

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HJR 439 Veteran's Property Tax Discount

SPONSOR(S): Community & Military Affairs; Holder

TIED BILLS: **IDEN./SIM. BILLS:** SJR 592

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	14 Y, 0 N, As CS	Tait	Hoagland
2) Finance & Tax Committee	23 Y, 0 N	Aldridge	Langston
3) Economic Affairs Committee			

SUMMARY ANALYSIS

Article VII, Section 6 of the Florida Constitution provides for a homestead property tax discount for veterans age 65 or older who have a combat-related disability and were Florida residents at the time of entering military service.

Committee Substitute for House Joint Resolution 439 proposes an amendment to the Florida Constitution to allow disabled veterans age 65 or older who were not Florida residents at the time of entering military service to qualify for the combat-related disabled veterans' homestead property tax discount.

The Revenue Estimating Conference has estimated that, if the joint resolution is approved by the voters, local government ad valorem tax bases will be lower compared to current law. **Assuming current millage rates**, the statewide impact would be reductions in school tax revenues of \$1.1 million in fiscal year 2013-14, \$2.3 million in fiscal year 2014-15, and \$3.6 million in fiscal year 2015-16. Reductions in local government non-school tax revenues are estimated at \$1.3 million in fiscal year 2013-14, \$2.6 million in fiscal year 2014-15, and \$4.0 million in fiscal year 2015-16.

The Department of State estimates that the cost of putting the proposed constitutional amendment on the general election ballot is \$78,968.

The proposed amendment will be submitted to the electors at the general election in November 2012 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 2012 general election, the proposed amendment will take effect on January 1, 2013.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

Just Valuation

Article VII, s. 4 of the Florida Constitution generally requires that all property be assessed at its “just value” for ad valorem tax purposes. Just value has been interpreted to mean “fair market value.”¹

Exceptions to Just Valuation

Article VII, s. 4 of the Florida Constitution also authorizes exceptions from the requirement that property be assessed at just value. Agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes are exceptions that may be assessed solely on the basis of their character or use.² Tangible personal property held for sale as stock in trade and livestock may be assessed at a specified percentage of its value or totally exempted.³ In addition, the “Save Our Homes” assessment limitation provides a limitation on the amount by which assessments for homesteads may be changed on January 1 of each year.⁴ Annual increases in assessments of certain non-homestead properties are also limited.⁵ Land used for conservation purposes must be assessed solely on the basis of character or use.⁶ Counties and municipalities may also authorize historic properties to be assessed solely on the basis of character and use.⁷ Counties may provide for a reduction in the assessed value of homestead property improvements made to accommodate parents or grandparents in an existing homestead.⁸

Exemptions

The Legislature may only grant property tax exemptions that are authorized in the constitution, and modifications to property tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁹ Article VII, sections 3 and 6 of the Florida Constitution authorize a number of property tax exemptions.

In particular, Article VII, s. 3(b) of the Florida Constitution requires that not less than \$500 of property, as established in general law, be exempt from taxation for every widow or widower or person who is blind or totally and permanently disabled. This constitutional provision provides authority for the first three of the four exemptions described below. The fourth exemption is set forth in Article VII, s. 6(e).

Total Ad Valorem Exemptions for Ex-Service Members

Section 196.081, F.S., provides an exemption for any property used and owned as a homestead by a veteran who was honorably discharged with a service-connected permanent and total disability, and for whom a letter from the United States Government or United States Department of Veterans Administration has been issued certifying that the veteran is totally and permanently disabled, provided

¹ *Walter v. Schuler*, 176 So.2d 4 (Fla. 1965).

² Section 4(a), Article VII, Florida Constitution.

³ Section 4(c), Article VII, Florida Constitution.

⁴ Section 4(d), Article VII of the Florida Constitution provides that changes in the prior year assessment may not exceed the lesser of three percent or the percent change in the Consumer Price Index.

⁵ Sections 4(g) and (h), Article VII of the Florida Constitution provide that annual assessment changes may not exceed 10 percent of the prior year’s assessment.

⁶ Section 4(b), Article VII, Florida Constitution.

⁷ Section 4(e), Article VII, Florida Constitution.

⁸ Section 4(f), Article VII, Florida Constitution.

⁹ *Sebring Airport Authority v. McIntyre*, 783 So.2d 238 (Fla. 2001).

the veteran is a permanent resident of the state on January 1 of the tax year for which the exemption is being claimed or on January 1 of the year the veteran died.

Section 196.091, F.S., provides an exemption for any property 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 is required to use a wheelchair for his or her transportation.

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

Section 196.24, F.S., provides a \$5,000 property tax exemption for any "ex-service member" with a service-connected disability of 10 percent or more. In order to qualify for the exemption, an ex-service member must be a bona fide resident of the state.

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

Article VII, s. 6(e) of the Florida Constitution grants a discount on ad valorem taxes owed on homestead property to partially or totally disabled veterans who are 65 or older and were Florida residents when they entered military service. The ad valorem tax discount percentage is equal to the veteran's percentage of disability, as determined by the United States Department of Veterans Affairs.

In order to qualify for the discount, the veteran must submit proof of his or her disability percentage to the county property appraiser. The veteran must also prove that:

- the disability is combat related;
- he or she was a Florida resident at the time of entering the military; and
- he or she was honorably discharged.

Section 196.082, F.S., sets forth the implementation provisions for the disabled veterans' discount.

