

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

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 & Accountability Council</u>	<u></u>	<u></u>	<u></u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

HJR 421 was drafted prior to the Florida electors approving Constitutional Amendment 1 on January 29, 2008. Some of the changes resulting from the passage of that Constitutional Amendment include:

- Providing an additional \$25,000 homestead exemption for all tax levies, except school district tax levies, on the assessed valuation greater than \$50,000 up to \$75,000;
- Providing portability of the Save Our Homes differential for all tax levies, except school district tax levies;
- Limiting the assessment increases for certain specified non-homestead property to 10 percent each year; and
- Providing a \$25,000 exemption for tangible personal property.

In addition to these voter approved constitutional changes, HJR 421 would:

- Amend Article VII, s. 4 of the Florida Constitution to provide alternative methods by which to compute the portability amount: (1) the enacted \$1 million maximum limitation; or (2) 40 percent of just value up to \$1 million, and 100 percent of the portion of just value in excess of \$1 million.
- Amend Article VII, s. 6 of the Florida Constitution to provide a homestead exemption for first time homebuyers of 40 percent of just valuation greater than \$25,000 up to \$500,000.

The differentials do not apply to school district tax levies.

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

The joint resolution appears to have a fiscal impact on state government. It is estimated that it will create a non-recurring cost of approximately \$60,000 for FY 2008-09. The cost is a result of placing the joint resolution on the ballot and publishing required notices.

HJR 421 has not been to a Revenue Estimating Impact Conference. As such, neither the total cost to local government nor the savings to taxpayers are known.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes – HJR 421 would reduce the tax assessments against certain homesteads.

B. EFFECT OF PROPOSED CHANGES:

HJR 421 was drafted before the electors of Florida approved Constitutional Amendment 1 on January 29, 2008. Some of the changes resulting from the passage of that Constitutional Amendment include:

- Providing an additional \$25,000 homestead exemption for all tax levies, except school district tax levies, on the assessed valuation greater than \$50,000 up to \$75,000;
- Providing portability of the Save Our Homes differential for all tax levies, except school district tax levies;
- Limiting the assessment increases for certain specified non-homestead property to 10 percent each year; and
- Providing a \$25,000 exemption for tangible personal property.

In addition to these voter approved constitutional changes, HJR 421 would:

- Amend Article VII, s. 4 of the Florida Constitution to provide alternative methods by which to compute the portability amount: (1) the enacted \$1 million maximum limitation; or (2) 40 percent of just value up to \$1 million, and 100 percent of the portion of just value in excess of \$1 million.¹
- Amend Article VII, s. 6 of the Florida Constitution to provide a homestead exemption for first time homebuyers of 40 percent of just valuation greater than \$25,000 up to \$500,000.²

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 The differential does not apply to school district tax levies.

² *Ibid.*

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.

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:

The Florida Constitution requires publication of a proposed amendment or revision to the constitution in one newspaper of general circulation in each county in which a newspaper is published, once in the tenth week and once in the sixth week immediately preceding the week in which the election is held. The estimated non-recurring cost of compliance would be approximately \$60,000.

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 study did not examine specifically the portability proposal included in this House Joint Resolution.

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.³

The alternative assessment for the first-time Florida homeowner created by this House Joint Resolution may mitigate some or all of the issues identified in the legal analysis of portability.

B. RULE-MAKING AUTHORITY:

None.

³ For example, one remedy could include taxing the previously favored class on a retroactive basis.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Due to the passage of Constitutional Amendment 1 on January 29, 2008, the Sponsor will offer a strike-all amendment that provides for alternative homestead assessments under Article VII, s. 6 of the Florida Constitution.

D. STATEMENT OF THE SPONSOR

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.