value standard of the Florida Constitution.⁸² The Division of Ad Valorem Tax, which conducts the "in-depth reviews," must notify the appraiser for the county concerned at least thirty days before it conducts the review.⁸³ If an appraiser requests, the Division must also consult with the appraiser regarding the classifications and strata it will study.⁸⁴ When the Division completes a statistical analysis and review of a property appraiser's assessment rolls, it must forward the results to him.⁸⁵

These in-depth reviews under the TRIM Act are a more stringent check on the discretion of the property appraiser than existed under prior law because the Division is required to compute the median and mean assessments for each property classification and assessment roll it studies.⁸⁶ Under prior law the Division was allowed to choose any measure of central tendency that best reflected true ratios, but did not specify the universe of those possi-

78. *Id.* § 195.097(4) (1981).

79. *Id.*

80. *Id.* § 193.114(5).

81. *Id.* § 195.096(2) (1979) (amended 1980).

82. *Id.* § 195.096(4) (1981).

83. *Id.* § 195.096(2)(a).

84. *Id.* § 195.096(2)(e).

85. *Id.* § 195.096(2)(f).

86. *Id.* § 195.096(2)(c).

ble measures.⁸⁷ A comparison of these two measures should quickly indicate how much the appraiser is deviating from the just value standard. The TRIM Act also requires the Division of Ad Valorem Tax to publish the results of its reviews, including the statistical data for the real property assessment roll as a whole, for the personal property assessment roll as a whole, and independently for several classes of real property.⁸⁸ The published results also must give the same date for any subclassification that the Division decided to study.⁸⁹ The Division must project the value-weighted mean levels of assessment for each county it is not reviewing that year;⁹⁰ under prior law the Division could choose any form of averaging to project mean assessment levels for the counties it was not studying in a particular year.⁹¹ Under the TRIM Act these projections must separately allocate changes in the total assessed value to: (1) new construction, additions, and deletions from the roll of parcels; (2) changes in the real value of the dollar; changes in the real market value of parcels; and (3) changes in the level of assessment.⁹² Finally, the TRIM Act requires more frequent "in-depth" reviews of assessment rolls than under the prior law. Starting with the 1982 rolls, these reviews will occur no less than every two, rather than every four years.⁹³

The amendments to section 195.096 and the statistical review of assessment rolls constitute a stronger check on the property appraiser's discretion. "In-depth reviews" are not just approximations anymore; they are another weapon to use in administrative actions against appraisers who do not comply with statutory and

87. Compare FLA. STAT. § 195.096(2)(c) (1979) with FLA. STAT. § 195.096(2)(c) (1981).

88. Section 195.096(3)(a)(1)-(8) specifies the independent real property classes requiring analysis:

1. Single-family, condominium, cooperative, mobile home, and other owner-occupied residential property.
2. Residential income property.
3. Agricultural and other use-valued property.
4. Vacant lots.
5. Nonagricultural acreage and other undeveloped parcels.
6. Institutional and governmental property.
7. Improved commercial property.
8. Improved industrial, utility, locally assessed railroad, oil, gas and mineral lands, subsurface rights, and other real property.

89. FLA. STAT. § 195.096(3)(a) (1981).

90. *Id.* § 195.096(3)(b).

91. *Id.* § 195.096(3) (1979) (amended 1980).

92. *Id.* § 195.096(3)(b) (1981).

93. *Id.* § 195.096(2).

constitutional requirements.⁹⁴

The TRIM Act added an extra check on appraisers who make illegal assessments by increasing the supervisory power of the Governor of Florida over property appraisers.⁹⁵ If the Department of Revenue uses its section 193.114 power to disapprove the assessment roll of an appraiser for two out of any four consecutive years, the Governor may appoint a three-member performance review panel to investigate the appraiser.⁹⁶ If the panel determines that the performance of the appraiser has been unsatisfactory or illegal, then the appraiser is ineligible to serve as an appraiser unless he requalifies by successfully completing the courses and examinations required of new candidates.⁹⁷

