

To: Value Adjustment Board Clerks and Administrators, Clerks of Court, Chairpersons of Value Adjustment Boards, Interested Parties, Property Appraisers, and Tax Collectors
From: James McAdams
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Bulletin: PTO 08-13

**FLORIDA DEPARTMENT OF REVENUE
PROPERTY TAX INFORMATIONAL BULLETIN**

**The Duties, Employment and Training of Special Magistrates;
Counties of Less Than 75,000 Population
Who do not Hire Special Magistrates**

The purpose of this bulletin is to advise you of changes to Chapter 194, Florida Statutes, enacted by the 2008 Legislature. These changes govern the duties, employment and training of special magistrates. These provisions take effect September 1, 2008.

Section 5, Chapter 2008 -197, Laws of Florida (House Bill 909): This law amended section 194.035, Florida Statutes, as follows (words stricken are deletions; words underlined are additions):

194.035 Special magistrates; property evaluators.—

(1) In counties having a population of more than 75,000, the board shall appoint special magistrates for the purpose of taking testimony and making recommendations to the board, which recommendations the board may act upon without further hearing. These special magistrates may not be elected or appointed officials or employees of the county but shall be selected from a list of those qualified individuals who are willing to serve as special magistrates. Employees and elected or appointed officials of a taxing jurisdiction or of the state may not serve as special magistrates.

The clerk of the board shall annually notify such individuals or their professional associations to make known to them that opportunities to serve as special magistrates exist. The Department of Revenue shall provide a list of qualified special magistrates to any county with a population of 75,000 or less. Subject to appropriation, the department shall reimburse counties with a population of 75,000 or less for payments made to special magistrates appointed for the purpose of taking testimony and making recommendations to the value adjustment board pursuant to this section. The department shall establish a reasonable range for payments per case to special magistrates based on such payments in other counties. Requests for reimbursement of payments outside this range shall be justified by the county. If the total of all requests for reimbursement in any year exceeds the amount available pursuant to this section, payments to all counties shall be prorated accordingly. If a county having a population less than 75,000 does not appoint a special magistrate to hear each petition, the person or

persons designated to hear petitions before the value adjustment board or the attorney appointed to advise the value adjustment board shall attend the training provided pursuant to subsection (3), regardless of whether the person would otherwise be required to attend, but shall not be required to pay the tuition fee specified in subsection (3).

A special magistrate appointed to hear issues of exemptions and classifications shall be a member of The Florida Bar with no less than 5 years' experience in the area of ad valorem taxation. A special magistrate appointed to hear issues regarding the valuation of real estate shall be a state certified real estate appraiser with not less than 5 years' experience in real property valuation. A special magistrate appointed to hear issues regarding the valuation of tangible personal property shall be a designated member of a nationally recognized appraiser's organization with not less than 5 years' experience in tangible personal property valuation. A special magistrate need not be a resident of the county in which he or she serves. A special magistrate may not represent a person before the board in any tax year during which he or she has served that board as a special magistrate.

Before appointing a special magistrate, a value adjustment board shall verify the special magistrate's qualifications. The value adjustment board shall ensure that the selection of special magistrates is based solely upon the experience and qualifications of the special magistrate and is not influenced by the property appraiser. The special magistrate shall accurately and completely preserve all testimony and, in making recommendations to the value adjustment board, shall include proposed findings of fact, conclusions of law, and reasons for upholding or overturning the determination of the property appraiser. The board shall appoint special magistrates from the list so compiled prior to convening of the board. The expense of hearings before magistrates and any compensation of special magistrates shall be borne three-fifths by the board of county commissioners and two-fifths by the school board.

(2) The value adjustment board of each county may employ qualified property appraisers or evaluators to appear before the value adjustment board at that meeting of the board which is held for the purpose of hearing complaints. Such property appraisers or evaluators shall present testimony as to the just value of any property the value of which is contested before the board and shall submit to examination by the board, the taxpayer, and the property appraiser.

(3) The department shall provide and conduct training for special magistrates at least once each state fiscal year in at least five locations throughout the state. Such training shall emphasize the department's standard measures of value, including the guidelines for real and tangible personal property. Notwithstanding subsection (1), a person who has 3 years of relevant experience and who has completed the training provided by the department under this subsection may be appointed as a special magistrate. The training shall be open to the public. The department shall charge tuition fees to any person attending this training in an amount sufficient to fund the department's costs to conduct all aspects of the training. The department shall deposit the fees collected into the Certification Program Trust Fund pursuant to s. 195.002(2).

Special Magistrate Qualifications

Effective September 1, 2008, this law requires that before appointing a special magistrate, the board must verify the special magistrate's qualifications. It also requires the board to ensure that the selection of special magistrates is based solely upon the experience and qualifications of the special magistrates and is not influenced by the property appraiser.

2008 Limited Interim Training

The Department has developed limited interim training for value adjustment board members and VAB attorneys in counties with a population less than 75,000 that do not use special magistrates. This interim training is limited in scope and content and is targeted toward newly hired private attorneys or board members and their alternates in counties with populations of less than 75,000 that do not use special magistrates. The 2008 limited interim training may be used only in conjunction with necessary legal advice from legal counsel to the value adjustment board, to assure compliance with Florida law. By taking this training, the members of the board and the board attorney will meet the 2008 training requirements of section 194.035(1), Florida Statutes, listed above.

Note: The 2008 limited interim training described above is not the full statutory training specified for special magistrates in section 194.035(3), Florida Statutes, as amended by section 5 of Chapter 2008-197, Laws of Florida, effective September 1, 2008. The interim training does NOT substitute for the full statutory training that will be directed toward special magistrates in 2009. The limited interim training will not be a prerequisite for the 2009 full statutory training and will NOT count as credit for any portion of the 2009 full statutory training. The 2008 limited interim training will NOT serve to replace two of the five years of experience currently required by statute for special magistrates. The 2008 limited interim training will not be used after the offerings in 2008.

2009 Full Statutory Training

The Department plans to develop the full statutory training for special magistrates and make it available at five locations before the end of the state fiscal year ending June 30, 2009. If successfully completed, the 2009 full statutory training will serve to replace two of the five years of experience currently required for special magistrates in section 194.035(3), Florida Statutes, as amended by section 5 of Chapter 2008-197, Laws of Florida. The 2009 full statutory training will be required for private attorneys or value adjustment board members and their alternates, in counties with populations of less than 75,000 that do not use special magistrates, to meet the requirements of section 194.035(1), Florida Statutes, as amended by section 5 of Chapter 2008-197, Laws of Florida. Any such individuals who completed the 2008 limited interim training will still be required to complete the 2009 full statutory training in order to meet the requirements of section 194.035(1), Florida Statutes.

For information on the training, please e-mail VABTraining@dor.state.fl.us or call (850)-488-3332.

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For More Information

The Department of Revenue provides the information in this bulletin for your general consideration. The full text of Chapter 2008-197, Laws of Florida, and all provisions of Florida law pertaining to property tax are available on the Department's website:

<http://dor.myflorida.com/dor/property/vabwb/vabws.html>. If you have questions regarding this matter, you may e-mail VAB@dor.state.fl.us or you may call Property Tax Oversight, Technical Section at (850) 488-4436, or (850) 414-6104.