

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 Rules Subcommittee on Ethics and Elections

BILL: SB 1564
 INTRODUCER: Senator Fasano
 SUBJECT: Special Election
 DATE: April 22, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	Favorable
2.	Seay	Roberts	EE	Favorable
3.			RC	
4.			BC	
5.				
6.				

I. Summary:

This bill provides for a special election to be held on the same date as the 2012 presidential preference primary for statewide elector approval or rejection of the amendments to the Florida Constitution proposed in Senate Joint Resolution 658 or House Joint Resolution 381.

This bill will require approval by a three-fourths vote by the membership of each house of the Legislature and adoption of SJR 658 or HJR 381 by both houses of the Legislature for passage.

This bill creates an undesignated section of law.

II. Present Situation:

2011 Regular Session: Senate Joint Resolution 658 and House Joint Resolution 381

A.) Senate Joint Resolution 658

Senate Joint Resolution (SJR) 658 proposes an amendment to Article VII, section 4 of the Florida Constitution, to prohibit increases in the assessed value of homestead property if the just value of the property decreases, and reduces the limitation on annual assessment increases applicable to non-homestead property from 10 percent to 3 percent.¹

SJR 658 also proposes an amendment to Article VII, section 6 of the Florida Constitution, to create an additional homestead exemption for specified homestead owners. This amendment allows individuals that are entitled to a homestead exemption under s. 6(a), Art. VII of the

¹ See CS/SJR 658 (2011 Regular Session).

Florida Constitution, that have not previously received a homestead exemption in the past three calendar years to receive an additional homestead exemption equal to 50 percent of the just value of the homestead property up to \$200,000 for a period of five years or until the property is sold. The additional exemption is available within one year of purchasing the homestead and would be reduced by 20 percent of the initial exemption on January 1 of each succeeding year, until it is no longer available in the sixth and subsequent years. The exemption does not apply to school levies.²

B.) House Joint Resolution 381³

HJR 381 makes similar amendments to sections 4 and 6 of Article VII, of the Florida Constitution. However, the recapture provision in HJR 381 is permissive and it also applies to certain non-homestead properties that are addressed in Article VII, section 4 (g) and (h), of the Florida Constitution. HJR 381 proposes to remove language in the constitution which would have repealed subsections (f) and (g) of Section 4 of Art. VII, effective January 1, 2019.

HJR 381 also provides different effective dates for the proposed constitutional amendments.

- Amendments to Article VII, section 4 of the Florida Constitution, prohibiting increases in the assessed value of homestead property if the just value of the property decreases and reducing the limitation on annual assessment increases applicable to non-homestead property from 10 percent to 3 percent.
 - SJR 658: takes effect January 1, 2013.
 - HJR 381: bifurcates the effective date
 - If submitted to the electors at a special election on the date of the 2012 presidential preference primary, it shall take effect upon elector approval and operate retroactively to January 1, 2012.
 - If submitted to the electors at the 2012 general election, it shall take effect on January 1, 2013.
- The amendment to Article VII, section 6 of the Florida Constitution, providing an additional homestead exemption for homestead property owners who have not owned homestead property in the previous three calendar years.
 - SJR 658: applies to properties purchased on or after January 1, 2012, and takes effect January 1, 2013.
 - HJR 381: bifurcates the effective date
 - If submitted to the electors at a special election on the date of the 2012 presidential preference primary, it shall apply to properties purchased on or after January 1, 2011, and shall take effect upon approval by the electors and operate retroactively to January 1, 2012.
 - If submitted to the electors at the 2012 general election, it shall apply to properties purchased on or after January 1, 2012, and shall take effect January 1, 2013.

Constitutional Amendments

Section 5, Art. XI, of the Florida Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths vote of the membership of

² *Id.*

³ See CS/CS/CS HJR 381 (2011 Regular Session).

each house. To submit the joint resolution at an earlier special election, the Legislature must adopt a separate legislation indicating for such special election that must be passed by a three-fourths vote of the membership of each house of the Legislature. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State, or at a special election held 90 days after filing for that purpose.

Section 5(d), Art. XI, of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is \$106.14 for this fiscal year.

