

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Ways and Means Committee

BILL: CS/SJR 194

INTRODUCER: Ways and Means Committee, Senators Fasano, Jones and others

SUBJECT: Homestead Tax/Disabled Veteran/WW II

DATE: April 17, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vickers</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/1 amendment</u>
2.	<u>Fournier</u>	<u>Johansen</u>	<u>GE</u>	<u>Favorable</u>
3.	<u>McVaney</u>	<u>Coburn</u>	<u>WM</u>	<u>Fav/CS</u>
4.	_____	_____	<u>RC</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This joint resolution proposes to amend Article VII, section 6 of the State Constitution to provide a deduction from the ad valorem tax on the homestead of a disabled veteran of World War II who was a Florida resident at the time of entering military service and to provide that the percentage of the discount equals the percentage of the veteran's combat-related disability.

The joint resolution creates, upon the approval of the electorate, section 6(g) of Article VII of the State Constitution.

II. Present Situation:

Property Assessments - Article VII, section 4 of the State Constitution requires that all property be assessed at its just value for ad valorem tax purposes. Just value has been interpreted to mean fair market value. Section 4 also provides exceptions to this requirement for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Additionally, tangible personal property that is held as inventory may be assessed at a specified percentage of its value or may be totally exempted.

Article VII, s. 4(c) of the State Constitution, popularly known as the "Save Our Homes" amendment, limits increases in the assessment of homestead property. Annual increases in homestead property values are limited to 3 percent or the increase in the Consumer Price Index, whichever is lower. If there is a change in ownership, the property is assessed at its just value on the following January 1. The value of changes, additions, reductions or improvements to the homestead property is assessed as provided by general law.

Property Tax Exemptions - The Legislature may only grant property tax exemptions that are authorized in the constitution, and modifications to property tax exemptions must be consistent with the constitutional provision authorizing the exemption.¹

Article VII, s. 6 of the State Constitution authorizes an 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 who is 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. Section 196.031, F.S., primarily implements the homestead exemption, although other statutory sections provide specific procedures and conditions, i.e., procedures for application for the exemption (s. 196.011, F.S.), the extent of the exemption (s. 196.041, F.S.), and the effect of rental of homestead property.

Article VII, s. 3(b) of the State Constitution requires that not less than \$500 of property, as established in general law, of widows and widowers and persons who are blind or totally and permanently disabled be exempt from taxation. The widows/widowers exemption is implemented in s. 196.202, F.S.

Section 196.101, F.S., exempts the total value of homesteads used and owned by quadriplegics, paraplegics, hemiplegics, or “other totally and permanently disabled person, as defined in s. 196.012(11), F.S., 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 certified as totally and permanently disabled by two licensed physicians, by the U.S. Department of Veterans Affairs, or by the Social Security Administration.

Exemptions for Disabled Ex-Service Members – Chapter 196, F.S., establishes a number of specific exemptions for disabled ex-service members. Section 196.081, F.S., provides that an honorably discharged veteran with a service-connected total and permanent disability, surviving spouses of qualifying veterans, and spouses of Florida resident veterans who died from service-connected causes while on active duty as a member of the United States Armed Forces are entitled to an exemption on real estate used and owned as a homestead less any portion used for commercial purposes. To be eligible for this exemption, the applicant must own, occupy and have been a permanent resident of this state as of January 1st of the tax year for which the exemption is being claimed. The applicant must provide a letter from the United States Government or United States Department of Veterans Affairs as proof of service-connected total and permanent disability or the death of the spouse while on active duty. The Department of Revenue indicated that approximately 29,912 exemptions were issued under this section during 2005.

Section 196.091, F.S., provides 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 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

¹*Sebring Airport Authority v. McIntyre*, 783 So.2d 238 (Fla. 2001). See also, *Archer v. Marshall*, 355 So.2d 781, 784. (Fla. 1978). See also, *Am Fi Inv. Corp. v. Kinney*, 360 So.2d 415 (Fla. 1978). *Sparkman v. State*, 58 So.2d 431, 432 (Fla. 1952).

for his or her transportation is exempt from taxation. The applicant must provide a certificate of disability from the United States Government or the United States Department of Veterans Affairs in order to qualify for this exemption. The Department of Revenue estimated that approximately 241 exemptions were issued under this section during 2005.

Section 196.24, F.S., provides a \$5,000 reduction in taxable value to any resident, "ex-service member"² who has been disabled to a degree of 10 percent or more while serving during a period of wartime service or by misfortune while in active service.³ To qualify, the applicant must produce a certificate of disability from the United States Government or the United States Department of Veterans Affairs. On average, each person qualifying for the exemption receives a property tax reduction of \$100 per year. An estimated 89,203 exemptions were granted statewide under this provision in 2005.

