

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 21, 1998 Revised: _____

Subject: Taxes/Tangible Personal Property

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Maclure</u>	<u>Austin</u>	<u>CM</u>	<u>Fav/1 amendment</u>
2.	<u>_____</u>	<u>Krasovsky</u>	<u>RC</u>	<u>Favorable</u>
3.	<u>_____</u>	<u>_____</u>	<u>WM</u>	<u>_____</u>
4.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
5.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

I. Summary:

This Senate joint resolution proposes an amendment to the Florida Constitution to authorize, subject to enactment of a general law, a property tax exemption for all tangible personal property in this state that is held by the same owner and that has a total cumulative value up to \$5,000. The exemption would not apply if the total cumulative value of the qualified property exceeds \$5,000, and the exemption would not apply to tangible personal property held for sale as stock in trade and livestock.

This joint resolution proposes the addition of a new subsection to section 3 of Article VII of the State Constitution.

II. Present Situation:

Article VII of the Florida Constitution governs finance and taxation. Section 9, Art. VII, State Constitution, provides that counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes, except ad valorem taxes on intangible personal property. The constitution specifically prohibits the levying of a *state* ad valorem tax on real estate or tangible personal property (s. 1, Art. VII, State Constitution).

The Constitution further requires that, by general law, regulations be established for the just valuation of all property for ad valorem taxation. 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 (s. 4, Art. VII, State Constitution).

Section 3, Art. VII, State Constitution, provides for various exemptions from taxation, including for:

- Property owned by a municipality and used exclusively by it for municipal or public purposes;
- Household goods and personal effects to a value fixed by general law but not less than \$1,000, for every head of a family residing in Florida; and
- Property to a value fixed by general law but not less than \$500, for every widow or widower or person who is blind or totally and permanently disabled.

In addition, a county or municipality may, subject to general law and the provisions of Section 3 of Article VII, grant community and economic development ad valorem tax exemptions to new businesses and expansions of existing businesses, as well as historic preservation ad valorem tax exemptions to certain owners of historic properties. Further, by general law, ad valorem tax exemptions may be granted to a renewable energy source device and to real property on which the device is installed and operated, to a value fixed by general law but not exceeding the cost of the device, and for a period of time fixed by general law but not exceeding 10 years.

Under s. 192.011, F.S., the ad valorem tax is administered by each county property appraiser. The Department of Revenue provides administrative oversight and assistance to property appraisers in assessing and collecting the ad valorem tax (s. 195.002, F.S.). Section 192.042, F.S., states that real property shall be assessed on January 1 of each year. Improvements or portions not substantially completed on January 1 shall not be assigned a value. Tangible personal property also shall be assessed on January 1 of each year, except that no value shall be assigned to construction work in progress until it is substantially completed. Intangible personal property shall be assessed in accordance with ch. 199, F.S.

Section 192.001, F.S., defines tangible personal property for ad valorem taxation purposes as “all goods, chattels, and other articles of value . . . capable of manual possession and whose chief value is intrinsic to the article itself” (s. 192.001(11)(d), F.S.). Inventory and household goods are expressly excluded from this definition (*Id.*).

III. Effect of Proposed Changes:

This Senate joint resolution proposes an amendment to s. 3, Art. VII of the State Constitution, authorizing an exemption from ad valorem taxation for all tangible personal property in Florida held by the same owner up to a total cumulative value of \$5,000. The exemption, which must be provided by general law, does not apply if the total value of all qualifying tangible personal property held by the owner exceeds \$5,000. The joint resolution provides that the exemption does not apply to tangible personal property held for sale as stock in trade and livestock. The exemption is in addition to any other exemptions granted to tangible personal property under s. 3, Art. VII, State Constitution.

The joint resolution calls for the amendment to be submitted to the voters in November 1998, and it provides for the amendment to take effect January 1, 1999. The joint resolution includes a ballot statement, as required by s. 101.161, F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None. This measure is a joint resolution proposing a constitutional amendment and therefore is outside the scope of s. 18(b), Art. VII, State Constitution, which applies to a general law reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate. However, it is estimated that the general law ultimately required to implement this proposed constitutional amendment could reduce local revenue-raising authority in a significant manner. (See "Economic Impact and Fiscal Note" below.) Therefore, such legislation would appear to require a two-thirds vote of the membership of each house.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 1 of Article XI of the State Constitution provides that a joint resolution proposing an amendment to a section of the State Constitution must be agreed to by three-fifths of the membership of each house of the Legislature. In addition, once the Legislature has agreed to the joint resolution, the proposal must be submitted to the electors of the state for approval or rejection at the next general election or at an earlier election specifically authorized by law for that purpose (s. 5, Art. XI, Florida Constitution).