Section 5(e), Art. XI, of the Florida Constitution, requires a 60 percent voter approval for a constitutional amendment to take effect. An approved amendment becomes effective on the first Tuesday after the first Monday in January following the election at which it is approved, or on such other date as may be specified in the amendment or revision.

Special Elections and Primaries

Article XI, Section 5(a), of the Florida Constitution allows the Legislature to submit a joint resolution “at an earlier special election pursuant to a law that is enacted by the affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment or revision.”

Section 100.101(3), F.S., allows for a special election or special primary election “if it is necessary to elect presidential electors, by reason of the offices of the President and Vice President both having become vacant.” All laws applicable to general elections shall be applicable to special elections or special primary elections.⁴ The Department of State is required to “verify the expenses of each special election and each special primary election and authorize payment for reimbursement to each county affected.”⁵

III. Effect of Proposed Changes:

Section 1 provides for a special election to be held on the date of the presidential primary in 2012, pursuant to Article XI, section 5 of the Florida Constitution, to submit for state elector approval or rejection, the amendments to the State Constitution proposed in Senate Joint Resolution 658 or House Joint Resolution 381.

The special election shall be held concurrently with other statewide elections held on that day.

Section 2 requires publication of notice be provided in accordance with Article XI, section 5 of the Florida Constitution, and that the special election be held as other special elections are held.

⁴ Section 100.191, F.S.

⁵ Section 100.102, F.S.

Section 3 appropriates \$560,000 in nonrecurring funds from the General Revenue Fund to the Department of State for the 2011-2012 Fiscal Year for the purpose of advertising the constitutional amendments being submitted to the electors of this state at the special election called by this Act.

Section 4 provides that this act shall take effect upon becoming law if enacted by a vote of at least three-fourths of the membership of each house of the Legislature and if Senate Joint Resolution 658 or House Joint Resolution 381 is adopted by both houses of the Legislature.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill seeks to implement the proposed constitutional amendments to sections 4 and 6 of Article VII of the Florida Constitution, contained in SJR 658 or HJR 658, 2011 Regular Session, subject to voter approval. For these reasons, the bill does not fall under the mandate provisions in Article VII, section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

If the proposed constitutional amendment is approved by the voters, this bill will provide ad valorem tax relief to specified homestead owners. Owners of specified residential rental and commercial real property will experience further reduction in tax assessments due to the 3 percent assessment limitation. The provisions of this bill, as implemented by either joint resolution, will have an effect on local government revenue.

B. Private Sector Impact:

SJR 658 and HJR 381

A.) Assessment Limitation on Homestead Property (Recapture Rule)

If SJR 658 or HJR 381 is approved by the voters, taxes will be reduced for those taxpayers whose homesteads have depreciated but are still assessed at less than just value. The joint resolution will redistribute the tax burden. It may benefit homestead property that has a "Save Our Homes" differential; however, non-homestead and recently established homestead property will pay a larger proportion of the cost of local services. To the extent that local governments do not raise millage rates, taxpayers may experience a reduction in government and education services due to any reductions in ad valorem tax revenues.

B.) Assessment Limitation on Non-Homestead Property and Residential & Non-Residential Property

If SJR 658 or HJR 381 is approved by the voters, owners of existing residential rental and commercial real property may experience property tax savings and will not see their taxes increase significantly in a single year. To the extent that local taxing authorities' budgets are not reduced, the tax burden on other properties will increase to offset these tax losses. New properties or properties that have changed ownership or undergone significant improvements will be assessed at just value and will be at a competitive disadvantage compared to older properties with respect to their tax burden.

C.) Additional Homestead Exemption for Specified Homestead Owners

If SJR 658 or HJR 381 is approved by the voters, specified homestead owners will experience temporary reductions in ad valorem taxes. The value of the reduction will decrease by one-fifth each year and will disappear in the sixth year after the homestead is established. During this period, the ad valorem taxes levied on the homestead will increase significantly each year. Other property owners in the taxing jurisdiction will pay higher taxes if the jurisdiction adjusts the millage rate to offset the loss to the tax base.

C. Government Sector Impact:

Constitutional Amendment Publication Costs

Each constitutional amendment is required to be published in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week, preceding the general election.⁶ Costs for advertising vary depending upon the length of the amendment. The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is \$106.14 for this fiscal year.

