

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HJR 421 Transfer of Save-Our-Homes Benefits; Additional Homestead Exemption  
**SPONSOR(S):** Government Efficiency & Accountability Council, Simmons and others  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on State Affairs</u>	<u>7 Y, 0 N</u>	<u>Levin</u>	<u>Williamson</u>
2) <u>Government Efficiency &amp; Accountability Council</u>	<u>12 Y, 0 N, As CS</u>	<u>Levin/Dykes</u>	<u>Cooper</u>
3) <u>Policy &amp; Budget Council</u>	<u>31 Y, 2 N</u>	<u>Diez-Arguelles</u>	<u>Hansen</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

CS/HJR 421 amends Article VII, s. 6 of the Florida Constitution. The amendment would entitle all homestead owners to an additional homestead exemption equal to 40 percent of the homestead's just value between \$75,000 and \$500,000. However, in any year, a homestead owner may only receive the additional homestead exemption or the Save Our Homes benefit, whichever produces the lower taxable.

The fiscal impact of this proposal on local governments is dependent on approval by the voters. As such, the impact is indeterminate. However, if the voters approve the measure, staff estimates that the effect of the proposal will be to reduce the assessment of property subject to ad valorem taxes. At current millage rates, the impact of the lower assessments on local government tax revenues is estimated to be \$1.069 billion in FY 2009-10 (\$377 million for counties; \$460 million for school districts; \$138 million for municipalities; and \$93 million for special districts). The Revenue Estimating Conference has not considered this proposal.

The cost to the Secretary of State to publish required notices is estimated to be \$60,000.

If approved by the electorate in the November 2008 general election, the House Joint Resolution would take effect January 1, 2009.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes – CS/HJR 421 would reduce the tax assessments of homesteads.

#### B. EFFECT OF PROPOSED CHANGES:

Current law provides all homesteads with a \$25,000 homestead exemption for all taxes, and with a \$25,000 homestead exemption applicable to the just value between \$50,000 and \$75,000 for taxes other than school district taxes. In addition, current law limits annual assessment increases to the lesser of 3% or the change in the Consumer Price Index (Save Our Homes).

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If approved by the electorate in the November 2008 general election, the House Joint Resolution would take effect January 1, 2009.

#### C. SECTION DIRECTORY:

Not applicable to a joint resolution.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

##### **Non-Recurring FY 2008-09**

Department Of State, Division of Elections  
Publication Costs \$60,000 (General Revenue)

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

The ad valorem tax base would reduce if the constitutional changes proposed by the House Joint Resolution are approved by the voters. The Revenue Estimating Impact Conference has not considered these issues.

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districts; \$138 million for municipalities; and \$93 million for special districts). The Revenue Estimating Conference has not considered this proposal.

2. Expenditures:

Property Appraisers may incur additional costs in order to implement the provisions of the House Joint Resolution.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Taxpayers who pay taxes on their homesteads may experience lower taxes.

D. FISCAL COMMENTS:

Public school funding is statutorily tied to property taxes through the required local effort (RLE) – the amount of property taxes that a school district must levy in order to participate in the Florida Education Finance Program (FEFP). The provisions of this joint resolution, if approved by the voters, will reduce the property tax base that is available for RLE. If the legislature were to set a RLE amount designed to maintain the current RLE millage rate, the RLE amount actually collected would be less than under current law by approximately \$287 million in FY 2009-10.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision is not applicable to joint resolutions.

2. Other:

In 2006, the Office of Economic and Demographic Research (EDR) contracted with Walter Hellerstein, W. Scott Wright, and Charles C. Kearns of Sutherland Asbill & Brennan LLP for a legal analysis of the most commonly referenced legislative proposals regarding property taxes. The report focused primarily on the federal constitutional issues raised by the proposed alternatives to the Save Our Homes amendment, which limits property tax assessment increases on homestead property. The key findings of the report were that portability might provide opportunities for legal challenge based on the Commerce Clause, the "Interstate" Privileges and Immunities Clause, and the Right to Travel. If portability is adopted and later held unconstitutional, the discrimination or burden it created would have to be eliminated on a prospective basis and remedied through meaningful backward-looking relief on a retrospective basis, which could entail either a refund or any other remedy that cures the discrimination.<sup>1</sup>

The alternative assessment for homeowners created by this House Joint Resolution may mitigate some of the issues identified in the legal analysis of portability.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

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<sup>1</sup> For example, one remedy could include taxing the previously favored class on a retroactive basis.

No statement submitted.

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

On February 20, 2008, the Committee on State Affairs adopted an amendment and reported the bill favorable with amendment. The amendment:

- Removes all changes to Article VII, section 4 of the Florida Constitution, other than those approved by the voters on January 29, 2007; and
- Provides all homestead owners with an additional homestead exemption equal to the greater of 40 percent of the homestead's just valuation from \$75,000 to \$500,000, or the accumulated benefit under the Save Our Homes assessment limitation of Article VII, section 4(c) of the Florida Constitution.

On March 19, 2008, the Government Efficiency & Accountability Council adopted an amendment to the State Affairs amendment traveling with HJR 421. This amendment to amendment was designed to ensure that homeowners received only the one of the two enumerated homestead assessment limitations.

The Council reported HJR 421 favorably, as amended, as a council substitute.