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

Because the constitutional amendment proposed by this joint resolution requires voter approval and adoption of a general law to implement, the resolution does not inherently have a revenue impact on state or local government. The constitutional amendment it envisions, however, would authorize, subject to general law, an exemption from ad valorem taxation for certain tangible personal property up to a total cumulative value of \$5,000. In reviewing a similar proposal during the 1997 session, the Revenue Impact Conference estimated that such an exemption, in and of itself, would represent a reduction in local property taxes of \$33.2 million in the 1999-2000 local fiscal year if local government millage rates were unchanged. Fiscal year 1999-2000 is the first year the impact of the measure could potentially occur. The exact annual revenue impact of such an exemption on local government, however, is

indeterminate. To the extent a taxing authority is not taxing at its maximum authorized millage rate, it would be possible, by raising millage rates, to shift the burden of the foregone tax revenue as a result of the exemption from the eligible taxpayers to those taxpayers who are not eligible.

Section 200.065, F.S., for example, provides for a taxing authority to calculate annually a “rolled back rate,” which is the millage rate that, based upon the current taxable value of property, would produce the same tax revenue for the authority as that authority levied in the prior year. The “rolled back rate” becomes the benchmark against which a proposed millage rate is compared. A proposed millage rate that exceeds the previous rate but that does not exceed the “rolled back rate” is not characterized as a tax increase for purposes of the statute governing the fixing of millage rates (s. 200.065(2), F.S.). For local governments not at the 10-mill cap, the “rolled back rate” as calculated by statute would automatically rise to make up for revenues lost pursuant to the proposed exemption.

Further, the ultimate impact on local government also is indeterminate because administrative cost savings associated with the tax exemption for this tangible personal property could help to offset foregone taxes for some counties.

B. Private Sector Impact:

An owner of tangible personal property in this state, other than stock in trade and livestock, with a total cumulative value up to \$5,000 would not have to pay ad valorem tax on such property. To the extent that the exemption results in a shift in tax (see “Tax/Fee Issues,” above), taxpayers who do not qualify for the exemption may have their taxes increased.

C. Government Sector Impact:

The Department of State estimates costs of approximately \$35,000 associated with the required publication and distribution of the constitutional amendment under Section 5 of Article XI of the State Constitution and s. 101.171, F.S. The Department of Revenue does not anticipate the need for additional resources as a result of this joint resolution.

Implementation of the property tax exemption authorized by the proposed constitutional amendment would necessitate legislative enactment of a general law providing for the exemption. The exemption is likely to yield certain cost savings for local governments, as a result of not having to engage in administrative activities associated with assessing property and collecting taxes from smaller taxpayers. The exemption may also enable local governments to focus additional time and personnel on auditing and collecting from larger taxpayers, where the return-to-cost ratio may be greater.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The proposed exemption applies to tangible personal property “in this state” that is held by the same owner. For a taxpayer who owns property in more than one county, it may be administratively difficult for property appraisers to determine if the taxpayer qualifies for the exemption.

VIII. Amendments:

#1 by Commerce and Economic Opportunities:

Provides, as part of the language of the constitutional amendment, that the general law implementing the ad valorem tax exemption shall specify that such exemption may be authorized at the discretion of the governing body of the county.

The effect of this amendment is not immediately clear and may turn upon the interpretation of its language. One potential interpretation is that the local-option or discretionary authority to enact the exemption applies solely to the county as an individual taxing authority for the purposes of its respective levy. Under such an interpretation, the provision appears to be consistent with other discretionary tax provisions, such as the discretionary authority for a county or a municipality to grant economic development and historic preservation property tax exemptions. (See s. 3, Art. VII, State Constitution, and ss. 196.1995-196.1998, F.S.)

An alternative interpretation, however, may be that this language gives the governing body of a county discretion to affect the taxable status of property for all taxing authorities with jurisdiction in that county. In the case of a multicounty taxing authority, which constitutionally must apply a uniform tax rate, this scenario could create distortions in the funding contributions made toward the activities of the taxing authority between a county that has enacted the exemption and a county that has not. In addition, this interpretation may also pose implications for the state’s school funding program. Section 236.081(4), F.S., provides for school districts to contribute toward the state education finance program. School districts are assigned a minimum millage rate necessary to meet the district required local effort for that year. To the extent property subject to school district taxation can be made exempt at the discretion of the county governing body, the actual local contribution toward the targeted funding level may be affected.