

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1005 Tangible Personal Property Taxation

**SPONSOR(S):** Eisnaugle

**TIED BILLS:** HJR 1003 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	17 Y, 5 N, As CS	Aldridge	Langston
2) Economic Affairs Committee		Fennell	Tinker

### SUMMARY ANALYSIS

The bill implements the proposed constitutional amendment contained in HJR 1003. Specifically, it creates an additional exemption from ad valorem taxation of tangible personal property of up to \$25,000 of taxable value. The result, as described below is an additional exemption above the current \$25,000 exemption for assessed values between \$25,001 and \$50,000. Taxpayers with tangible personal property subject to ad valorem taxation with an assessed value above \$50,000 will not qualify for the additional exemption provided in the bill.

The bill takes effect upon the approval of the amendment proposed by HJR 1003 by the voters. The bill operates prospectively to the 2013 tax roll and does not provide a basis for relief from an assessment of taxes not paid or create a right to a refund of taxes paid before January 1, 2013.

The bill provides a General Revenue appropriation of \$108,475 to the Department of State to publish the proposed constitutional amendment contained in CS/HJR 1003 in newspapers in each county as required by Article XI, section 5(d) of the Florida Constitution.

The Revenue Estimating Conference has estimated that, if the amendment proposed by HJR 1003 is approved by the voters, **assuming current millage rates**, the estimated statewide impact of the bill would be annual reductions in local government revenues of \$20.1 million beginning in fiscal year 2013-14, increasing to \$20.3 million in fiscal year 2014-15, and \$20.6 million in fiscal year 2015-16.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

##### ***Tangible Personal Property***

Article VII, section 1, of the Florida Constitution grants exclusive authority to local governments to levy ad valorem taxes, including ad valorem taxes on tangible personal property, and establishes requirements that the state legislature and local governments must follow when levying and administering ad valorem property taxes. It requires that all ad valorem taxation be at a uniform rate within each taxing district and that property must be assessed at just value unless the Constitution provides for a different assessment standard.

Tangible personal property is singled out for special treatment in the Constitution. Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes are excluded from ad valorem taxation.<sup>1</sup> Household goods up to \$1,000 in value are exempt.<sup>2</sup> Tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, classified for tax purposes, or exempted by general law.<sup>3</sup> Tangible personal property not specifically exempt from taxation is subject to ad valorem taxation.

Article VII, section 3(e), Florida Constitution, provides for a \$25,000 exemption from the assessed value of tangible personal property subject to ad valorem taxation. This exemption is implemented in s. 196.183, F.S.

Section 196.183(1), F.S., provides that a single return must be filed for each site in the county where the owner of tangible personal property transacts business. Owners of freestanding property placed at multiple sites, other than sites where the owner transacts business, must file a single return, including all such property located in the county. Freestanding property placed at multiple sites includes vending and amusement machines, LP/propane tanks, utility and cable company property, billboards, leased equipment, and similar property that is not customarily located in the offices, stores, or plants of the owner, but is placed throughout the county.

Section 196.183(3), F.S., waives the return filing requirement under s. 193.052, F.S., for taxpayers owning taxable property the value of which, as listed on the return, does not exceed the \$25,000 exemption. In order to qualify for this waiver, a taxpayer must file an initial return on which the exemption is taken. If, in subsequent years, the taxpayer owns taxable property the value of which, as listed on the return, exceeds the exemption, the taxpayer is obligated to file a return. The taxpayer may again qualify for the waiver only after filing a return on which the value as listed on the return does not exceed the exemption. A return filed or required to be filed shall be considered an application filed or required to be filed for the exemption under this section.

##### **Proposed Changes**

The bill implements the proposed constitutional amendment contained in HJR 1003. Specifically, it creates an additional exemption from ad valorem taxation of tangible personal property of \$25,000 of taxable value. The bill then provides another waiver process beyond the one described above, where in order to qualify for this additional exemption, a taxpayer must file an initial return disclosing the taxable value of their property. The filing of this initial return does not result in the taxpayer incurring any tax liability. If, in subsequent years, the taxpayer owns taxable property the value of which, as listed on the

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<sup>1</sup> Article VII, section 1(b), Florida Constitution

<sup>2</sup> Article VII, section 3(b), Florida Constitution

<sup>3</sup> Article VII, section 4(b), Florida Constitution

return, exceeds \$25,000, the taxpayer is obligated to file a return. The taxpayer may again qualify for the waiver only after filing a return on which the value as listed on the return does not exceed \$25,000.

The effect of this approach to implementing the constitutional amendment contained in HJR 1003 is that it provides an additional \$25,000 exemption from ad valorem taxation of tangible personal property, but only to persons who would report on their returns property valued at \$50,000 or less. If the total value required to be reported on the taxpayer's return exceeds \$50,000, the additional exemption created by this bill is unavailable.

The bill provides a General Revenue appropriation of \$108,475 to the Department of State to publish the proposed constitutional amendment contained in CS/HJR 1003 in newspapers in each county as required by Article XI, section 5(d) of the Florida Constitution.

The bill takes effect upon the approval of the amendment proposed by HJR 1003 by the voters. The bill operates prospectively to the 2013 tax roll and does not provide a basis for relief from an assessment of taxes not paid or create a right to a refund of taxes paid before January 1, 2013.

#### B. SECTION DIRECTORY:

Section 1: Provides an exemption from ad valorem taxation of tangible personal property.

Section 2: Provides that the act shall operate prospectively as specified.

Section 3: Provides an appropriation.

Section 4: Provides an effective date.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

The bill provides a General Revenue appropriation of \$108,475 to the Department of State.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

The Revenue Estimating Conference has estimated that, if the amendment proposed by HJR 1003 is approved by the voters, **assuming current millage rates**, the estimated statewide impact of the bill would be annual reductions in local government revenues of \$20.1 million beginning in fiscal year 2013-14, increasing to \$20.3 million in fiscal year 2014-15, and \$20.6 million in fiscal year 2015-16.

##### 2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If this bill had been in effect for the 2011 tax rolls, approximately 156,000 additional taxpayer accounts would have been exempt from the tax (just under 50% of all accounts with a positive taxable value).

#### D. FISCAL COMMENTS:

None.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not applicable. The bill implements a constitutional amendment to which the mandates provision of s. 18, Art. VII of the State Constitution, does not apply.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 1, 2012, the Finance & Tax Committee adopted an amendment that:

- Clarifies that the exemption begins with the 2013 tax roll.
- Provides an appropriation to publish the proposed constitutional amendment in newspapers in each county as required by the constitution [\$108,475].

The analysis has been updated to reflect the committee substitute.