The legislature's distrust of the property appraiser also extends to his ministerial duties. Section 200.069 of the Florida Statutes, added by the TRIM Act, includes a prototype form that property appraisers must send to taxpayers when giving notice of hearings before the taxing authorities on proposed millage rates and budgets.⁹⁸ The statute specifies not only the content of the information to be included on the form, but also the arrangement, the wording, and even the typeface.⁹⁹ The property appraiser must use only those notice forms that are provided by the Department of Revenue, which are substantially like the prototype in the statute.¹⁰⁰

Section 200.065 of the Florida Statutes prescribes the procedures that various taxing authorities must use when adopting budgets and millage rates.¹⁰¹ The amendments to section 200.065 made by the TRIM Act do not affect its basic procedures, but do provide some additional procedural protections of taxpayers' interests. Additionally, the amendments substantially changed the

94. The legislature's intent that the Division of Ad Valorem Tax use "objective measures of market value" in carrying out "in-depth reviews" is declared in § 195.096(5). One can infer both from this statement and from the deletion of the language in the previous § 195.096(3), stating that "in-depth reviews" could not be the "sole basis" for administrative or legal action against appraisers, that the legislature contemplates administrative actions against appraisers under § 195.097 and judicial actions against appraisers under § 195.092, in which the "in-depth reviews" will be used as the primary evidence of the assessments' noncompliance with the just value standard.

95. FLA. STAT. § 192.115 (1981).

96. *Id.*

97. *Id.*

98. *Id.* § 200.069. This section is completely new.

99. *Id.* § 200.069(2).

100. *Id.* § 200.069.

101. *Id.* § 200.065.

timetable for events occurring under the section 200.065 procedures.

The property appraiser begins the budget adoption process by certifying to the various taxing authorities the taxable value of property within their jurisdictions on a form that includes instructions for calculating the "rolled-back rate."¹⁰² The rolled-back rate is the millage rate that will provide the taxing authority with revenue equal to that of the preceding year without taking into account new construction, boundary changes, and additions or deletions of parcels occurring during the current year.¹⁰³ If the taxing authority does not follow the correct procedures for adopting a higher rate, it must use the rolled-back rate and will be precluded from adopting a higher rate during the upcoming fiscal year.¹⁰⁴

The taxing authority then prepares a tentative budget and computes the millage rate that is necessary to fund the budget, after taking into account money that will be received from other sources.¹⁰⁵ When the taxing authority completes the tentative budget and proposed millage rate, it must inform the property appraiser of its proposed millage rate, its rolled-back rate, and the date, time, and place at which a public hearing will be held to consider the tentative budget and proposed millage rate.¹⁰⁶ The property appraiser must then send to each taxpayer by first-class mail a "notice of proposed property taxes" which conforms to the stringent requirements prescribed in section 200.069.¹⁰⁷ The taxing authority must hold a public hearing between fifteen and thirty days after mailing the notice.¹⁰⁸ At the public hearing the taxing author-

102. *Id.* § 200.065(1). For budget planning purposes, the taxing authority may request from the appraiser an estimate of the taxable value of the property within the jurisdiction even before certification.

103. *Id.*

104. *Id.* § 200.065(2)(a)(4). Both the old and new versions of this section provide that nothing in § 200.065 shall serve to prevent a decrease in the millage rate from the previous year, nor may the taxing authority exceed the legal ceiling on millage rates by following the law's procedures. Compare FLA. STAT. § 200.065(6) (1981) with FLA. STAT. § 200.065(7) (1979). The general millage limit for counties and multi-county taxing districts is an aggregate millage of ten mills; each school board and board of county commissioners may, however, levy at least five mills notwithstanding the ten-mill aggregate limit. Millage that an election of freeholders approves for the purpose of repaying bonds is exempt from the ten-mill limit. FLA. STAT. § 200.071 (1981). The millage limit for municipalities is ten mills, excepting millage that the voters approve in an election. *Id.* § 200.081.

105. *Id.* § 200.065(2)(a)(1). The taxing authority must use at least 95% of the certified taxable property value as its base for calculating the proposed millage. *Id.*

106. *Id.* § 200.065(2)(b).