This bill appropriates \$560,000 in nonrecurring funds from the General Revenue Fund to the Department of State for the 2011-2012 Fiscal Year for the Department to advertise the constitutional amendments being submitted to the electors of this state at the special election called by this Act.

Costs by Supervisors of Elections

This bill provides for the special election to be held concurrently with Florida's 2012 presidential preference primary. This may lead to additional costs for supervisors of elections to print additional nonpartisan ballots if there are no concurrent nonpartisan races in their respective counties (i.e., municipal elections, local referenda). As Florida is a closed primary state, electors with no party affiliation do not typically vote in the presidential preference primary. Additionally, more ballots may need to be printed by supervisors if the Democratic primary remains uncontested.

⁶ FLA. CONST. art. XI, s. 5(d).

SJR 658 and HJR 381

If SJR 658 or HJR 381 is approved by the voters and the provisions of this bill take effect, local governments may experience a reduction in the ad valorem tax base. The revenue estimating conference adopted an indeterminate negative estimate for SJR 658 and HJR 381 since those amendments would require voter approval.

A.) Assessment Limitation on Homestead Property (Recapture Rule)

The Revenue Estimating Conference has not reviewed the recapture provisions of SJR 658, however when addressing similar legislation on the recapture amendment in SJR 210 (2011), the Revenue Estimating Conference determined that the fiscal impact on school taxes, should the joint resolution be approved by the voters, would be as follows for :

FY 2013-14	FY 2014-15	Recurring Impact
-\$5.0 million	-\$8.0 million	-\$17.0 million

The fiscal impact on non-school taxes would be as follows:

FY 2013-14	FY 2014-15	Recurring Impact
-\$6.0 million	-\$11.0 million	-\$18.0 million

B.) Assessment Limitation on Non-Homestead Property

Should either joint resolution be approved by the Florida voters, the Revenue Estimating Conference has determined that the statewide impact on non-school taxes for reducing the limitation on annual assessment increases for non-homestead property from 10 percent to 3 percent would be as follows:⁹

For the January 1, 2013, effective date (SJR 658):

FY 2013-14	FY 2014-15	FY 2015-16
-\$225.0 million	-\$526.1 million	-\$903.9 million

For the January 1, 2012, effective date (HJR 381):¹⁰

FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
-\$121.6 million	-\$326.1 million	-\$619.6 million	-\$990.9 million

⁷ Revenue Estimating Conference, *Recapture SJR 210 & HJR 381* (Feb. 17, 2011).

⁸ Revenue Estimating Conference, *Recapture SJR 210 & HJR 381* (Feb. 17, 2011).

⁹ Revenue Estimating Conference, *Reduction of annual assessment limitation for non-homestead property from 10% to 3%, HJR 381, SJR 658* (March 14, 2011).

¹⁰ **NOTE:** The Revenue Estimating Conference adopted their fiscal analysis on HJR 381 prior to the amendments to HJR 381 that were adopted on March 29, 2011.

C.) Additional Homestead Exemption for Specified Homestead Owners

Should either joint resolution be approved by the Florida voters, the Revenue Estimating Conference determined that the statewide impact on non-school taxes for the additional homestead exemption for specified homestead owners would be as follows:

For the January 1, 2013, effective date (SJR 658):¹¹

FY 2013-14	FY 2014-15	Recurring Impact
-\$94.5 million	-\$186.5 million	-\$344.5 million

For the January 1, 2012, effective date (HJR 381):¹²

FY 2012-13	FY 2013-14	FY 2014-15	Recurring Impact
-\$110.0 million	-\$165.1 million	-\$221.0 million	-\$281.0 million

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.

¹¹ Revenue Estimating Conference, *First-Time Homesteaders part of SJR 658 & HJR 381* (Feb. 20, 2011) (assuming that 40 percent of homesteaders will be first-time homesteaders to account for the definition of first-time homebuyers).

¹² Revenue Estimating Conference, *First-Time Homesteaders part of HJR 381* (March 9, 2011) (assuming that 40 percent of homesteaders will be first-time homesteaders to account for the definition of first-time homebuyers). **NOTE:** The Revenue Estimating Conference adopted their fiscal analysis on HJR 381 prior to the amendments to HJR 381 that were adopted on March 29, 2011.