

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 1155 Disabled Veterans' Property Tax Discount; Property Tax Exemption for Soldiers Receiving Hazardous Duty Pay

SPONSOR(S): Holder

TIED BILLS: SJR 1550, SJR 1934 IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Rows include Military & Local Affairs Policy Committee, Economic Development & Community Affairs Policy Council, Finance & Tax Council, Rules & Calendar Council.

SUMMARY ANALYSIS

Article VII, section 6 of the Florida Constitution provides for a homestead property tax discount for veterans age 65 or older who are disabled as the result of combat. This joint resolution proposes a constitutional amendment to expand this provision to those veterans age 65 or older who were not Florida residents prior to entering military service.

Also, this joint resolution provides that, by general law and subject to specified conditions and limitations, the Legislature exempt the homesteads of members of the United States military who have received hostile-fire pay or imminent-danger pay.

The proposed amendment will be submitted to the electors at the general election in November 2010 or at an earlier special election if specifically authorized by law enacted by the Legislature for that purpose. If approved by 60 percent of the voters at the 2010 general election, the proposed amendment will take effect in January 2011.

The Department of State estimates that the cost of the proposed constitutional amendment is \$96,242. This cost is the result of placing the amendment on the ballot and publishing the notices as required by the Florida Constitution.

The Revenue Estimating Conference has not met to evaluate the impact of the constitutional amendment. Therefore, the estimated fiscal impact to local governments and taxpayers is not known at this time.

This joint resolution also creates a new section in Article VII of the Florida Constitution to provide an effective date of January 1, 2011.

The joint resolution must be approved by a three-fifths vote of the membership 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:

##### Present Situation

##### General Overview of Ad Valorem Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.<sup>1</sup> The "taxable value" of real and tangible personal property is the fair market value, or "just value," of the real and tangible personal property adjusted for any exclusions, differentials, or exemptions allowed by the constitution or the statutes.<sup>2</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by the following March 31.

Property taxes are the largest single tax revenue source for local governments in Florida, with approximately \$31.0 billion levied in fiscal year 2007–08.

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.<sup>3</sup> In addition, the Florida Constitution strictly limits the Legislature's authority to provide exemptions or adjustments to fair market value.<sup>4</sup> However, the Florida Constitution provides for property tax relief in the form of valuation differentials, assessment limitations, and exemptions.<sup>5</sup>

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<sup>1</sup> Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in s. 1(b), Art. VII of the State Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>2</sup> Sections 192.001(2) and (16), F.S., define the terms "assessed value" and "taxable value." "Assessed value" is generally synonymous with "just value" unless a constitutional exception such as Save Our Homes applies to reduce the assessed value of the property. "Taxable value" is the assessed value minus any applicable exemptions such as the \$25,000 homestead exemption. "Just value" is the estimated fair market value of the property.

<sup>3</sup> Article VII, s. 1(a), Florida Constitution.

<sup>4</sup> Article VII, s. 4, Florida Constitution.

<sup>5</sup> Valuation differentials, assessment limitations, and exemptions are authorized in Article VII, Florida Constitution.

### Homestead Property Tax Discount for Disabled Veterans

Article VII, section 6 of the Florida Constitution provides for certain tax exemptions on homestead property. One of these provisions grants an ad valorem tax discount for veterans who are age 65 or older who are partially or totally permanently disabled.<sup>6</sup> The Florida Constitution also provides that the ad valorem tax discount percentage must be equal to the veteran's percentage of disability, as determined by the United States Department of Veterans Affairs (USDVA). In addition, in order to qualify for the discount, the veteran must submit proof of the veteran's disability percentage to the county property appraiser and prove that:

- the disability was combat-related;
- the veteran was a Florida resident at the time of entering the military service of the United States; and
- the veteran was honorably discharged upon separation from military service.

### Proposed Changes

#### Homestead Property Tax Discount for Disabled Veterans

This joint resolution proposes an amendment to expand the current homestead property tax discount to those veterans age 65 or older who were not Florida residents prior to entering military service.

USDVA has indicated that there were 227,190 veterans in Florida receiving compensation for service related conditions at the end of fiscal year 2007.<sup>7</sup> The following table below illustrates the number of veterans by percentage of assessed disability:

<u>Number of Veterans in Florida Receiving Service-Connected Compensation by Percentage of Assessed Disability FY-2007</u>										
0%	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
941	67,474	35,239	27,363	20,599	13,080	15,279	13,237	9,601	4,971	19,406

The number of veterans in this population who were 65 years of age or older by percentage category, who were Florida residents at the time of entry into military service, and whose compensation is the result of combat are indeterminate at this time.