107. *Id.* §§ 200.065(2)(b), .069; see *supra* notes 98-100 and accompanying text.

108. FLA. STAT. § 200.065(c) (1981).

ity must adopt the tentative budget; accordingly, any tentative budget amendments made at the hearing that affect the millage rate must be announced.¹⁰⁹

Under the previous section 200.065,¹¹⁰ the taxing authority gave public notice and held a hearing only if the proposed millage rate exceeded the rolled-back rate.¹¹¹ If public notice was necessary, publication in a newspaper of general circulation was sufficient.¹¹² Both the new and the old law state that the purpose of the meeting is to hear comments and to explain the reasons for the proposed increase in the millage rate.¹¹³ Under the new law, however, the public is specifically granted the right to speak and ask questions before the adoption of any measure by the taxing authority.¹¹⁴ The requirements that notices must be sent to all taxpayers, that no millage rate may be adopted without public hearings, and that the public may speak to, and ask questions of the taxing authority are legislative indications that the intent of the new law is to have the public play an important role in the budgeting process.

Within eighteen days after the taxing authority adopts the tentative budget, it must hold a second public hearing in order to adopt the "final" budget and millage rate. "Final" in this context means that the millage is final except for adjustments that the taxing authority may have to make in light of judicial or administrative decisions affecting the taxable value of parcels within the jurisdiction of the taxing authority.¹¹⁵ The procedure for holding the final hearing is the same as that for holding the hearing on the proposed budget and millage except that the taxing authority need not send an individual notice to each taxpayer unless it intends to raise the final millage rate above the last proposed rate adopted at the hearing on proposed millage.¹¹⁶ The provisions for the final hearing thus provide taxpayers with the same added procedural protection as the provisions for the hearing on proposed property

109. *Id.*

110. *Id.* § 200.065 (1979) (amended 1980).

111. The term "rolled-back rate" was not used in the 1979 version of § 200.065. The idea conveyed in that section is, however, identical to the "rolled-back rate" as used in the amended version. *Compare* FLA. STAT. § 200.065(1) (1979) *with* FLA. STAT. § 200.065(1) (1981).

112. *Id.* § 200.065(2)(a) (1979) (amended 1980).

113. *Compare* FLA. STAT. § 200.065(2)(a) (1979) *with* FLA. STAT. § 200.065(2)(e)(1) (1981).

114. FLA. STAT. § 200.065(2)(e)(1) (1981).

115. *Id.* § 200.065(5).

116. *Id.* § 200.065(2)(d).

taxes.¹¹⁷

The provisions on the scheduling of hearings confirm the legislative intent to encourage public participation in the budget adoption process. The public hearings on proposed and final millages must be either on a weekday after 5:00 p.m. or on a Saturday. County commissions may not schedule their hearings to conflict with those of school boards within the county, and no other taxing authority except municipal service authorities may schedule hearings at the same time as county commission or school board hearings. Multi-county taxing authorities need only use "reasonable effort" to avoid scheduling their hearings at times that conflict with the hearings of county commissioners or school boards within the multi-county district.¹¹⁸

The TRIM Act's revisions of property appraisal adjustment board procedures will make proceedings before the boards run more smoothly and less formally. Taxpayers who are before the board may be represented by an attorney, as under prior law, or an "agent" other than an attorney.¹¹⁹ Under the TRIM Act a petitioner may be better prepared for an appearance before the board because he may obtain his property record card prior to the hearing, which contains all of the information the appraiser used to

117. *Id.* § 200.065(2)(e)(2). The time schedule for hearings will vary with the type of taxing authority. A taxing authority other than a school board must give the property appraiser the information required for the notice of proposed taxes within 30 days after the certification of taxable value by the appraiser to the taxing authority. The appraiser must mail the notice not later than 45 days after the certification of value. *Id.* § 200.065(2)(b). The authority holds its public hearing on the proposed millage and budget 60 to 75 days after the certification of taxable value. No more than 15 days later, the taxing authority advertises its final hearing and mails individual notices if necessary. Ten to fifteen days after this notice, or three days after the advertisement if no notice is necessary, the taxing authority holds its hearing on the final millage and budget. *Id.* § 200.065(2)(c), (d). The taxing authority submits its resolution or ordinance adopting the final millage to the property appraiser within 100 days of the original certification of taxable value. *Id.* § 200.065(4).

