

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 475 Real Estate Taxes/Disabled Persons  
**SPONSOR(S):** Cusack  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Affairs (Sub)</u>	_____	<u>Grayson</u>	<u>Cutchins</u>
2) <u>Local Government &amp; Veterans' Affairs</u>	_____	_____	_____
3) <u>Finance &amp; Tax</u>	_____	_____	_____
4) <u>Commerce &amp; Local Affairs Appropriation (Sub)</u>	_____	_____	_____
5) <u>Appropriations</u>	_____	_____	_____

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### SUMMARY ANALYSIS

The bill revises provisions relating to the exemption of real estate taxation by totally and permanently disabled persons. The bill removes the requirement that a totally and permanently disabled individual be restricted to the use of a wheelchair for mobility in order to be eligible for the real estate tax exemption.

This bill does not impact the state budget. However, according to the Impact Conference, the bill will have a tax base impact of (\$11 million).

The mandates provision appears to apply because by allowing all totally and permanently disabled persons, regardless of wheelchair dependency, an exemption from ad valorem tax, the bill reduces municipalities' and counties' property tax base, thereby reducing their revenue raising authority. Pursuant to subsection (b) of section 18 of Article VII, Florida Constitution, a general law reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate, may be passed by a two-thirds vote of the membership of each house of the legislature.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives .

**STORAGE NAME** h0475.lgv.doc  
**DATE** January 28, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |                             |   |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

This bill appears to increase the number of individuals who will be eligible for this particular tax exemption.

#### B. EFFECT OF PROPOSED CHANGES:

##### HB 475

The bill revises the provisions for totally and permanently disabled persons by deleting the requirement that the disabled person be restricted to the use of a wheelchair in order to be eligible for the tax exemption.

The certification form currently required of all totally and permanently disabled persons is amended to conform to the new provision regarding wheelchair use.

##### Present Law

In addition to homestead exemptions provided to disabled veterans and their surviving spouses, current law exempts the total value of a homestead used and owned by a quadriplegic, paraplegic, hemiplegic, or other totally and permanently disabled person, who must use a wheelchair for mobility or who is legally blind. Except for quadriplegics, the total is limited to households with gross incomes not exceeding \$14,500, annually adjusted by the percentage change in the average cost-of-living index. Disabled persons who do not qualify for the total homestead exemption or one of the two total homestead exemptions provided for disabled veterans, can qualify for the exemption of \$500 in property value from taxation.<sup>1</sup>

##### Interim Study 2002

As the result of a member’s request, the Local Government and Veterans’ Affairs Committee conducted a review of provisions governing ad valorem tax exemptions for totally and permanently disabled persons during the 2002 Legislative Interim. Representative Mealor’s request was in response to reports of Florida homeowners who are severely disabled but not eligible for the full homestead tax exemption and who may be at risk of losing their homestead because of an inability to pay property taxes.

As the sole tax constitutionally granted to local governments and school boards, ad valorem tax revenues are crucial to the financial wellbeing of these governmental entities. Exemptions from ad valorem taxes reduce the tax base on which such taxes are imposed, and either reduce ad valorem tax revenues or require local governments and school districts to increase millage rates on non-exempt property. While a proposed ad valorem tax exemption may have merit, the public good to be accomplished through the exemption must be weighed against the fiscal impact on local governments and school boards.

As noted in ch. 1, Art. VII, s. 3(b), the State Constitution requires that not less than \$500 of property, as established by general law, of persons who are blind or totally and permanently disabled be exempt from taxation. This exemption is implemented in ch. 196, F.S.

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<sup>1</sup> Interim Project Report , “Property Tax Exemptions for Disabled Persons,” Committee on Local Government & Veterans’ Affairs, Florida House of Representatives, January 15, 2003

## Exemptions for Disabled Veterans

Sections 196.081 and 196.091, F.S., provide for total homestead exemptions for disabled veterans and their surviving spouses, as well as a total homestead exemption for surviving spouses of veterans who died from service-connected causes while on active duty as members of the United States Armed Forces. Section 196.24, F.S., provides a partial reduction in taxable value to any resident, ex-service member who has been disabled to a degree of 10 percent or more while serving during a period of wartime service or by misfortune.

