

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 1087 Assessment of Homestead Property that has a Declining Market Value

SPONSOR(S): Llorente and others

TIED BILLS: IDEN./SIM. BILLS: SJR 1164

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	11 Y, 3 N	Fudge	Hoagland
2)	Economic Development & Community Affairs Policy Council	11 Y, 3 N	Fudge	Tinker
3)	Finance & Tax Council			
4)	Rules & Calendar Council			
5)				

SUMMARY ANALYSIS

The joint resolution proposes an amendment to s. 4(d), Art. VII, State Constitution, to revise the requirements for annual changes in assessments of homestead property. The joint resolution provides that an assessment may not increase if the current just value of the property is less than the preceding year's just value.

The Department of State estimates that the cost of the proposed constitutional amendment is \$175,647. This cost is the result of placing the amendment on the ballot and publishing the notices as required by the Florida Constitution.

While the Revenue Estimating Conference has not met to evaluate the impact of the constitutional amendment, it determined that the provisions of a similar proposal (SB 304) will have no fiscal impact on state government and a negative fiscal impact of \$56.86 million on local governments in fiscal year 2011-12.

The joint resolution must be approved by a three-fifths vote of each house of the Legislature.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

In 1992, the voters approved a constitutional amendment, popularly known as "Save Our Homes." The amendment, as implemented by s. 193.115, F.S., provides that:

All persons entitled to a homestead exemption shall have their home assessed at just value as of January 1, 1994. Beginning in 1995, the property is reassessed annually on January 1. Any change in in assessments shall not exceed the lower of the following:

- Three percent of the assessment for the prior year.
- The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.¹

In October 1995, the Governor and the Cabinet as head of the Department of Revenue adopted Rule 12D-8.0062, F.A.C., entitled "Assessments; Homestead; Limitations", commonly referred to as the "recapture rule." The rule "governs the determination of the assessed value of property subject to the homestead assessment limitation under Article VII, Section 4(c), Florida Constitution and Section 193.155, F.S.",² except for changes, additions, or improvements, changes of ownership, and corrections.³ Unless the rule requires a lower assessment, the assessed value shall be equal to the just value. When the current year just value exceeds the prior year's assessed value, the property appraiser shall increase the prior year's assessed value by three percent or the percentage change in the Consumer Price Index (CPI), whichever is lower. However, if the percentage change in the CPI is

¹ Article VII, section 4(d) of the Florida Constitution.

² 12D-8.0062, F.A.C.

³ Article VII, section 4(d)(5) of the Florida Constitution provides that "[c]hanges, additions, reductions, or improvements to homestead property shall be assessed as provided for by general law; provided however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection."

negative, then the assessed value shall be the prior year's assessed value decreased by that percentage.⁴

Effect of Proposed Changes

The joint resolution proposes an amendment to s. 4(d), Art. VII, State Constitution, to revise the requirements for annual changes in assessments of homestead property. The joint resolution provides that "an assessment may not increase if the just value of the property is less than the just value of the property on the preceding January 1." If approved by 60 percent of the electors voting on the measure in the next general election, the amendment will take effect January 1, 2011. The joint resolution also contains other technical corrections and revisions to the provisions of s. 4, Art. VII, of the Florida Constitution.

B. SECTION DIRECTORY:

Not applicable to a joint resolution.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The joint resolution will not have a direct effect on state government revenues.

2. Expenditures:

The state 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.⁵

Based on the 2008 election costs to advertise a proposed constitutional amendment, the Department of State, Division of Elections, estimates that the total non-recurring cost to advertise the proposed constitutional amendment is \$175,647. This cost is determined by multiplying the total number of words in the proposed amendment (approximately 1,909) by the per word cost of \$92.01.⁶ The Department of State notes that there is no appropriation associated with the proposed joint resolution at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

While the Revenue Estimating Conference has not met to evaluate the impact of the constitutional amendment, it determined that the provisions of a similar proposal (SB 304) will have no fiscal impact on state government and a negative fiscal impact of \$56.86 million on local governments in fiscal year 2011-12 and \$98.60 million in FY 2012-13.

2. Expenditures:

None.

⁴ These sections of the rule were challenged and found to be a valid exercise of delegated legislative authority and that the limitations on increases in subsection (5) were consistent with Article VII, Section 4(c), of the Florida Constitution. *Markham v. Dept. of Revenue*, Case No. 95-1339RP, 1995 WL 1053056 (Fla.Div.Admin.Hrgs.).

⁵ Article XI, sec. 5(d), Florida Constitution.

⁶ Based on information and methodology received from staff of the Department of State.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Homestead property owners will not experience an increase in assessment if the just value of the property declines.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The joint resolution will not have a direct effect on state government revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This change may necessitate changes to the Department of Revenue rule.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The title, schedule, and ballot summary which refer to decreases in "market value" should be corrected to reflect the amendment which refers to changes in "just value".

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES