

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on Finance and Tax

BILL: SJR 1064

INTRODUCER: Senator Detert

SUBJECT: Tangible Personal Property

DATE: February 16, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/1 amendment
2.	Babin	Diez-Arguelles	BFT	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input checked="" type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This joint resolution proposes an amendment to Article VII, section 3 of the Florida Constitution, that would allow the Legislature to provide by general law that:

- An item of tangible personal property is subject to taxation at a specified percentage of its assessed value;
- A specific item of tangible personal property is exempt from taxation; or
- A person is exempt from paying tangible personal property tax if the amount of tax due does not substantially exceed the cost to administer the tax.

For the proposed amendment to be placed on the ballot at the general election in November 2012, the Legislature must approve the joint resolution by a three-fifths vote of the membership of each house of the Legislature.

The joint resolution proposes an amendment to Article VII, section 3 of the Florida Constitution.

II. Present Situation:

Ad valorem Taxation

The Florida Constitution grants exclusive authority to local governments to levy ad valorem taxes on real and tangible personal property,¹ and it establishes various requirements that local governments must follow when levying and administering ad valorem taxes. It requires that all ad valorem taxation be at a uniform rate within each taxing unit² and that property be assessed at just value unless the Constitution provides for a different assessment standard.³

Constitutional Provisions for Tangible Personal Property

The following provisions of Article VII of the Florida Constitution relate specifically to tangible personal property:

- Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes, as defined by law, shall be subject to a license tax for their operation in the amounts and for the purposes prescribed by law, but shall not be subject to ad valorem taxes.⁴
- There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars . . .⁵
- Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.⁶

Tangible personal property not excluded by the above provisions is subject to ad valorem taxation. However, Article VII, section 3(e) of the Florida Constitution, provides for a \$25,000 exemption from the assessed value of tangible personal property subject to ad valorem taxation.

Tangible Personal Property⁷

Florida Statutes expand the constitutional exemption for household goods and personal effects, as well as the constitutional exemption for stock in trade (inventory). Pursuant to these statutes, household goods and personal effects, as well as inventory are fully exempt.⁸

Due to constitutional and statutory provisions, tangible personal property taxes are generally only imposed on non-inventory, business-related tangible personal property in excess of \$25,000.

¹ FLA. CONST., art. VII, s. 1(a) and s. 9(a).

² FLA. CONST., art. VII, s. 2.

³ FLA. CONST., art. VII, s. 4.

⁴ FLA. CONST., art. VII, s. 1(b).

⁵ FLA. CONST., art. VII, s. 3(b).

⁶ FLA. CONST., art. VII, s. 4(c).

⁷ See the Florida Department of Revenue website for additional information about tangible personal property and appraiser guidelines <http://dor.myflorida.com/dor/property/tpp/>.

⁸ See ss. 196.181 and 196.185, Florida Statutes.

Anyone owning tangible personal property on January 1, who has a proprietorship, partnership, corporation, is a self-employed agent or a contractor, must file a tangible personal property return to the property appraiser by April 1 each year. Property owners who lease, lend or rent property must also file.

Information provided by the Department of Revenue shows that, state-wide, tangible personal property taxes levied by counties represented 7.6% of the total county property taxes levied in FY 2011-12. Taxes levied by municipalities represented 6.1% of the total municipal property taxes levied in FY 2011-12.⁹

Individual county and municipality distribution of taxes levied by property type are also available on the DOR website.¹⁰

III. Effect of Proposed Changes:

This joint resolution proposes an amendment to Article VII, section 3 of the Florida Constitution, that would allow the Legislature to provide by general law that:

- An item of tangible personal property is subject to taxation at a specified percentage of its assessed value;
- A specific item of tangible personal property is exempt from taxation; or
- A person is exempt from paying tangible personal property tax if the amount of tax due does not substantially exceed the cost to administer the tax.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions Article VII, section 18, of the Florida Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Constitutional Amendments

⁹Florida Department of Revenue *Distribution of Taxes Levied by Property Type, County and Municipal Governments Table: Fiscal Year 2011-12* available at ftp://sdrftp03.dor.state.fl.us/County_Municipal_Data/11table2/statewide_table2.pdf. (last visited Feb. 18, 2012).

¹⁰ Florida Department of Revenue, *Distribution of Taxes Levied by Property Type - County and Municipal Governments* available at <http://dor.myflorida.com/dor/property/taxpayers/cmdata/table2.html>. (last visited Feb. 18, 2012).

Article XI, section 1 of the Florida Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

Article XI, section 5(d) of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is \$106.14 for this fiscal year.

Article XI, section 5(e) of the Florida Constitution, requires a 60 percent voter approval for a constitutional amendment to take effect. An approved amendment becomes effective on the first Tuesday after the first Monday in January following the election at which it is approved, or on such other date as may be specified in the amendment or revision.

Article XI, section 5(a) of the Florida Constitution, and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”¹¹

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) discussed the impact of this joint resolution on January 5, 2012. The conference adopted an indeterminate negative estimate, due to the need for the electorate to approve the measure, and for the Legislature to pass implementing legislation. The constitutional change allows the Legislature to completely exempt tangible personal property from ad valorem taxation. The conference found that, based on the 2011 millage rate of 17.67, ad valorem taxes on the tangible personal property included on the 2011 tax roll are expected to amount to \$1.72 billion.¹²

¹¹ *Roberts v. Doyle*, 43 So. 3d at 659 (Fla. 2010), citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

¹² Office of Economic and Demographic Research, The Florida Legislature, *Impact Analysis of HJR 1003 and SJR 1064: Tangible Personal Property* (Jan. 5, 2012) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/page184-185.pdf>.

B. Private Sector Impact:

If the proposed amendment is approved by the electorate and implemented by the Legislature, residents of Florida who pay tangible personal property taxes may realize a reduction or total elimination of these taxes. To the extent that local governments do not raise millage rates to offset the reduction in the tax base, taxpayers may experience a reduction in government and education services due to reductions in ad valorem tax revenues.

C. Government Sector Impact:

If the proposed amendment is approved by the electorate and implemented by the Legislature, local governments may experience a reduction in revenues generated by tangible personal property taxes.

The Division of Elections within the Department of State estimated that the full publication costs for advertising a similar proposed amendment, HJR 1003, to be \$108,475.¹³

VI. Technical Deficiencies:

Amendment barcode 127370 was adopted by the Committee on Community Affairs in order to include a schedule for the new constitutional provision. However, the amendment does not include language in the title of the ballot summary indicating that Article XII, Section 32 of the State Constitution is part of the proposed amendment to the Constitution.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:**Barcode 127370 by Community Affairs on February 6, 2012:**

Creates section 32 of Article XII of the Florida Constitution stating that the amendment to Section 3 of Article VII providing the Legislature with more flexibility in assessing and exempting tangible personal property from ad valorem taxation shall take effect upon approval by the electors and apply to assessments for tax years beginning January 1, 2013. (WITH TITLE AMENDMENT)

¹³ Department of State, *House Joint Resolution 1003 (2012) Fiscal Analysis* (Dec.21, 2011) (On file with the Senate Committee on Community Affairs).

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
