

STORAGE NAME: h0969.ca

DATE: March 17, 1997

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HJR 969

RELATING TO: A Joint Resolution Relating to Local Option Ad Valorem Tax Exemption for and Assessment of Certain Historic Properties

SPONSOR(S): Committee on Tourism, Rep. Barreiro and others

STATUTE(S) AFFECTED: Article VII, Sections 3 and 4 of the State Constitution

COMPANION BILL(S): SB 844 (s), HB 967 (c), SB 1174 (c)

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

- (1) TOURISM YEAS 8 NAYS 0
- (2) COMMUNITY AFFAIRS
- (3) FINANCE & TAXATION
- (4)
- (5)

I. SUMMARY:

HJR 969 amends the Florida Constitution to permit counties and municipalities to exempt historic properties from ad valorem taxation. To grant the exemption, counties and municipalities must pass an ordinance. The amount of the exemption, the requirements for eligibility, and the time periods for the exemption must be specified in general law. Rehabilitation or renovation requirements for providing a historic property exemption to an owner are removed from the Florida Constitution.

HJR 969 amends the Florida Constitution to permit the Legislature, by general law, to authorize counties and municipalities to assess historic properties meeting specified general law criteria in a different manner than otherwise required. Counties and municipalities may be authorized to assess this property solely on the basis of its character or use. To implement the historic property use assessment, the county or municipality must adopt an ordinance, and the assessment only applies to the county or municipality adopting the ordinance.

The implementation of HJR 969 is contingent upon voter approval of a statewide constitutional amendment at the November 1998 election. If approved, the constitutional amendment takes effect on January 1, 1999. The ballot title and substance of the amendment are included in the resolution.

The Department of State estimated the cost of putting a constitutional amendment on the statewide ballot in 1998 at approximately \$35,000. If adopted by the voters, the fiscal impact of HJR 969 is largely indeterminate because the amount of lost revenue depends upon the number of local governments that would adopt ordinances granting the proposed ad valorem tax exemptions coupled with the number of qualified historic properties.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Article VII, Section 4 of the Florida Constitution requires that all property be assessed at its just valuation or fair market value for ad valorem tax purposes. Ad valorem taxes are assessed and collected at the county level as revenue for counties, municipalities, school districts, and special districts.

Section 4(a) of Article VII identifies exceptions to the required just valuation assessment. Land that may be classified and assessed solely on the basis of character or use includes agricultural land (green belt), land producing high water recharge to Florida aquifers (blue belt), and recreational land.

Additionally, tangible personal property and livestock may be assessed at a specified percentage of its value or may be exempted from taxation, pursuant to Article VII, Section 4(b).

Article VII, Section 4(c), or the Save Our Homes provision, limits the annual increase in the assessment of homestead property to the lower of three percent or the percent change in the prior year's Consumer Price Index (CPI).

Subsection 192.001(1), F.S., defines "ad valorem tax" as a tax based on the assessed value of property and is generally interchangeable with the term "property tax." The "assessed value of property" is defined in subsection 192.001(2), F.S., as either:

- an annual determination of just or fair market value of property;
- the value of the homestead property as limited in Article VII, Section 4(c), the Save Our Homes provision; or
- the classified use value or fractional value if a property is assessed solely on basis of character or use or specified percentage of value, pursuant to Sections 4(a) or 4(b), Article VII of the Florida Constitution.

Article VII, Section 3 of the Florida Constitution permits municipalities and counties to authorize historic preservation ad valorem tax exemptions to owners of historic properties engaging in restoration, rehabilitation or renovation in accordance with approved historic preservation guidelines. The exemption requires a municipality or county ordinance. Implementation of the historic preservation exemptions is found in ss. 196.1997 and 196.1998, F.S. The following two types of exemptions may be granted:

- up to 100 percent of the assessed value of all improvements for private property owners.
- up to 100 percent of the assessed value of historic property used for nonprofit or governmental purposes that: (1) is regularly and frequently open for the public's use; and (2) has undergone rehabilitation or renovation equal to at least 50 percent of the total assessed value of the property.

Both types of ad valorem tax exemptions are subject to additional requirements as follows:

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- exemptions apply only to taxes levied by the unit of government granting the exemption and do not apply to taxes pledged to the repayment of debt;
- property owners must enter into a covenant requiring maintenance;
- improvements must be in keeping with the character of the property for the exemption period;
- historic properties must be listed on the National Register of Historic Places or designated as landmarks under a local historic preservation ordinance, or must contribute to the significance of a National Register historic district or a historic district designated by local ordinance (eligible historic properties may be owner-occupied residences or income-producing properties);
- the period of exemption may be for up to 10 years, which must be determined by the required local ordinance; and,
- property must be undergoing renovations or have undergone renovations since the ordinance was adopted.

In addition to the local option program specified in the Florida Constitution, s. 193.505, F.S., provides a mechanism for owners of improved historically significant real property to defer tax liability. The owner either conveys all development rights to the county or enters into a covenant with the local governing body to not use the property for any purpose inconsistent with historic preservation. Upon expiration of this agreement, the deferred tax liability, that is, the difference between the taxes due on the property assessed at its use value rather than its fair market value, becomes due within 90 days.