Section 196.081, F.S., provides that any real estate that is owned and used as a homestead by a veteran who was honorably discharged with a service-connected total and permanent disability and for whom a letter from the United States Government or United States Department of Veterans Affairs or its predecessor has been issued certifying that the veteran is totally and permanently disabled is exempt from taxation, if the veteran is a permanent resident of this state on January 1 of the tax year for which exemption is being claimed or was a permanent resident of this state on January 1 of the year the veteran died.

Pursuant to s. 196.081, F.S., if the totally and permanently disabled veteran predeceases his or her spouse and if, upon the death of the veteran, the spouse holds the legal or beneficial title to the homestead and permanently resides therein, the exemption from taxation carries over to the benefit of the veteran's spouse until such time as he or she remarries or sells or otherwise disposes of the property. If the spouse sells the property, an exemption not to exceed the amount granted from the most recent ad valorem tax roll may be transferred to his or her new residence, as long as it is used as his or her primary residence and he or she does not remarry.

Section 196.081, F.S., also provides that any real estate that is owned and used as a homestead by the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces and for whom a letter from the United States Government or United States Department of Veterans Affairs or its predecessor has been issued certifying that the veteran who died from service-connected causes while on active duty is exempt from taxation if the veteran was a permanent resident of this state on January 1 of the year in which the veteran died. This exemption carries over to the benefit of the veteran's surviving spouse as long as the spouse holds the legal or beneficial title to the homestead, permanently resides thereon as specified in s. 196.031, and does not remarry. If the surviving spouse sells the property, an exemption not to exceed the amount granted from the most recent ad valorem tax roll may be transferred to his or her new residence as long as it is used as his or her primary residence and he or she does not remarry.

Section 196.091, F.S., provides that any real estate used and owned as a homestead by an ex-service member who has been honorably discharged with a service-connected total disability and who has a certificate from the United States Government or United States Department of Veterans Affairs or its predecessor, or its successors, certifying that the ex-service member is receiving or has received special pecuniary assistance due to disability requiring specially adapted housing and required to use a wheelchair for his or her transportation is exempt from taxation. In the event the homestead of the wheelchair veteran was or is held with the veteran's spouse as an estate by the entirety, and in the event the veteran did or shall predecease his or her spouse, the exemption from taxation shall carry over to the benefit of the veteran's spouse, provided the spouse continues to reside on such real estate and uses it as his or her domicile or until such time as he or she remarries or sells or otherwise disposes of the property.

Section 196.24, F.S., provides a \$5,000 reduction in taxable value to any resident, ex-service member who has been disabled to a degree of 10 percent or more while serving during a period of wartime service or by misfortune. To qualify, the applicant must produce a certificate of disability from the United States Government or the United States Department of Veterans Affairs.

## Total Exemption for Totally and Permanently Disabled

Section 196.101, F.S., exempts the total value of a homestead used and owned by a quadriplegic, paraplegic, hemiplegic, or other "totally and permanently disabled person, as defined in s. 196.012(11), who must use a wheel chair for mobility or who is legally blind . . ." Section 196.012(11), F.S., defines a "totally and permanently disabled person" as a person who is currently certified by two licensed physicians

of this state who are professionally unrelated, by the United States Department of Veterans Affairs or its predecessor, or by the Social Security Administration, to be totally and permanently disabled.

Section 196.101(3), F.S., provides that the production by any totally and permanently disabled person entitled to an exemption under this section of a certificate of such disability from two licensed doctors of this state or from the U.S. Department of Veterans Affairs or its predecessor to the property appraiser is prima facie evidence of the fact that he or she is entitled to such exemption.

