

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 Budget Committee

BILL: CS/SB 1502

INTRODUCER: Budget Committee and Budget Subcommittee on Finance and Tax

SUBJECT: Ad Valorem Tax Exemption/Deployed Servicemembers

DATE: April 14, 2011 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|------------------|-----------|------------------|
| 1. | <u>Fleming</u> | <u>Carter</u> | <u>MS</u> | Fav/CS |
| 2. | <u>Gizzi</u> | <u>Yeatman</u> | <u>CA</u> | Favorable |
| 3. | <u>Fournier</u> | <u>Meyer, C.</u> | <u>BC</u> | Fav/CS |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This Committee Substitute (CS) codifies an amendment to Article VII, Section 3 of the Florida Constitution, which was approved by voters in the November 2010 general election. This amendment, now located in Article VII, Section 3(g) of the Florida Constitution, provides a partial ad valorem tax exemption on homestead property for Florida military personnel who are deployed outside the United States. In addition, the CS:

- Designates three military operations outside the continental United States for which servicemembers were deployed in 2010;
- Requires the Florida Department of Military Affairs to annually submit a report to the Legislature of all known and unclassified military operations outside the United States;
- Provides procedures for property appraisers to apply or deny the partial ad valorem tax exemption;
- Requires a servicemember applying for the tax exemption to provide proof of eligibility; and
- Authorizes the Department of Revenue to adopt emergency rules to administer the provisions of this act.

For 2011, the CS provides a later application deadline, and provides a procedure by which the property appraiser may grant an exemption even if the application was not timely filed. This CS substantially amends sections 194.011 and 196.011 of the Florida Statutes.

This CS creates section 196.173 of the Florida Statutes. This CS also creates undesignated sections of law.

II. Present Situation:

Property Valuation

A.) *Just Value*

Article VII, section 4 of the Florida Constitution, requires that all property be assessed at its just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.¹

B.) *Assessed Value*

Section 4 also provides exceptions to this requirement for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Additionally, tangible personal property that is held as inventory may be assessed at a specified percentage of its value or may be totally exempted.

The "Save Our Homes" provision in Article VII, section 4(d) of the Florida Constitution, limits the amount that a homestead's assessed value can increase annually to the lesser of three percent or the Consumer Price Index (CPI).² If there is a change in ownership, the property is assessed at its just value on the following January 1. The value of changes, additions, reductions or improvements to the homestead property is assessed as provided by general law. In 2008, Florida voters approved an additional amendment to article VII, section 4(d), of the Florida Constitution, to provide for the portability of the accrued "Save Our Homes" benefit. This amendment allows homestead property owners that relocate to a new homestead to transfer up to \$500,000 of the "Save Our Homes" accrued benefit to the new homestead.

Non-homestead residential property and nonresidential property is also subject to a 10 percent annual limitation on the increase in its assessed value.

C.) *Taxable Value*

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes. Such exemptions include, but are not limited to: homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.³

Property taxes are the largest single tax revenue source for local governments in Florida, with approximately \$25.1 billion levied in fiscal year 2010-11.⁴ The Florida Constitution reserves ad

¹ See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

² FLA. CONST. art. VII, s. 4(d).

³ FLA. CONST. art. VII, ss. 3 and 6.

⁴ Florida Revenue Estimating Conference, 2011 FLORIDA TAX HANDBOOK, at 185. Available online at: <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2011.pdf> (last visited on March 28, 2011).

valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.⁵

Property Tax Benefits Available to Veterans

In recognition of their service and sacrifice for our country the State of Florida has granted a number of ad valorem tax exemptions for ex-service members.

A.) Total Ad Valorem Tax Exemption for Ex-Service Members

Section 196.081, F.S., provides that:

Any real estate that is owned and used as a homestead by a veteran who was honorably discharged with a service-connected total and permanent disability and for whom a letter from the United States Government or United States Department of Veterans or its predecessor has been issued certifying that the veteran is totally and permanently disabled is exempt from taxation, . . . [provided] . . . the veteran is a permanent resident of the state on January 1 of the tax year for which exemption is being claimed or on January 1 of the year the veteran died.

Section 196.091, F.S., further provides that:

Any real estate used and owned as a homestead by an ex-service member who has been honorably discharged with a service-connected total disability and who has a certificate from the United States Government or United States Department of Veterans Affairs or its predecessor, or its successors, certifying that the ex-service member is receiving or has received special pecuniary assistance due to disability requiring specially adapted housing and required to use a wheelchair for his or her transportation is exempt from taxation.

