

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Military Affairs and Domestic Security Committee

BILL: SB 2138

INTRODUCER: Senator Dean

SUBJECT: Disabled Veterans/Non-Ad Valorem Assessments

DATE: March 10, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pardue	Skelton	MS	Favorable
2.			CA	
3.			FT	
4.			WPSC	
5.				
6.				

I. Summary:

Senate Bill 2138 grants an exemption from non-ad valorem assessments on homestead property to permanently and totally disabled veterans, disabled veterans confined to wheelchairs, and to their surviving spouses.

This bill amends the following sections of the Florida Statutes: 196.081 and 196.091.

II. Present Situation:

Ad valorem taxation in Florida

The Florida Constitution reserves ad valorem taxation to local governments. The state is prohibited from levying ad valorem taxes on real estate and tangible personal property.¹

Local governments may levy ad valorem taxes subject to the following limitations:

- Ten mills for county purposes;
- Ten mills for municipal purposes;
- Ten mills for school purposes;
- One mill for water management purposes, except in Northwest Florida where the limit is .05 mill; and
- Millage authorized by law and approved by voters for special districts.

Taxes levied for the payment of bonds and taxes levied for periods not longer than two years, when authorized by a vote of the electors, are not subject to the millage limitations.²

¹ Section 1.(a), Art. VII, State Constitution

Non-Ad Valorem Assessments

A non-ad valorem assessment means only those assessments which are not based upon millage and which can become a lien against a homestead as permitted in s. 4. Art. X of the Florida Constitution.³ Non-ad valorem assessments and ad valorem assessments are mandatory and both allow for liens against a property for non-payment. However, real property under a non-ad valorem assessment must derive some special benefit from a service provided and the assessment must be fairly and reasonably apportioned among the properties receiving the benefit.⁴ Fire protection is an example of a service that might be funded through a non-ad valorem assessment.⁵

Statutory Ad Valorem Exemptions for Disabled Veterans

Section 196.081, F.S., provides an exemption from taxation on homestead property for an honorably discharged veteran who is totally and permanently disabled due to a service connected condition. The exemption is also granted to a surviving spouse as long as the spouse continues to reside on the property and does not remarry. The surviving spouse may dispose of the property and transfer the exemption to a new homestead property in an amount not to exceed the amount granted on the most recent ad valorem tax roll. A surviving spouse of a service member who died while on active duty is also entitled to the exemption.

Section 196.091, F.S., provides an exemption from taxation on homestead property for an honorably discharged veteran who is totally disabled due to a service connected condition and requires specially adapted housing and the use of a wheelchair for transportation. The exemption is also granted to a surviving spouse holding an interest in the homestead property as an estate by the entirety as long as the spouse continues to reside on the property and does not remarry.

The most current data indicating the number of parcels claiming these exemptions shows:

2007 Parcel Count By Exemption

Section 196.081, F.S. Disabled Veterans	33,363
Section 196.091, F.S. Disabled Veterans Wheelchair	228

Source: Florida Department of Revenue

III. Effect of Proposed Changes:

Senate Bill 2138 amends ss. 196.081 and 196.091, F.S., to include non-ad valorem assessments with other homestead ad valorem tax exemptions granted to permanently and totally disabled veterans, , disabled veterans confined to wheelchairs, and to their surviving spouses.

The bill provides an effective date of January 1, 2010.

² Section 9., Art VII, State Constitution.

³ Section 197.3632 (1) (d), F.S.

⁴ Florida Attorney General Advisory Legal Opinion, AGO 92-60, August 17, 1992.

⁵ Florida Attorney General Advisory Legal Opinion, AGO 90-75, September 11, 1990.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill may raise issues of fairness. Non-ad valorem assessments are made as a result of a special benefit afforded the property. According to *South Trail Fire Control District, Sarasota County, v. State*, “ The assessment must not be in excess of the proportional benefits as compared to other assessments on other lots and tracts affected by the improvement.”⁶ Assuming a fixed cost for such an improvement, granting an exemption may result in shifting all of the cost burden from the disabled veteran to the remaining parcels. This cost shift could result in the remaining property owners paying a higher proportional share of the assessment than their proportional share of the benefit.

C. Government Sector Impact:

According to the latest available data, approximately 33,600 parcels claimed exemptions under ss. 196.081 and 196.091, F.S. The value of non-ad valorem assessments levied against these parcels is indeterminate at this time. However, the following table estimates the possible impact of this bill assuming a range of average assessments.

Average Non-Ad Valorem Assessment Per Parcel	Potential Revenue Loss or Cost Shift
\$100	\$3,360,000
\$200	\$6,720,000
\$300	\$10,080,000
\$400	\$13,440,000

⁶ *South Trail Fire Control District, Sarasota County, v. State*, 273 So.2d, 380, 384 (Fla. 1973)

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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