In 2010, 1,206 veterans received the Disabled Veteran's Homestead Discount, for a total property value discount of \$28,749,630. The average value discount was \$23,839.¹⁰

There were 77,535 veterans in Florida age 65 or older receiving compensation for service related conditions in 2010. Of this total, 55,445 were 10% to 30% disabled and 22,090 were 40% to 90% disabled.¹¹ The United States Veterans' Administration does not distinguish between combat-related and noncombat-related disabilities when calculating the percentage of service connected disability.¹²

Constitutional Amendment Process

Article XI of the Florida Constitution sets forth various methods for proposing amendments to the constitution along with the methods for approval or rejection of proposals. One method by which constitutional amendments may be proposed is by joint resolution agreed to by three-fifths of the membership of each house of the Legislature.¹³ Any such proposal must be submitted to the electors, either at the next general election held more than 90 days after the joint resolution is filed with the Secretary of State, or, if pursuant to law 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, at an earlier special election held more than 90 days after such filing.¹⁴ If the proposed amendment is approved by a vote of at least 60 percent of the electors voting on the measure it becomes effective as

¹⁰ Revenue Estimating Impact Conference. March 11, 2011.

¹¹ Ibid.

¹² Florida Department of Veterans' Affairs response to a request for information to the Community & Military Affairs Subcommittee, March 17, 2011.

¹³ Section 1, Article XI, Florida Constitution.

¹⁴ Section 5(a), Article XI, Florida Constitution.

an amendment to the Florida Constitution on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.¹⁵

Each proposed 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.¹⁶ Costs for advertising vary depending upon the length of the amendment.

EFFECT OF PROPOSED CHANGES

House Joint Resolution 439 proposes an amendment to Article VII, s. 6 (e) of the Florida Constitution to allow disabled veterans age 65 or older who were not Florida residents at the time of entering military service to qualify for the combat-related disabled veteran's ad valorem tax discount on homestead property. It also creates Article XII, s. 32 of the Florida Constitution, which provides an effective date for the proposed constitutional amendment and the newly created section.

HJR 439 also deletes an effective date reference in the section that would become outdated upon passage of the amendment.

The proposed constitutional amendment will be submitted to the electors at the general election in November 2012, 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, the proposed constitutional amendment will take effect on January 1, 2013.

B. SECTION DIRECTORY:

Not applicable to a joint resolution.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

The Department of State estimates that the cost of the proposed constitutional amendment is \$78,968.16. The cost is determined by multiplying the total number of words in the proposed amendment by the average per word cost of \$106.14.¹⁷

In addition, the Department of State indicated that it is normally the defendant in lawsuits challenging proposed amendments to the Florida Constitution. They state that the cost for defending these lawsuits has ranged from \$10,000 to \$150,000, depending on a number of variables.¹⁸

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS.

¹⁵ Section 5(e), Article XI, Florida Constitution.

¹⁶ Section 5(d), Article XI, Florida Constitution.

¹⁷ Based on information and methodology received from staff of the Department of State.

¹⁸ Ibid.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Revenue Estimating Impact Conference on March 11, 2011, adopted an indeterminate estimate of the fiscal impact in terms of lost ad valorem tax revenues to local government, because voter approval is required. However, the Revenue Estimating Conference estimates, should the electorate approve the proposal, the expected impacts are:¹⁹

Type of Impact	FY 2013 – 2014		FY 2014 – 2015		FY 2015 – 2016	
	Cash	Annualized	Cash	Annualized	Cash	Annualized
School Impact	(\$1.1 m)	(\$3.5 m)	(\$2.3 m)	(\$3.5 m)	(\$3.6 m)	(\$3.6 m)
Non-school Impact	(\$1.3 m)	(\$3.8 m)	(\$2.6 m)	(\$3.9 m)	(\$4.0 m)	(\$4.0 m)
Total Impact	(\$2.4 m)	(\$7.3 m)	(\$4.9 m)	(\$7.4 m)	(\$7.6 m)	(\$7.6 m)

The Florida Department of Veterans’ Affairs estimates that the maximum number of veterans who might qualify for the benefit proposed in the bill is approximately 75,000.²⁰

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable to joint resolutions.

2. Other:

In order for the Legislature to submit HJR 439 to the voters for approval, the Joint Resolution must be agreed to by three-fifths of the membership of each house.²¹ If HJR 439 is agreed to by the Legislature, it will be submitted to the voters at the next general election held more than 90 days after the amendment is filed with the Department of State.²² In order for HJR 439 to take effect, it must be approved by at least 60 percent of the voters voting on the measure.²³

B. RULE-MAKING AUTHORITY:

According to the Department of Revenue, if the constitutional amendment is approved by at least 60 percent of the voters, they will need to create a new rule and amend Form DR-501DV in order to implement the amendment.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

¹⁹ Revenue Estimating Impact Conference. March 11, 2011. Information available at:

<http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2010/pdf/page%2039-40.pdf>

²⁰ This estimate includes those veterans with a 10 percent to 90 percent disability rating. This estimate does not include veterans who are 100% disabled, as those veterans are exempt from taxation pursuant to s. 196.081, F.S.

²¹ Section 1, Article XI, Florida Constitution.

²² Section 5(a), Article XI, Florida Constitution.

²³ Section 5(e), Article XI, Florida Constitution.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 21, 2011, the Community & Military Affairs Subcommittee adopted one amendment to the bill, which was reported favorably as a Committee Substitute.

The amendments created Article XII, s. 32 of the Florida Constitution, which provides an effective date for the proposed constitutional amendment and the newly created section. In addition, it added the effective date to the ballot language. If approved by 60 percent of the voters, the proposed constitutional amendment will take effect on January 1, 2013.

This analysis reflects the amendment adopted by the Community & Military Affairs Subcommittee.