B.) \$5,000 Ad Valorem Tax Exemption for Ex-Service Members

Section 196.24, F.S., provides a \$5,000 property tax exemption to any ex-service member who is a bona fide resident of the state and who has a service-connected disability to a degree of 10% or more. This exemption also applies to the un-remarried surviving spouse of a disabled ex-service member who had been married to such ex-service member for at least 5 years on the date of his/her death.

C.) Combat Related Partial Ad Valorem Tax Exemption (Discount) for Ex-Service Members

Article VII, section 6(e) of the Florida Constitution, grants a discount on ad valorem taxes owed on homestead property for veterans who are 65 years or older and who are partially or totally disabled. In order to qualify for the discount, the veteran must submit proof of the veteran's disability percentage to the county property appraiser and must show that the:

- Disability was combat related;
- Veteran was a Florida resident at the time he/she entered the US military; and

⁵ FLA. CONST. art. VII, s. 1(a).

- Veteran was honorably discharged.⁶

The ad valorem tax discount percentage shall be equal to the veteran's percentage of disability, as determined by the United States Department of Veterans Affairs. In 2010, 1,206 veterans received the Disabled Veteran's Homestead Discount which amounted to a total discount of \$28,749,630 in taxable value. During that time, the average reduction in taxable value was \$23,839,⁷ and the average reduction in tax was \$443. The U. S. Department of Veterans Affairs (USDVA) indicates that there were 249,565 veterans in Florida receiving compensation for service-related conditions at the end of Fiscal Year 2010.⁸

No special tax relief is currently provided to military personnel deployed on active duty for military operations outside the United States.

Deployed Military Personnel

The number of deployed military personnel is in constant flux. According to data provided by the Florida Department of Military Affairs, approximately 5,082 military personnel who claim Florida as their home of record⁹ were deployed overseas on active duty in support of Operation New Dawn, Operation Enduring Freedom, or Operation Noble Eagle as of January 31, 2011.

⁶ See also s. 196.082, F.S.

⁷ Revenue Estimating Conference, *Disabled Veterans' Property Tax Discount SJR 592 & HJR 439* (March 11, 2011).

⁸ Conversation with Florida Department of Veterans' Affairs (Response to information request by Senate Military Affairs, Space, and Domestic Security Committee) (Feb. 1, 2011).

⁹ Conversation with the Florida Department of Military Affairs. Claiming Florida as a home of record is not an indicator of the number of service members who actually own homestead property in Florida.

| <u>Branch of Service</u> | <u>Number of Military Personnel</u> |
|--------------------------|-------------------------------------|
| Army | 211 |
| Navy | 1,343 |
| Air Force | 1,712 |
| Marine Corps | 79 |
| Army Reserve | 521 |
| Florida National Guard | 656 |
| Marine Corps Reserve | 320 |
| Navy Reserve | 67 |
| Air Force Reserve | 98 |
| Coast Guard | 55 |
| Coast Guard Reserve | 20 |
| <u>TOTAL:</u> | 5,082 |

III. Effect of Proposed Changes:

Section 1 creates s. 196.173, F.S., to codify an amendment to Article VII, Section 3 of the Florida Constitution, which was approved by voters in the November 2010 general election. This constitutional amendment provides an additional ad valorem tax exemption for homestead property owned by a person who was a member of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard deployed outside of the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature in a concurrent resolution.

Eligible Military Operations

The exemption is available to servicemembers who were deployed during the previous calendar year on active duty outside the continental United State, Alaska, or Hawaii in support of:

- Operation Enduring Freedom which began on October 7, 2001;
- Operation Iraqi Freedom which began on March 19, 2003 and ended on August 31, 2010;
or
- Operation New Dawn which began September 1, 2010.

Annual Report of All Known and Unclassified Military Operations

By January 15 of each year, the Department of Military Affairs must submit to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature a report of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United

States have been deployed during the previous calendar year. To the extent possible, the report must include:

- The official and common names of the military operations;
- The general location and purpose of each military operation;
- The number of servicemembers deployed to each military operation;
- The number of servicemembers deployed to each military operation who were based in this state at the time of deployment, including the number by county of residence or military base, if known;
- The date each military operation commenced;
- The date each military operation terminated, unless the operation is ongoing; and
- Any other relevant information.

Amount of Exemption

The amount of the exemption is equal to the taxable value of the homestead of the servicemember on January 1 of the year in which the exemption is sought multiplied by the number of days that the servicemember was on a qualifying deployment in the preceding calendar year and divided by the number of days in that year.

Exemption Application

A servicemember who seeks to claim the additional tax exemption must file an application for exemption with the property appraiser on or before March 1 of the year following the year of the qualifying deployment. The application must be made on a form prescribed by the Department of Revenue and furnished by the property appraiser. The servicemember must provide:

- Proof that the servicemember participated in a qualifying deployment;
- The dates of the qualifying deployment; and
- Other information necessary to verify eligibility for and the amount of the exemption.

