

STORAGE NAME: h3645z.rpp
DATE: April 15, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
REAL PROPERTY & PROBATE
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HJR 3645
RELATING TO: Taxation of Real Property
SPONSOR(S): Representative Harrington
COMPANION BILL(S): SJR 738

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) REAL PROPERTY & PROBATE 2 YEAS 3 NAYS
- (2) COMMUNITY AFFAIRS
- (3) FINANCE & TAX
- (4) GENERAL GOVERNMENT APPROPRIATIONS
- (5) RULES, RESOLUTIONS & ETHICS

I. FINAL ACTION STATUS:

HJR 3645 was reported unfavorably by the Committee on Real Property & Probate April 14, 1998.

II. SUMMARY:

HJR 3645 permits the assessment of real property on a partial year basis as provided by general law. The partial year assessment would begin on the actual date of substantial completion of improvements thereto, regardless of whether tangible personal property is so assessed.

This resolution is not self-executing.

The amendment would be on the 1998 ballot, and would take effect January 1, 1999, if adopted.

This resolution would have a negative fiscal impact on the Department of State. If implemented, allowing partial-year assessments would have a positive fiscal impact on local government.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Article VII, s. 2, Florida Constitution, requires that all ad valorem taxation be at a uniform rate within each taxing unit except that taxes on intangible personal property may be at different rates but not to exceed two mills.

Article VII, s. 4, Florida Constitution, requires that all property be assessed at just value, except as otherwise provided in the constitution.

Article VII, s. 4, Florida Constitution, limits assessment increases on homestead property to the lesser of the annual change in the Consumer Price Index or three percent, with increases over that amount allowed only upon sale of the property or change in the homestead status. This provision also states that all persons entitled to a homestead exemption shall have their homestead assessed at just value as of January 1 and assessments shall be changed annually on January 1 of each year.

Section 193.011, Florida Statutes, provides the factors to consider in deriving just valuation. Rule 12D-8.001, F.A.C., provides that the property appraiser shall make a determination of the value of all property located within the county according to its just or fair market value on the first day of January of each year and enter the same upon the appropriate assessment roll under the heading 'Just Value.' If the parcel qualifies for a classified use assessment, the classified use value shall be shown under the heading 'Classified Use Value.' Rule 12D-8.001(b), F.A.C., specifies property which is excluded from the foregoing general rule. According to the rule, improvements or portions not substantially completed on January 1 shall have no value placed thereon. An improvement is generally considered "substantially completed" when the certificate of occupancy is issued. If the property is "substantially completed" after January 1, it is assessed the next January 1. There is no provision in general law to assess property on a date other than January 1.

The Ad Valorem Task Force

On May 31, 1996, Governor Lawton Chiles issued Executive Order 96-172 creating the Florida Ad Valorem Task Force. The executive order charged the task force to prepare a study including, among other substantive issues, "an evaluation of the feasibility of imposing ad valorem taxes on a partial year basis." The executive order further required the task force to report its findings to the Governor and the Legislature by February 15, 1997.

The task force met at least seven times at various locations around the state to hear public testimony and presentations from the Department of Revenue, property appraisers, tax collectors and other interested persons and experts. At its final meeting, in Tallahassee on February 21, 1997, according to the meeting minutes, the members voted not to report any findings in the area of partial-year assessments, and recommended that the issue be forwarded to the Local Government Study Commission as a more appropriate forum for discussion of that issue.

The Local Government Study Commission issued its final report on January 1, 1998, but the recommendations do not address the partial year issue.

Ballot Requirements

Section 101.161(1), Florida Statutes, requires the substance of the amendment, in clear and unambiguous language, be followed by the word “yes” and the word “no” so that a “yes” vote will indicate approval of the proposal and a “no” vote will indicate rejection. Although this resolution does not contain the requisite “yes” and “no” boxes, the ballot language is styled in a manner consistent with placement of “yes” and “no” choices on the actual ballot. The proposed ballot explanatory ballot statement may not exceed 75 words in length and the ballot title, by which the measure is commonly referred to, may not exceed 15 words in length. According to Advisory Opinion to the Attorney General Re Casino Authorization, Taxation, and Regulation, 656 So. 2d 466 (Fla. 1995), section 101.161, Florida Statutes, “requires a title and summary that are ‘accurate and informative,’ and that ‘[t]he summary must give voters sufficient notice of what they are asked to decide to enable them to intelligently cast their ballots.’”

B. EFFECT OF PROPOSED CHANGES:

The joint resolution amends Section 4 of Article VII, State Constitution, by creating a new paragraph (d) which authorizes the assessment, as provided by general law, of real property on a partial year basis beginning on the actual date of substantial completion of improvements to the property, regardless of whether tangible personal property is so assessed. The joint resolution provides conforming amendments throughout Section 4 to delete references to “January 1 of each year” and “January 1 of the following year” as they will not be applicable if partial-year assessments are permitted. Finally, the joint resolution provides a ballot title and summary with an effective date of January 1, 1999.

The joint resolution is not self-executing and requires general law provisions to implement assessment and collection of partial year real property taxes.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

If this resolution is adopted and implemented, it would require additional work for property appraisers to assess properties on a partial-year basis.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

The resolution, if adopted, would permit the Legislature to allow real property to be assessed on the actual date of substantial completion instead of January 1 of each year. If implemented, this would cause taxpayers to pay for any portion of the first year that their improvements are substantially completed.

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

None. This resolution proposes an amendment to Article VII, section 2 of the Florida Constitution.

E. SECTION-BY-SECTION RESEARCH:

See Effect of Proposed Changes.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The Division of Elections estimates that the total cost to advertise the proposed constitutional amendment twice in a newspaper of general circulation in each county prior to the 1998 general election is \$35,000.

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

HB 4425 which has been introduced but not yet referred, contains the implementing language in the event this resolution is adopted. According to Economic and Demographic Research, if this resolution is adopted and implemented pursuant to HB 4425, the impact would be to increase ad valorem taxes by \$138,041,659 million.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The mandates provision does not apply to joint resolutions to amend the Florida Constitution.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The mandates provision does not apply to joint resolutions to amend the Florida Constitution.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The mandates provision does not apply to joint resolutions to amend the Florida Constitution.

VI. COMMENTS:

N/A

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VIII. SIGNATURES:

COMMITTEE ON REAL PROPERTY & PROBATE:

Prepared by:

Legislative Research Director:

P.K. Jameson

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