The Florida Constitution identifies the following exemptions from taxation in Section 3 of Article VII:

- property owned by a municipality and used exclusively for public purposes;
- property used predominantly for educational, literary, scientific, religious, or charitable purposes;
- household goods and personal effects to heads of families residing in this state and to widows, widowers, blind, or disabled persons;
- new businesses and expansions of existing business for community and economic development;
- renewable energy source device and to real property where the device is operated; and,
- historic properties engaged in rehabilitation or renovation.

In s. 196.196, F.S., the following criteria are given for determining whether a property qualifies for the literary, scientific, religious, or charitable exemption:

- nature and extent of applicant's activities and uses;
- availability of property to groups with exempt purposes;
- portion of property used for charitable, religious, scientific or literary purposes; and,
- use of property for profit making purposes is not exempt.

To grant the exemption for charitable, religious, literary or scientific property, the applicant must qualify as a nonprofit using the following criteria in s. 196.195, F.S.:

- reasonableness of any advances or payments directly or indirectly;
- reasonableness of loan guaranties or obligations or compensations to officers, directors, trustees, members or stockholders;
- reasonableness of contracts for services, provisions, management, construction or renovations, and procurement;
- reasonableness of salaries, mortgages, liens, and encumbrances;
- reasonableness of charges for services rendered in relation to value of services and how excess charges, if any, are used; and,
- determination of benefits to directors, members and officers.

Additionally, s. 196.193(1)(b), F.S., provides that a property appraiser may deny a religious exemption if the use is not clear, if the purpose is speculative, or if the property is being rented for purposes other than religion or education. The educational exemption is further described in s. 196.198, F.S.

Section 101.161, F.S., sets forth the requirements for placing a constitutional amendment to the vote of the people. The substance of the amendment must be printed in clear and unambiguous language on the ballot, followed by the words "yes" and "no" to signify approval or rejection. The wording of the substance of the amendment, not exceeding 75 words, and the ballot title, not exceeding 15 words, have to appear in the joint resolution.

B. EFFECT OF PROPOSED CHANGES:

HJR 969 amends Article VII, Section 3 of the Florida Constitution to allow counties and municipalities to exempt historic properties from taxation without the renovation or rehabilitation restrictions that were added to the Constitution in 1992. To exercise the local option, counties and municipalities must pass an ordinance that permits the historic property exemptions. General law implementation is required to establish the guidelines, criteria, requirements, time periods, and amount of the exemption.

HJR 969 also amends Article VII, Section 4 of the Florida Constitution to permit the Legislature, by general law, to authorize counties and municipalities to assess historic properties that meet specified criteria solely on the basis of character or use. The local option character or use assessment will only be applicable to the jurisdiction that adopts the ordinance.

Furthermore, HJR 969 provides the ballot language and a ballot title. The voters must approve a statewide constitutional amendment at the November 1998 election. If approved, the constitutional amendment will take effect January 1, 1999. The criteria and requirements of the exemption, and other needed clarifications must be specified by general law.

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?

Not Applicable (N/A)

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

N/A.

(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?

N/A.

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. SECTION-BY-SECTION ANALYSIS:

Paragraph (e) of Section 3 of Article VII of the Florida Constitution is amended to allow counties and municipalities, by local ordinance, to grant historic preservation ad valorem tax exemptions to historic property owners as specified by general law. Limitations relating to rehabilitation or renovation of these properties are deleted from this section.

Section 4 of Article VII of the Florida Constitution is amended to permit the Legislature to allow counties and municipalities to assess historic properties solely on the basis of character or use. The character or use classification and assessment will only be applicable to the jurisdiction adopting the ordinance. General law must specify the requirements for eligible properties. Subsection (b) of this section of the Constitution contains a typographical error that is also corrected.

Section 22 of Article XII of the Florida Constitution provides that the amendment shall take effect January 1, 1999, if approved by statewide ballot. HJR 969 specifies the ballot title and language to appear on the statewide ballot.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The Division of Elections of the Department of State estimates the cost of putting a constitutional amendment on a statewide ballot at \$35,000 in 1998. This includes two advertisements in each county in a major paper.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

The approximate cost for putting an issue on the ballot in 1998 is \$35,000.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

There is no fiscal impact of HJR 969. General law is required to implement an exemption.

If implementing legislation were enacted, the amount of any reduction is indeterminate; however, the Division of Historical Resources of the Department of State estimates that there are approximately 26,500 individual parcels within the national register listing in the State of Florida. Of these, approximately 3900 are likely to be eligible property, either used for commercial purposes or owned by a not-for-profit organization. Assuming all the property receives the full 50% exemption and the average property has a taxable value of \$200,000, the taxable value loss could be as much as \$390 million statewide for properties on the national register listing. This could result in a tax loss to the county or municipality or a tax shift to other property of \$5.1 m (\$390 m X 13.16 mills). Additionally, local governments may add other properties to the classification, further reducing taxes.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

If certain historic properties are exempt from taxation, the property owners could benefit from reduced taxes. If commercial historic property and historic property belonging to certain not-for-profit organizations are classified and assessed according to use, the property owners could benefit from reduced tax assessments.

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

To the extent a business is located in a historic property, it may enjoy a cost advantage over competing business.

D. FISCAL COMMENTS:

None.

IV. 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.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The mandates provision does not apply to joint resolutions.

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

The mandates provision does not apply to joint resolutions.

V. COMMENTS:

None.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

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