In the event a servicemember is unable to apply for the deployed servicemember exemption for reasons such as deployment, a spouse who also owns the homestead as entireties or jointly with the right of survivorship, an individual with the servicemember's power of attorney, or the personal representative of the servicemember's estate may apply for the exemption on the servicemember's behalf.

Exemption Approval or Denial

The property appraiser must consider a servicemember's application for the exemption within 30 days after receipt of the application. If a servicemember's application for the exemption is denied, the property appraiser must send a notice of disapproval no later than July 1, citing the reason for disapproval and advising the servicemember of the right to appeal the decision to the value adjustment board along with the procedures for filing such appeal.

Definition of "Servicemember"

The CS defines the term "servicemember" as used in this section, to mean "a member or former member of any branch of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard.

Section 2 amends s. 194.011, F.S., requiring a person appealing the denial of a deployed servicemember exemption to the value adjustment board to file the appeal on or before the 30th day following the mailing of the denial notice by the property appraiser.

Section 3 amends s. 196.011, F.S., requiring the application form for the deployed servicemember tax exemption meet certain conditions currently provided in s.196.011, F.S., in order to be considered a complete application.

Section 4 authorizes the Department of Revenue to adopt emergency rules in order to administer the provisions of this act. Such emergency rules shall remain in effect for 6 months after the rules are adopted and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

Section 5 establishes June 1, 2011, as the deadline for an eligible servicemember to file a claim for an additional tax exemption for qualifying deployment during the 2010 calendar year. Any applicant who fails to meet the June 1 deadline must subsequently submit an application to the property appraiser on or before the 25th day following the mailing by the property appraiser of the notices required under s.194.011(1), F.S. Upon receipt of the application, the property appraiser may grant the tax exemption if the property appraiser determines the applicant failed to meet the application deadline due to extenuating circumstances.

If the property appraiser determines that extenuating circumstances did not prevent an applicant from meeting the deadline and denies the application, the applicant may file a petition with the value adjustment board requesting that the exemption be granted. Upon filing the petition, the applicant must pay a nonrefundable \$15 filing fee. The value adjustment board may grant the exemption for the current year if the board determines that extenuating circumstances existed.

Section 6 provides that this act will take effect upon becoming law, and first applies to ad valorem tax rolls for 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This CS implements Amendment 2 to Article VII, section 3, of the Florida Constitution, that was approved by the voters in the November 2010 general election. For these reasons, the CS does not fall under the mandate provisions in Article VII, section 18(b) of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

This CS implements the provisions of Amendment 2 on the 2010 general election ballot, which provides a homestead ad valorem tax credit for deployed military personnel.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

After reviewing this bill, the Revenue Estimating Conference adopted an indeterminate negative fiscal impact since the impact is dependent upon future acts of the Legislature. Assuming 10.5% of active duty personnel and reserves were deployed in designated operations, the expected impact in 2011-12 would be a loss of \$.7 million in school taxes and \$.8 million in non-school taxes:¹⁰

B. Private Sector Impact:

Deployed Military personnel that are eligible for the tax exemption provided in this CS will see a reduction in property taxes.

C. Government Sector Impact:

This CS provides additional duties to county property appraisers, who must consider a servicemember's application for the exemption provided in this CS within 30 days after receipt of the application. If the property appraiser denies a servicemember's application, the appraiser must send a notice of disapproval no later than July 1, citing the reasons for disapproval and advising the servicemember of his or her right to appeal the decision.

This CS requires the Department of Military Affairs to submit a report of all known and unclassified military operations outside the continental United States, Alaska, and Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature by January 15 of each year.

This CS grants emergency rule-making authority to the Department of Revenue for the Department to administer the provisions of this act.

See also Tax/Fee Issues.

VI. Technical Deficiencies:

None.

¹⁰ Revenue Estimating Conference, *Exemption for Deployed Service Members, SB 1502 & HB 1141*, at 180-181 (March 25, 2011) (on file with the Senate Committee on Community Affairs).

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.)

CS by Budget Subcommittee on Finance and Tax on April 13, 2011:

The CS lists the military operations for 2010 which will create eligibility for the deployed servicemembers' exemption. It also authorizes the personal representative of a servicemember's estate to apply for the exemption.

CS by Military Affairs, Space & Domestic Security on March 23, 2011:

- Clarifies that the information the Department of Military Affairs is required to annually provide to the Legislature must be provided "to the extent possible."
- Allows a spouse or an individual with the servicemember's power of attorney to apply for the exemption on behalf of the servicemember in the event the servicemember is unable to timely apply for the exemption for reasons such as deployment.

- B. **Amendments:**

None.