Except for quadriplegics, the section restricts the exemption to households with gross incomes not exceeding \$14,500. This income limitation is annually adjusted by the percentage change in the average cost-of-living index. The section directs the Department of Revenue to require by rule that the taxpayer annually submit a sworn statement of gross income, which must be accompanied by copies of federal income tax returns for the prior year, wage and earnings statements (W-2 forms), and other documents DOR deems necessary, for each member of the household. The taxpayer's statement must attest to the accuracy of such copies.

#### Partial Exemption for Totally and Permanently Disabled

Section 196.202, F.S., provides that property to the value of \$500 of every widow, widower, blind person, or totally and permanently disabled person who is a bona fide resident of this state shall be exempt from taxation. The section defines a "totally and permanently disabled person" as a person who is currently certified by one physician licensed in this state, by the United States Department of Veterans Affairs or its predecessor, or by the Social Security Administration, to be totally and permanently disabled.

The exemption provided in s. 196.202, F.S., is not limited to homestead property. Persons who qualify for the exemption (widows, widowers, blind persons, or totally and permanently disabled persons) may apply this exemption to homestead property or to other taxable property owned by them. (AGO 73-325). Thus, a person qualifying for the total homestead exemption provided under s. 196.101, F.S., could also receive the \$500 exemption provided for in s. 196.202, F.S., for purposes of non-homestead property.

#### Findings of Interim Report

The Committee's Interim Report of January, 2003, made the following specific findings from information provided by the sixty-six counties reporting and based upon the 2001 tax roll:

- 4,423 households received a total exemption of the value of their homesteads under the total homestead exemption provided for totally and permanently disabled persons in s. 196.101, F.S. The estimated tax loss was \$7,242,406.
- 55,012 persons received a \$500 exemption of value from ad valorem taxes under s. 196.202, F.S., for persons who are totally and permanently disabled. The estimated tax loss was \$576,525. For the 2001 tax roll, 4,219 persons received a \$500 exemption of value from ad valorem taxes under s. 196.202, F.S., for persons who are blind. The estimated tax loss was \$44,215.
- 23,876 veterans or their surviving spouses received a total homestead exemption under s. 196.081, F.S. The estimated tax loss was \$38,885,323. For the 2001 tax roll, 1,964 veterans or their surviving spouses received a total homestead exemption under s. 196.091, F.S. The estimated tax loss was \$3,307,307. For the 2001 tax roll, 63,676 veterans received a \$500 exemption under s. 196.24, F.S. The estimated tax loss was \$667,324.

#### C. SECTION DIRECTORY:

**Section 1:** Amends subsections (2) and (5) of section 196.101, F.S., to delete the requirement that a totally and permanently disabled person be restricted to the use of a wheelchair in order to be eligible for the tax exemption. This section also provides conforming change to physicians' certification form.

**Section 2:** Effective January 1, 2004.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

There does not appear to be any direct impact on state government revenues.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The Impact Conference estimates the tax base impact of this bill to be (\$11,029,309.96). The analysis estimates that the bill will elicit 12,682 new claims for this tax exemption. The average value per homestead, less the \$25,000 homestead exemption, leaves an average remaining value to be claimed of \$51,389, or a total exempt value of \$651,715,298. When estimated at 20 mills, the estimated value is (\$13,034,305). When adjusted to remove the existing Senior Exemption calculated to be \$2,005,000, the resulting net impact is estimated at (\$11,029,305).

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Some individuals will benefit by a lowering of their tax burden.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because the bill reduces municipalities' and counties' property tax base, thereby reducing their revenue raising authority by allowing an ad valorem exemption to all totally and permanently disabled persons, regardless of wheelchair dependency. The bill does not appear to qualify for an exemption or exception, accordingly the bill must have a 2/3 vote of the membership of each house.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

None.

### Other Comments

The Florida Association of Counties has expressed concern relative to the potential shift in burden as a result of this bill. As explained by a representative of the Association, any reduction in county tax revenues must be responded to in one of two ways: 1) an increase in millage to compensate for the loss in tax base, or 2) a decrease in service delivery.<sup>2</sup>

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

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<sup>2</sup> Bob McKee, Governmental Liaison, Florida Association of Counties, 2/5/03.