A school district must merely advertise the time of its public hearing on the tentative budget in a newspaper of general circulation. It must do this within 15 days after the property appraiser has certified to it the applicable taxable value of property. A school district must hold its public hearing on the tentative budget within 10 days thereafter, and its final hearings within 60 to 75 days after the certification of value to it. The school district must use the same procedures for its hearings on final millages as do other taxing authorities. *Id.* § 200.065(2)(f)(1)-(2). If the fiscal year, or fall term in the case of a school district, begins before the taxing authority has adopted its final millage and budget, the taxing authority may spend on the basis of its tentative budget until it adopts its final budget. If it has not adopted a tentative budget at the beginning of its fiscal year, the taxing authority may readopt by resolution its budget for the previous year and spend money on that budget until it adopts its tentative and final budgets. *Id.* § 200.065(2)(g).

118. FLA. STAT. § 200.065(2)(g) (1981).

119. Compare FLA. STAT. § 194.032(3) (1981) with FLA. STAT. § 194.032(3) (1979).

calculate the challenged assessment.¹²⁰

To ensure the availability of a competent person to manage a complex ad valorem taxation dispute before a property appraisal adjustment board, section 194.032(4) authorizes the board to appoint special masters.¹²¹ These masters take evidence and make recommendations to the board, which may be acted upon without further hearing. The TRIM Act maximizes the effectiveness of the special master by establishing rigorous qualification standards. Special masters must now be either members of the Florida Bar and knowledgeable in the field of ad valorem taxation, or members of a recognized organization of real estate appraisers with at least five years of appraisal experience. No special master may represent a petitioner as an agent or attorney before a property appraisal adjustment board during the same tax year in which he has served as a special master before that board.¹²² A special master need not be a resident of the county in which he serves.¹²³ Using a special master from a different county than where the adjustment board sits should reduce conflicts of interest and promote independence. Preventing special masters from representing petitioners before a familiar board during a tax year should also increase independence.

To make proceedings before property appraisal adjustment boards run smoothly, both the petitioner and the appraiser must exchange information. At the petitioner's request, the clerk must enclose the appraiser's property record card along with the notice of hearing.¹²⁴ This helps the petitioner discover the appraiser's position before the hearing. Similarly, an amendment to section 194.032(3), added by the TRIM Act, indirectly helps the appraiser discover the petitioner's position. If a petitioner receives a written request for testimony or other evidentiary matter from the board or special master, and deliberately refuses to comply, then the amendment prohibits the petitioner from introducing that evidence, and the board or special master from accepting it.¹²⁵

The TRIM Act also added subsection 11 to section 194.032 in an attempt to limit further the discretion of the appraiser.¹²⁶ It

120. FLA. STAT. § 194.032(2) (1981).

121. *Id.* § 194.032(4).

122. *Id.*

123. *Id.*

124. *Id.* § 194.032(2). A petitioner may request his property record card merely by checking the box marked "property record card" on the petition form.

125. *Id.* § 194.032(3).

126. *Id.* § 194.032(11).

allows a board to consider assessments of comparable properties within homogeneous areas or neighborhoods when ruling on a petition for reassessment. This provision provides a statutory solution to a problem posed in *Deltona Corp. v. Bailey*.¹²⁷ In *Bailey* the Supreme Court of Florida held that assessments that were higher than assessments on similar property, but not higher than the general level of assessments on all property within the county, did not violate the United States Constitution's guarantee of equal protection of the law.¹²⁸ The new subsection gives property appraisal adjustment boards the express authority to consider the valuation of comparable local properties and not just the valuation of the petitioner's parcel. This subsection will therefore tend to promote uniform assessments within neighborhoods. Neighbors of the petitioner who are not parties appearing before the board are neither prejudiced nor bound by the board's decision, even though the board uses the assessments of their properties as a standard. This is because "[t]he rights of the adversely affected taxpayer not made a party to the court action are fully preserved in providing for his independent challenge of such adverse judicial determination."¹²⁹

