

STORAGE NAME: h0355s1.rpp

DATE: March 11, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
Real Property and Probate
ANALYSIS**

BILL #: CS/HJR 0355

RELATING TO: A Joint Resolution Amending the State Constitution Relating To Finance and Taxation

SPONSOR(S): Committee on Community Affairs; Representative Cosgrove and others

COMPANION BILL(S): SB 0124 (i), SB 0122(c)

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

- (1) COMMUNITY AFFAIRS YEAS 9 NAYS 0
- (2) REAL PROPERTY AND PROBATE
- (3) FINANCE AND TAXATION
- (4) GENERAL GOVERNMENT APPROPRIATIONS
- (5)

I. SUMMARY:

CS/HJR 355 proposes to amend the Florida Constitution to provide for an ad valorem tax exemption for the purposes of disaster preparedness. Implementation by general law is subject to the requirements therein. CS/HJR 355 provides ballot language.

If the Florida Constitution is amended pursuant to the provisions of CS/HJR 355, then implementing legislation will be necessary to effectuate its provisions. The Revenue Impact Conference has determined that implementation of such provisions would have an indeterminate yet substantial negative fiscal impact on local governments. See "Fiscal Comments" section of this bill for further detail.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Subsequent to the massive destruction of many permanent structures during Hurricane Andrew in South Florida in 1992, the Florida Department of Community Affairs (FDCA) has developed a set of comprehensive disaster preparedness and mitigation programs.

FDCA's master program "Breaking the Cycle" coordinates the following redevelopment, mitigation and disaster preparedness programs:

- ◆ The Florida Coastal Monitoring Project
- ◆ Fannie Mae Pilot Loan Program for residential disaster-resistant home improvements
- ◆ The Florida Alliance for Safe Homes (FLASH) public awareness and education campaign
- ◆ The Homeowners Incentive Team

One of the Homeowners Incentive Team's missions is to identify and develop a comprehensive set of financial and administrative benefits to homeowners in order to encourage homeowners to make disaster preparedness home improvements prior to natural disasters.

Current Taxation Exemptions in the Florida Constitution

Currently, Section 3, Article VII, of the Florida Constitution, provides, in pertinent part, the following:

- (a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation.
- (b) 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, and to every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.
- (c) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant community and economic development ad valorem tax exemptions to new businesses and expansions of existing businesses, as defined by general law.
- (d) By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years.
- (e) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant historic preservation ad valorem tax exemptions to owners of historic properties.

Constitutional Provision for Amending the Constitution

Article XI, Florida Constitution, provides five ways to amend the Constitution:

- ✓ A vote by three-fifths of each house of the Legislature and majority vote in a general election;
- ✓ A three-fourths vote in each house of the Legislature and majority vote in a special election;
- ✓ A Constitution Revision Commission proposal in conjunction with a majority vote in a general election (The commission met in 1978, in 1998, and will meet every 20 years thereafter);

- ✓ Statewide ballot initiative, after collection of sufficient signatures; and
- ✓ Constitutional convention of elected delegates and majority vote in a general election.

The Florida Constitution also specifies that a Tax and Budget Reform Commission will meet every 10 years (beginning in 1990) to review the state's tax and budget laws, including constitutional limits, and submit changes to voters in the next general election.

The requirements for placing a Constitutional amendment to the vote of the people are found in section 101.161, Florida Statutes. 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 is not to exceed 75 words. The ballot title is not to exceed 15 words and both must appear in the joint resolution.

B. EFFECT OF PROPOSED CHANGES:

CS/HJR 355 amends Section 3, Article VII, of the Florida Constitution, authorizing, by general law subject to conditions specified therein, an ad valorem tax exemption for "the value attributable to improvements made for purposes of disaster preparedness." CS/HJR 355 provides ballot language.

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?

No

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

If the constitutional amendment proposed in this House Joint Resolution is approved, and if the Legislature passes implementing legislation, then county property appraisers and tax collectors must implement such legislation which will provide for an ad valorem tax exemption to property owners for the value attributable to physical improvements made for the purpose of disaster preparedness.

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

No

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

An agency or program is not 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?

No

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

No

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

The bill proposes a constitutional amendment, to be implemented by general law, which is to provide for an ad valorem tax exemption for value attributable to improvements made for the purposes of disaster preparedness.

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

No

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

No

3. Personal Responsibility:

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

No

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

No

4. Individual Freedom:

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

No

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

No

5. Family Empowerment:

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

This bill does not purport 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?

No

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:

This bill does not create or change a program providing services to families or children.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

None. This House Joint Resolution amends section 3, Article VII, of the Florida Constitution.

E. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes".

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate. See "Fiscal Comments".

2. Recurring Effects:

Indeterminate. See "Fiscal Comments".

3. Long Run Effects Other Than Normal Growth:

Indeterminate. See "Fiscal Comments".

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

Indeterminate

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

None

D. FISCAL COMMENTS:

This House Joint Resolution has an identical Senate Joint Resolution companion, SJR 124, and the Senate Joint Resolution has an implementing bill -- SB 122. (The House Joint Resolution, at this time, does not have an implementing bill.)

SB 122 provides for an ad valorem tax exemption for any increase in value attributable to the installation of shutters designed to protect the property against damage from hurricanes. The Revenue Impact Conference estimates that for the shutter exemption alone, the annualized local impact will be a negative 26.6 million. The Conference was unable to otherwise estimate the impact of HJR 355 because its provisions are very broad, leaving to the near-total discretion of the Legislature the responsibility of establishing the limits of its application pursuant to enabling legislation.¹

¹ The lack of specificity in the proposed constitutional amendment could prove problematic in that almost no direction is given to the Legislature setting forth substantive or procedural limitations with respect to the implementing legislation. Furthermore, implementing legislation would be considered a local mandate, unless implementation of its provisions were made optional.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

Any implementing bill might require counties to expend funds to implement the ad valorem tax exemption. This House Joint Resolution does not require municipalities to spend funds or take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill reduces the authority that local governments have to raise revenues in the aggregate. The fiscal impact is indeterminate and the bill has been submitted to the Revenue Impact Conference.

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

The bill does not reduce the percentage of state taxes shared with local governments.

V. COMMENTS:

See "Fiscal Comments".

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 1, 1999, the Committee on Community Affairs adopted HJR 355 unanimously as a committee substitute. The CS deletes language in subsection (e), which was unaffected by the new language of the HJR, that was removed from the Constitution by Florida voters during the November 1998 general election.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

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