III. Effect of Proposed Changes:

This joint resolution, if approved by the electorate, would allow certain disabled veterans of World War II to receive a discount from the amount of the ad valorem tax otherwise owed on homestead property. In order to qualify for this discount the World War II veteran must demonstrate: (1) he was a Florida resident at the time of entering the military service; (2) the disability was combat-related; and (3) the veteran was honorably discharged upon separation from military service. The discount is in a percentage equal to the percentage of the veteran's permanent, combat-related disability, as determined by the U.S. Department of Veterans Affairs or its predecessor.

Applicants for this discount are required to submit documentation supporting their eligibility to the county tax appraiser by March 1 of each year. The amendment grants authority to the Legislature to waive the requirement for an annual application. Required documentation includes the following: proof of residency at the time of entering military service; proof that the injury was combat-related; an official letter from the United States Department of Veteran's Affairs stating the percentage of the veteran's permanent disability; and a copy of the veteran's honorable discharge. The joint resolution provides that if the property appraiser denies the request for a discount, the appraiser must notify the applicant in writing of the reasons for the denial, and the veteran may reapply.

If approved, the amendment will take effect December 7, 2006, and is self-executing.

² Pursuant to Title 38, USC, sec. 4303 - (13), the term "service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32. Subsection (16) defines the term "uniformed services" as the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

³ This statutory provision was created by ch. 69-55, L.O.F. However, it was preceded by s. 192.11, F.S., as authorized by Art. IX, s. 9 of the State Constitution (1885). That provision in the constitution provided that: "There shall be exempt from taxation property to the value of five hundred dollars to every widow and to every person who is a bona fide resident of the State and has lost a limb or been disabled in war or by misfortune."

The joint resolution provides ballot language and specifies that the amendment shall be submitted to the electors of Florida at the next general election or at an earlier special election specifically authorized for that purpose.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article XI, s. 1 of the Florida Constitution, provides the Legislature the authority to propose amendments to the constitution by joint resolution approved by three-fifths of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's office or may be placed at a special election held for that purpose.

Under the provisions of this bill, the veteran must have been a resident of Florida when the veteran entered military service to be eligible for a discount on ad valorem taxes related to homestead property. This eligibility criterion potentially raises a constitutional concern related to equal protection. In Zobel v. Williams, 457 U.S. 55 (1982), the United States Supreme Court found that the Alaska dividend distribution plan violated the equal protection clause of the Fourteenth Amendment since the state had shown no valid state interests which were rationally served by the distinction made between citizens who established residency before 1959 and those who have become residents since then. In the present situation, the bill attempts to distinguish between current Florida residents who are World War II veterans and who entered military service as Florida residents and other current Florida residents who are World War II veterans but who entered military service as residents of other states. If challenged, the state must show a rational basis for the distinction.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

If approved by the electorate, this amendment would provide a deduction from the ad valorem tax on the homestead of a disabled veteran of World War II who was a Florida

resident at the time of entering military service. The percentage of the discount would correspond to the percentage of the veteran's combat-related disability.

B. Private Sector Impact:

The number of veterans qualifying for the discount authorized under this amendment is uncertain. In order to qualify the World War II veteran must own homestead property and furnish proof that he was:

- i. a Florida resident at the time of entering the military service;
- ii. disabled as a result of a combat-related injury; and
- iii. honorably discharged upon separation from military service.

According to the Florida Department of Veterans' Affairs, approximately 248,000 Florida residents entered military service during World War II. The Department indicated that the number of Floridians who sustained combat-related disabilities and were honorably discharged from military service is unknown. Similarly, the number of World War II veterans currently qualifying for the homestead tax exemption is unknown. Representatives of federal agencies reported that there is no source of information on Florida veterans that could correlate the variables contained in the joint resolution.

Supporters of the joint resolution have estimated that fewer than 1,500 veterans would likely qualify for the discount authorized by the joint resolution. Representatives of the Florida Department of Veterans' Affairs generally concurred with this estimate. Due to the advancing age of World War II veterans, the number of individuals eligible to receive the discount authorized under this joint resolution will decrease significantly during the next decade.

C. Government Sector Impact:

To the extent the amendment reduces the property tax base subject to ad valorem taxation local governments may experience a reduction in revenues. The Revenue Estimating Conference has estimated that this amendment will reduce local government revenues by \$1.2 million in FY 2007-08 and \$1.0 million annually thereafter.

The Division of Elections estimates that the cost to advertise the proposed constitutional amendment twice in a newspaper of general circulation in each county prior to the 2006 general election is approximately \$60,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
