

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HJR 1289 Additional Homestead Exemption

**SPONSOR(S):** Brodeur

**TIED BILLS:** HB 1291 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	15 Y, 8 N	Aldridge	Langston
2) Community & Military Affairs Subcommittee		Kiner	Hoagland
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

The joint resolution proposes an amendment to the Florida Constitution that, if approved by the voters and implemented by the Legislature, would allow individuals who establish a right to receive a homestead exemption under Article VII, section 6(a), of the Florida Constitution, to receive an additional homestead exemption for all non-school property taxes. This exemption is equal to 30 percent of the homestead property's just value in excess of \$75,000 but less than or equal to \$200,000, plus 15 percent of the homestead property's just value in excess of \$200,000 but less than or equal to \$400,000. The value of the additional homestead exemption shall be reduced by the difference between the just value of the property and the assessed value of the property determined under Article VII, section 4(d), of the Florida Constitution (i.e., the "Save Our Homes" differential).

The amendment would also allow the Legislature, by general law, to adjust the percent of just value or the maximum and minimum levels of just value used to calculate the additional homestead exemption, but may not reduce the value of the additional exemption below the value established in this amendment. The exemption does not apply to school levies. This provision would allow the Legislature to totally exempt homestead property from non-school property taxes.

The proposed amendment, if submitted to the voters and approved at a special election authorized by general law, will operate retroactively to January 1, 2012, or, if submitted to and approved by the voters at the 2012 general election, will take effect January 1, 2013.

The Revenue Estimating Conference adopted a negative indeterminate revenue impact for the joint resolution because the amendment it proposes must be approved by the voters. If the provisions of the constitutional amendment are approved by the voters and are effective beginning in 2013, the result would be an estimated negative revenue impact on non-school property taxes of \$565.1 million in FY 2013-14, \$576.0 million in FY 2014-15 and \$579.6 million in FY 2015-16, **assuming current millage rates**.

The Department of State estimates that the cost of publishing the proposed constitutional amendment, as required by law, is \$115,056.

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. For the proposed amendment to be placed on the ballot at a special election, a special election must be scheduled pursuant to law enacted by a three-fourths vote of the membership of each house of the Legislature.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

###### **Just Value**

Article VII, section 4 of the Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. “Just value” is synonymous with “fair market value” and is defined as what a willing buyer would pay a willing seller for the property in an arm’s length transaction.<sup>1</sup>

###### **Assessed Value**

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.<sup>2</sup> Agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.<sup>3</sup> Land used for conservation purposes must be assessed solely on the basis of character or use.<sup>4</sup> Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or be totally exempted from taxation.<sup>5</sup> Counties and municipalities may authorize historic properties to be assessed solely on the basis of character or use.<sup>6</sup> Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents that are 62 years of age or older.<sup>7</sup> The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property’s wind resistance or the installation of renewable energy source devices in the assessment of the property.<sup>8</sup> Certain working waterfront property is assessed based upon the property’s current use.<sup>9</sup>

##### Assessment Limitations

###### *Save Our Homes*

The “Save Our Homes” provision in Article VII, section 4 of the Florida Constitution, limits the amount a homestead’s assessed value can increase annually to the lesser of 3 percent or the inflation rate as measured by the consumer price index (CPI).<sup>10</sup> Homestead property owners that establish a new homestead may transfer up to \$500,000 of their accrued “Save Our Homes” benefit to a new homestead.<sup>11</sup>

###### *Additional Assessment Limitations*

Article VII, sections 4(g) and (h), of the Florida Constitution, provide an assessment limitation for non-homestead residential real property containing nine or fewer units, and for all real property not subject to other specified assessment limitations. For all levies, with the exception of school levies, the assessed value of property in each of these two categories may not be increased annually by more

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<sup>1</sup> See *Walter v. Shuler*, 176 So.2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).

<sup>2</sup> The provisions in s. 4, Art. VII, of the Fla. Cons., are implemented in Part II of ch. 193, F.S.

<sup>3</sup> Art. VII, s. 4(a) of the Fla. Cons.

<sup>4</sup> Art. VII, s. 4(b) of the Fla. Cons.

<sup>5</sup> Art. VII, s. 4(c) of the Fla. Cons.

<sup>6</sup> Art. VII, s. 4(e) of the Fla. Cons.

<sup>7</sup> Art. VII, s. 4(f) of the Fla. Cons.

<sup>8</sup> Art. VII, s. 4(i) of the Fla. Cons.

<sup>9</sup> Art. VII, s. 4(j) of the Fla. Cons.

<sup>10</sup> Art. VII, s. 4(d) of the Fla. Cons.

