

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 691 Public School Teachers/Homestead Exemption
SPONSOR(S): Wishner
TIED BILLS: HB 1499 **IDEN./SIM. BILLS:** SB 2076

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government & Veterans' Affairs</u>	<u>17 Y, 1 N</u>	<u>Grayson</u>	<u>Cutchins</u>
2) <u>Judiciary</u>	<u></u>	<u>Jaroslav</u>	<u>Havlicak</u>
3) <u>Finance & Tax</u>	<u></u>	<u></u>	<u></u>
4) <u>Procedures</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This joint resolution proposes the amendment of Article VII, section 6 of the Florida Constitution, to authorize the Legislature to enact general law allowing counties and municipalities to grant an additional homestead tax exemption not exceeding \$25,000 to K-12 public classroom teachers.

This joint resolution further provides that any general law allowing this exemption must authorize it to be adopted by local ordinance and that the ordinance may provide for administration of the exemption. Additionally, a recipient of this exemption must apply to renew this exemption annually and must provide proof of eligibility.

The joint resolution includes ballot language to be placed before the electors of the state for approval or rejection at the general election to be held in November 2004.

Article XI, section 1 of the Florida Constitution, requires constitutional amendments that are proposed by joint resolution must be agreed to by three-fifths vote of the membership of each house.

This joint resolution does not appear to have any significant fiscal impact as it merely authorizes the Legislature to enact future legislation.

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

STORAGE NAME: h0691b.ju.doc
DATE: March 30, 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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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:

B. EFFECT OF PROPOSED CHANGES:

Present Situation: Ad Valorem Taxation Generally

Article VII, section 1 of the Florida Constitution preempts by the state all forms of taxation other than ad valorem taxes levied upon real estate and tangible personal property, except as provided by general law. Article VII, s. 9, Fla. Const., further provides that counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes, and limits these taxes to 10 mills for all county purposes, 10 mills for all municipal purposes, and 10 mills for all school purposes. Additional millage may be levied for the payment of bonds and taxes levied for a period not longer than two years when authorized by vote of the electors.

Present Situation: Exemptions from Taxation

The Florida Supreme Court has stated that the Legislature is without authority to grant an exemption from ad valorem taxes where the exemption does not have a constitutional basis.¹ Article VII, section 3 of the state constitution provides for the following exemptions from ad valorem taxation:

- All property owned by a municipality and used exclusively by it for municipal or public purposes is exempt from taxation;
- Such portions of property as are used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law from taxation;
- Household goods, to every head of a family, in an amount fixed by general law (not less than \$1000), and property, to every widow or widower or blind or totally and permanently disabled person, in an amount fixed by general law, but not less than \$500, shall be exempt;
- Any county or municipality may grant community and economic development ad valorem tax exemptions, for the purpose of its respective tax levy, and subject to general law;
- By general law, an exemption is granted to a renewable energy source device and to the real property on which such device is installed; and
- Any county or municipality may grant historic preservation tax exemptions for the purpose of its respective tax levy, subject to the limits of general law.

¹ See *Archer v. Marshall*, 355 So.2d 781 (Fla. 1978).

Article VII, s. 6, Fla. Const., authorizes an additional exemption from ad valorem taxation for homestead property owned by a taxpayer and used as the owner's permanent residence or the permanent residence of another legally or naturally dependent upon the owner. The value of the homestead exemption is currently \$25,000 of the assessed value of the real estate. This homestead exemption from taxation is primarily implemented by s. 196.031, F.S., although other statutes provide specific procedures and conditions, e.g., procedures for application for the exemption,² the extent of the exemption,³ and the effect of renting homestead property.

In November 1998, the electors of Florida approved a state constitutional amendment creating subsection (f) of Art. VII, s. 6, Fla. Const., which provides:

The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant an additional homestead tax exemption not exceeding twenty-five thousand dollars to any person who has the legal or equitable title to real estate . . . and who has attained age sixty-five and whose household income, as defined by general law, does not exceed twenty thousand dollars. The general law must allow counties and municipalities to grant this additional exemption, within the limits prescribed in this subsection, by ordinance adopted in the manner prescribed by general law, and must provide for the periodic adjustment of the income limitation prescribed in this subsection for changes in the cost of living.