Another development created by the TRIM Act is the use of "interim assessment rolls." Taxing authorities will use these when the property appraiser is late in preparing the regular assessment roll or the Department of Revenue disapproves the roll.¹³⁰ The taxing authority affected by the delay or disapproval may bring a civil action against either the appraiser or the executive director of the Department of Revenue, depending on whether the problem is a delay in completion or disapproval of the assessment roll. Should the court find that a delay in determining the taxable value of the properties will "substantially impair" the local government's ability to finance its operations, the court may order the preparation of an interim assessment roll to facilitate timely tax collections.¹³¹

If this interim roll becomes necessary because of an appraiser's delay, then the roll used will be the most recently approved roll, adjusted to reflect additions, deletions, and changes in ownership

127. 336 So. 2d 1163 (Fla. 1976).

128. *Id.* at 1167-68; see U.S. CONST. amend. XIV, § 1.

129. *Mikos v. Property Appraisal Adjustment Bd.*, 365 So. 2d 757, 759 (Fla. 2d DCA 1978) (citing FLA. STAT. § 194.032(6)(a)(3) (1977)); see FLA. STAT. § 194.032(6)(a)(3) (1981).

130. FLA. STAT. § 193.1145 (1981). This section is completely new. A delay by the property appraiser beyond August 1 in certifying the taxable value to the appropriate taxing authority will trigger the interim assessment procedure. *Id.* § 193.1145(1)(a).

131. *Id.* § 193.1145(1), (3).

of property.¹³² If the court orders the interim roll because the Department of Revenue has disapproved the regular roll, then the disapproved roll will serve as the interim roll.¹³³ In that case, the tax collector will mail provisional tax bills to taxpayers based upon the extension of millages on the interim roll.¹³⁴ When the final roll for the year is eventually approved, the property appraiser will extend the final millages against the final roll and prepare a "reconciliation" to compare the tax owed by each parcel with that owed under the interim roll.¹³⁵ The tax collector will then send supplemental bills to those property owners with deficiencies, or refunds in excess of ten dollars to those whose assessments have been lowered.¹³⁶ The collector will not, however, send refunds or supplemental bills to taxpayers if the circuit court orders him to add the deficiencies and overages to the following year's roll.¹³⁷

Under this emergency scheme, use of the interim assessment roll does not require court action if the property appraiser recommends the use of an interim roll and the governing board of the county does not object.¹³⁸ This method of adopting an interim assessment roll is allowed regardless of whether delay or disapproval caused the need for the interim assessment roll.¹³⁹ If the interim roll procedures are to be adopted without a court order, then the appraiser must notify the Department of Revenue and all taxing authorities within his jurisdiction of his intention to use an interim assessment roll.¹⁴⁰

The policy behind the use of an interim assessment roll is to allow the financing of local governments when procedural requirements of the TRIM Act prevent the expeditious completion of the taxation process. One indication of this legislative concern is a provision in section 193.1145 that gives cases involving interim assessment rolls priority over all others in the circuit courts.¹⁴¹ Another indication of concern is expressed in the section itself:

It is the intent of the legislature that no undue restraint shall be placed on the ability of local government to finance its

132. *Id.* § 193.1145(1).

133. *Id.*

134. *Id.* § 193.1145(6).

135. *Id.* § 193.1145(8)(a).

136. *Id.* § 193.1145(8)(c).

137. *Id.* § 193.1145(8)(d).

138. *Id.* § 193.1145(1).

