

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 Community Affairs Committee

BILL: SJR 1064

INTRODUCER: Senator Detert

SUBJECT: Tangible Personal Property

DATE: February 1, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

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:

- Taxes on tangible personal property are not due unless the assessed value of the property exceeds a specified amount greater than twenty-five thousand dollars;
- Tangible personal property is subject to taxation at a specified percentage of its assessed value; or
- Tangible personal property is totally exempt from taxation.

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 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

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

district² and that property must be assessed at just value unless the Constitution provides for a different assessment standard.³

Tangible Personal Property⁴

Tangible Personal Property, as defined in 192.001(11)(d), F.S., means all goods, chattels, and other articles of value (but does not include vehicular items) capable of manual possession and whose chief value is intrinsic to the article itself. Inventory and household goods are expressly excluded from this definition.

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.⁵ Property owners who lease, lend or rent property must also file.

Sections 195.032 and 195.062(1), F.S., authorize the Department of Revenue (DOR) to prepare and maintain guidelines to assist the property appraisers. They are intended to assist in the assessment of property and are not construed to be the final authority or all inclusive in nature.

Constitutional Provisions for Tangible Personal Property

Tangible personal property is singled out for special treatment by the following constitutional provisions of Article VII of the Florida Constitution:

- 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.⁶
- 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 . . .⁷
- 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.⁸

Tangible personal property not excluded by the above provisions is subject to ad valorem taxation.

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.

² FLA. CONST., art. VII, s. 2.

³ FLA. CONST., art. VII, s. 4.

⁴ See the Florida Department of Revenue website for additional information about tangible personal property and appraiser guidelines <http://dor.myflorida.com/dor/property/tpp/>.

⁵ See s. 193.062, F.S.

⁶ FLA. CONST., art. VII, s. 1(b).

⁷ FLA. CONST., art. VII, s. 3(b).

⁸ FLA. CONST., art. VII, s. 4(c).

Department of Revenue Data on Property Taxes

The Florida Property Tax Data Portal on the DOR website provides reports and information on a number of property tax related issues including:

- Statewide Ad Valorem Tax Data;
- Property Tax Analysis, Millage, Levies and Collections;
- Tax Rolls;
- Assessment Roll Evaluation and Approval; and
- Property Listing and Assessing Resources.⁹

The Distribution of Taxes Levied by Property Type, County and Municipal Governments Table found on the website 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. State-wide tangible personal property taxes levied by municipalities represented 6.1% of the total municipal property taxes levied in FY 2011-12.¹⁰

Individual county and municipality distribution of taxes levied by property type are also available on the DOR website.¹¹

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:

- Taxes on tangible personal property are not due unless the assessed value of the property exceeds a specified amount greater than twenty-five thousand dollars;
- Tangible personal property is subject to taxation at a specified percentage of its assessed value; or
- Tangible personal property is totally exempt from taxation.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

⁹ Florida Department of Revenue, *Florida Property Tax Data Portal*, available at <http://dor.myflorida.com/dor/property/resources/data.html>.

¹⁰ Florida 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. 2, 2012).

¹¹ 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>.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Constitutional Amendments

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.’”¹²

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,

¹² *Roberts*, 43 So. 3d at 659, citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

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.¹³

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, taxpayers may experience a reduction in government and education services due to any 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 \$108,475.¹⁴

VI. Technical Deficiencies:

None.

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:

None.

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

¹³ 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>.

¹⁴ Department of State, *House Joint Resolution 1003 (2012) Fiscal Analysis* (Dec.21, 2011) (On file with the Senate Committee on Community Affairs).