However, according to the USDVA, approximately 80 percent of Florida's veterans receiving 100 percent VA disability compensation served during a wartime period. Also, according to the USDVA, the national percentage of veterans 65 years of age or older is 39.4 percent.<sup>8</sup>

Therefore, based on a veteran population of 227,190 receiving disability compensation in Florida, a percentage rate of 39.4 for all veterans in the VA system who are 65 years of age or older, and an estimate that 80 percent of Florida's veterans served during wartime, the maximum number of veterans who might qualify for the benefit proposed in this joint resolution is estimated to be 71,610. However, this figure may overstate the number of veterans who might qualify for further ad valorem tax discounts because the combat-related variable is unknown.

<sup>6</sup> Article VII, s. 6(e), Florida Constitution. Also, section 196.082, F.S.

<sup>7</sup> U. S. Department of Veterans Affairs response to a *Florida Senate Committee on Military Affairs and Domestic Security* staff request for information.

<sup>8</sup> U. S. Department of Veterans Affairs, VA Stats At A Glance at <http://www1.va.gov/vetdata/>.

### Exemption Related to Hostile-Fire or Imminent-Danger Pay<sup>9</sup>

This joint resolution also provides that, by general law and subject to specified conditions and limitations, the Legislature exempt the homesteads of members of the United States military who have received hostile-fire pay or imminent-danger pay.

This provision appears to have been drafted broadly to allow the Legislature flexibility in implementing the proposed exemption at a later date. Therefore, neither the exact amount of the exemption nor the scope of military personnel the exemption would apply to is known at this time. Because of this, staff estimates that the fiscal impact of this provision is indeterminate.

In addition, legislative staff was not able to find data for the membership of the United States military who have received hostile-fire pay or imminent-danger pay.

### Technical Change

This joint resolution also deletes an effective date reference that would become outdated upon passage of the constitutional amendment, and creates a new section of the Florida Constitution to provide an effective date of January 1, 2011.

## 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.<sup>10</sup>

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 \$96,242. This cost is determined by multiplying the total number of words in the proposed amendment (approximately 1,046) by the per word cost of \$92.01.<sup>11</sup> 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:

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<sup>9</sup> According to *Veterans Resources* ([www.veteransresources.org](http://www.veteransresources.org)), hostile fire pay is defined as “pay to anyone exposed to hostile fire or mine explosion.” In addition, imminent danger pay is defined as “pay to anyone on duty outside the United States area who is subject to physical harm or imminent danger due to wartime conditions, terrorism, civil insurrection, or civil war.”

<sup>10</sup> Article XI, sec. 5(d), Florida Constitution.

<sup>11</sup> Based on information and methodology received from staff of the Department of State.

1. Revenues:

The ad valorem tax base will be reduced if the constitutional changes proposed by the House Joint Resolution are approved by the voters.

The Revenue Estimating Conference (REC) has not met to evaluate the effects of the proposed constitutional amendment. Therefore, the estimated fiscal impact to local governments is not known at this time. However, staff estimates that the constitutional amendment will have a negative fiscal impact on local governments by reducing the available property tax base. This reduction could result in lower expenditures and/or an increase in millage rates (in those jurisdictions where that capacity exists) to maintain current levels of property tax revenues.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Absent other factors, veterans eligible for the homestead property tax discount proposed by this joint resolution would notice a reduction in property taxes beginning in 2011. Also, members of the United States military who have received hostile-fire pay or imminent-danger pay may notice a reduction in property taxes once the Legislature exempts their homesteads by general law.

D. FISCAL COMMENTS:

The Department of Revenue has indicated that the provisions of this joint resolution would not have an operational impact on the agency or present difficulty in implementation, administration, or enforcement.

In the summer of 2006, the REC reviewed House Joint Resolution (HJR) 631, which provided a property tax discount for veterans age 65 or older who are disabled as the result of combat. The REC adopted a recurring negative fiscal impact of \$20.1 million to local governments for the proposed constitutional amendment, assuming no off-setting changes in millage rates.

HJR 631 was signed into law by Governor Jeb Bush on June 20, 2006, and was adopted as a constitutional amendment by Florida's voters during the November 2006 general election.

Legislative staff reviewed all REC analyses for HJR 631 to find out if the REC considered the impact of veterans who were not Florida residents at the time of their service. It does not appear that the REC evaluated this type of data, and there may not have been a need to do so because all versions of HJR 631 provided that the homestead property tax discount be limited to Florida residents.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provisions of Article VII, section 18 of the Florida Constitution do not apply to House Joint Resolutions.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The joint resolution would not require any agency to adopt administrative rules. However, it may be necessary for the Legislature to authorize rulemaking by the Department of Revenue in future implementing legislation.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

This joint resolution provides an effective date of January 1, 2011 for the constitutional amendment. However, in accordance with Article XI, section 5 of the Florida Constitution, the amendment would take effect on the first Tuesday after the first Monday in January following the election when it was approved by the electorate. In 2011, this date would be January 4.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

None.