Pursuant to the Legislature's authority under this amendment, s. 196.075(2), F.S., allows both counties and municipalities, through adoption of an ordinance, to grant an additional homestead tax exemption of up to \$25,000 to resident homeowners who have legal or equitable title to the real estate, who are at least 65 years of age, and whose annual household income does not exceed \$20,000.

Currently, no specific homestead tax exemption is authorized applicable solely to K-12 public classroom teachers.

Proposed Changes

This joint resolution proposes an amendment to Art. VII, s. 6, Fla. Const., to authorize the Legislature to enact general law allowing counties and municipalities to grant an additional homestead tax exemption not exceeding \$25,000 to K-12 public classroom teachers.

The joint resolution provides that such general law must allow this exemption by ordinance adopted by a county pursuant to its authority under general law; and that the ordinance may provide for administration of the exemption. Additionally, a recipient of this exemption must apply to renew this exemption annually and must provide proof of eligibility.

This joint resolution includes ballot language to be placed before the electors of the state for approval or rejection at the general election to be held in November 2004.

C. SECTION DIRECTORY:

This joint resolution, proposing an amendment to Art. VII, s. 6, Fla. Const., and containing ballot summary language describing the proposed amendment, is not divided into sections.

² See s. 196.011, F.S.

³ See s. 196.041, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Department of State's Division of Elections estimates that the average cost to advertise a proposed constitutional amendment twice in a newspaper of general circulation in each county prior to the 2004 general election will be \$35,000.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

There does not appear to be any significant fiscal impact associated with this joint resolution as it merely authorizes the Legislature to enact future legislation.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

By its own terms, Article VII, s. 18, Fla. Const., the local mandates provision of the state constitution, applies only to general laws, not to other constitutional provisions.

2. Other:

Constitutional Amendment Process

This is a legislative joint resolution, which is one of the methods for proposing, approving or rejecting amendments to the Florida Constitution.⁴ The joint resolution requires passage by a three-fifths vote of the membership of each house of the Legislature. The proposed constitutional amendment must be submitted to the electors at the next general election held more than 90 days after the joint resolution is filed with the custodian of state records. If approved by a majority of the electors voting on the question, the proposed amendment becomes effective on the Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.

⁴ See Art. XI, Fla. Const. (providing for amendment by legislative joint resolution, constitution revision commission proposal, citizen initiative, and constitutional budget or tax commission proposal).

Equal Protection

The Fourteenth Amendment to the Constitution of the United States provides, in pertinent part, that a state may not “deny to any person within its jurisdiction the equal protection of the laws.” The Equal Protection Clause is designed to prevent any person or class of persons from being singled out as a target for arbitrary and unjust discrimination.⁵ It does not require that all persons be treated identically but rather that the law apply equally to all persons who are similarly situated.⁶ In most cases, a governmental classification must merely be rationally related to a legitimate state purpose, i.e., reasonable classifications other than those involving suspect classes of persons or fundamental rights are generally permissible, so long as the classifications are not arbitrary and are based on some difference in the classes having a substantial relation to the purpose of the legislation.⁷ A litigant could argue that granting a tax exemption solely to teachers, or solely to teachers in public schools, does not create a difference in treatment for similarly-situated individuals that bears such a relationship.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

⁵ See *Washington v. Davis*, 426 U.S. 229 (1976); *Haber v. State*, 396 So.2d 707 (Fla. 1981).

⁶ See *Plyler v. Doe*, 457 U.S. 202, 216 (1982) (quoting *F. S. Royster Guano Co. v. Virginia*, 253 U.S. 412, 415 (1920) (“all persons similarly circumstanced shall be treated alike”)); *Duncan v. Moore*, 754 So.2d 708 (Fla. 2000).

⁷ See, e.g., *Vacco v. Quill*, 521 U.S. 793 (1997); *Gregory v. Ashcroft*, 501 U.S. 452 (1991); *Williams v. Pryor*, 229 F.3d 1331 (11th Cir. 2000); *State v. Muller*, 693 So.2d 976 (Fla. 1997); *Libertarian Party of Florida v. Smith*, 687 So.2d 1292 (Fla. 1996); *Lite v. State*, 617 So.2d 1058 (Fla. 1993).