139. *Id.*

140. *Id.*

141. *Id.* § 193.1145(2).

activities in a timely and orderly fashion, and, further, that just and uniform valuations for all parcels shall not be frustrated if the attainment of such valuations necessitates delaying a final determination of assessments beyond the normal 12-month period.¹⁴²

The TRIM Act, despite its many effective reforms, does not solve all of the problems of Florida's ad valorem taxation system. It does increase state supervision over the property appraisers, but does not modify the number or status of appraisers. Florida still has sixty-seven property appraisers and as many property appraisal adjustment boards. Property assessments are still determined by a miscellaneous set of factors. The TRIM Act does, however, make the ad valorem taxation system less arbitrary from a taxpayer's point of view because it improves the taxpayer's opportunities to participate in and challenge taxing procedures. The TRIM Act's stricter controls will undoubtedly cause higher assessments in the short run as appraisers strive to convince their supervisors that they are assessing at just value. Taxpayers may therefore feel ambivalent about the TRIM Act. The law, at most, makes the present ad valorem taxation system run more smoothly. It does not create a totally new, fair, or uniform taxation system for Florida.

V. PROPOSAL FOR A MORE RATIONAL SYSTEM

The Florida system of ad valorem taxation does not lead to assessments that are uniform across county lines or that value each parcel justly according to its worth to the owner. Attempts by the courts and legislature to produce uniform, constitutionally mandated standards for levying tax assessments have failed to achieve this goal. Even the TRIM Act will only effect cosmetic improvements in the system.

Florida should consider discarding its present ad valorem taxation system in favor of a new and better one.¹⁴³ The county prop-

142. *Id.* § 193.1145(1).

143. For many years Professor Wershow has advocated using the British ad valorem taxation system as a model for revamping the Florida system. An in-depth description of the British system can be found in Wershow, *A British Answer*, *supra* note 2, at 494-96, and Wershow, *Regional Valuation Boards—A British Answer to Ad Valorem Assessment Problems in Florida*, 21 U. FLA. L. REV. 324, 326-32 (1969). Additionally, the recommendations included herein previously appeared in Wershow, *A British Answer*, *supra* note 2. The authors believe, however, that those recommendations still apply, notwithstanding the enactment of the TRIM Act.

erty appraisal adjustment boards should be replaced by regional evaluation boards. These boards should have jurisdiction over areas of similar land use to promote uniformity of assessment. Possible jurisdictional boundaries include the boundaries of water management districts or regional planning districts, and the divisions between major population centers and rural areas.

Rather than staffing the regional evaluation boards with county and school commissioners who lack any special qualifications for hearing property tax cases, each three-member board should consist of a lawyer, a layperson, and a professional appraiser. This combination would provide the necessary expertise not usually present in a politically elected body; these individuals could operate as a true administrative panel.

The Department of Revenue would nominate candidates and the Governor would appoint them. The state might make service on a regional evaluation board a full-time occupation by staggering the time of preparation and approval of assessment rolls, and the times of hearings on petitions arising from particular assessments. The boards would rapidly acquire the expertise to act more efficiently and quickly than the present property appraisal adjustment boards. The property appraiser would be subject to control at the local level by a full-time panel of professionals. Recourse to the courts would be restricted to strictly legal problems of a statutory or constitutional nature.

Changes in the substantive standards of assessment are as important as changes in procedure. Currently, property appraisers assess land using separate standards for each of the two possible appraiser-determined classifications: agricultural use and nonagricultural use.¹⁴⁴ All taxpayers should have their property assessed on the basis of its actual use, a method currently only applied to agricultural use property. Forcing appraisers to eschew rigid classifications and requiring the application of one valuation standard—actual use—would curtail appraiser discretion, promoting a more uniform and just system than is presently used.

Certainly some interested parties will not embrace the abolition of county property appraisal adjustment boards. The long-term benefits of efficiency, economy, uniformity, and equality far outweigh the short-term burdens of initiating a new system. The need for sweeping changes is evidenced by the continuous litiga-

144. See *supra* note 5; *supra* text accompanying notes 34-37.

tion and statutory changes in the field.¹⁴⁵ The only way to escape this cycle is through a new and innovative approach.

145. See generally Pajcic, Weber & Francis, *Truth or Consequences: Florida Opts for Truth In Millage in Response to the Proposition 13 Syndrome*, 8 FLA. ST. U.L. REV. 593 (1980) (historical review of Florida ad valorem tax laws).