<sup>11</sup> Art. VII, s. 4(d) of the Fla. Cons.

than 10 percent of the assessment in the prior year. However, residential real property containing nine or fewer units must be assessed at just value whenever there is a change in ownership or control. For the other real property subject to the limitation, the Legislature may provide that such property shall be assessed at just value after a change of ownership or control and must provide for reassessment following a qualifying improvement, as defined by general law.

## **Exemptions**

The Legislature may only grant property tax exemptions that are authorized in the constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.<sup>12</sup>

### *Homestead Exemption*

Article VII, section 6 of the Florida Constitution, provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

### *Other Exemptions*

Article VII, section 3 of the Florida Constitution, provides for other specific exemptions from property taxes. Property owned by a municipality and used exclusively for municipal or public purposes is exempt, and portions of property used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law.<sup>13</sup> Additional exemptions are provided for household goods and personal effects, widows and widowers, blind persons and persons who are totally and permanently disabled.<sup>14</sup> A county or municipality is authorized to provide a property tax exemption for new and expanded businesses, but only against its own millage and upon voter approval.<sup>15</sup> A county or municipality may also grant an historic preservation property tax exemption against its own millage to owners of historic property.<sup>16</sup> Tangible personal property is exempt up to \$25,000 of its assessed value.<sup>17</sup> There is an exemption for real property dedicated in perpetuity for conservation purposes.<sup>18</sup> There is an exemption for military personnel deployed on active duty outside of the United States in support of military operations designated by the Legislature.<sup>19</sup>

## **Taxable Value**

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes.

## **Proposed Changes**

### **Additional Homestead Exemption**

The joint resolution proposes an amendment to the Florida Constitution that, if approved by the voters and implemented by the legislature would create subsection (f) in section 6, Article VII, of the Florida Constitution. This amendment allows individuals who establish a right to receive a homestead

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<sup>12</sup>See *Sebring Airport Authority v. McIntyre*, 783 So. 2d 238 (Fla. 2001). See also, *Archer v. Marshall*, 355 So. 2d 781, 784 (Fla. 1978); *Am. Fi. Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

<sup>13</sup> Art. VII, s. 3(a) of the Fla. Cons.

<sup>14</sup> Art. VII, s. 3(b) of the Fla. Cons.

<sup>15</sup> Art. VII, s. 3(c) of the Fla. Cons.

<sup>16</sup> Art. VII, s. 3(d) of the Fla. Cons.

<sup>17</sup> Art. VII, s. 3(e) of the Fla. Cons.

<sup>18</sup> Art. VII, s. 3(f) of the Fla. Cons.

<sup>19</sup> Art. VII, s. 3(g) of the Fla. Cons.

exemption under Article VII, section 6(a), of the Florida Constitution, to receive an additional homestead exemption for all non-school property taxes. This exemption is equal to 30 percent of the homestead property's just value in excess of \$75,000 but less than or equal to \$200,000, plus 15 percent of the homestead property's just value in excess of \$200,000 but less than or equal to \$400,000. The value of the additional homestead exemption shall be reduced by the difference between the just value of the property and the assessed value of the property determined under Article VII, section 4(d), of the Florida Constitution (i.e., the "Save Our Homes" differential).

The amendment would also allow the Legislature, by general law, to adjust the percent of just value or the maximum and minimum levels of just value used to calculate the additional homestead exemption, but may not reduce the value of the additional exemption below the value established in this subsection. The exemption does not apply to school levies. This provision would allow the Legislature to totally exempt homestead property from non-school property taxes.

B. SECTION DIRECTORY:

Not applicable to joint resolutions.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Art. 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 10th 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 full publication costs for advertising the proposed amendment to be \$115,056.<sup>20</sup>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference adopted a negative indeterminate revenue impact for the joint resolution because the amendment it proposes must be approved by the voters. If the provisions of the constitutional amendment are approved by the voters and are effective beginning in 2013, the result would be an estimated negative revenue impact on non-school property taxes of \$565.1 million in FY 2013-14, \$576.0 million in FY 2014-15 and \$579.6 million in FY 2015-16, **assuming current millage rates.**

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If approved by the voters, homestead owners whose just values are greater than \$75,000 may experience reductions in ad valorem taxes. To the extent that local taxing authorities' budgets are not reduced, the tax burden on other properties will increase to offset these tax losses.

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<sup>20</sup> Department of State, *House Joint Resolution 1289 (2012) Fiscal Analysis* (January 25, 2012).

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable to joint resolutions.

2. Other:

The Legislature may propose amendments to the state constitution by joint resolution approved by three-fifths of the membership of each house.<sup>21</sup> The amendment must be submitted to the electors at the next general election more than 90 days after the proposal has been filed with the Secretary of State's office, unless pursuant to law enacted by the a three-fourths vote of the membership of each house, and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.<sup>22</sup>

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

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<sup>21</sup> Art. XI, s. 1 of the Fla. Cons.

<sup>22</sup> Art. XI, s. 5 of the Fla. Cons.