

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/SJR 592

INTRODUCER: Budget Committee and Senators Bennett and Sachs

SUBJECT: Veteran's Property Tax Discount

DATE: April 25, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fleming	Carter	MS	Favorable
2.	Gizzi	Yeatman	CA	Favorable
3.	Babin	Meyer, C.	BC	Fav/CS
4.			RC	
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:

Senate Joint Resolution (SJR) 592 proposes an amendment to Article VII, section 6 of the Florida Constitution, to allow partially or totally disabled veterans who were not Florida residents at the time of entering military service to qualify for the combat-related disabled veterans' ad valorem tax discount on homestead property.

The joint resolution creates Section 32 within Article XII of the Florida Constitution, to provide an effective date of January 1, 2013.

This joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

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 percent of change in 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.

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 Tax Exemptions

The Legislature may only grant property tax exemptions that are authorized in the constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁴

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 See *Sebring Airport Authority v. McIntyre*, 783 So. 2d 238 (Fla. 2001). See also, *Archer v. Marshall*, 355 So. 2d 781, 784 (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

A.) Homestead Exemption

Article VII, section 6 of the Florida Constitution, as amended in January 2008, provides that every person with legal and equitable title to real estate and who maintains thereon the permanent residence of the owner is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school districts. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding ad valorem taxes levied by schools.

B.) Additional Tax Exemptions

Article VII, section 3 of the Florida Constitution, provides additional tax exemptions for certain types of property. These exemptions include, but are not limited to:

- Exemptions for municipal property that is used for a municipal or public purpose;
- Exemptions for household goods and personal effects up to a certain amount specified by general law not less than one thousand dollars;
- Widows/widowers exemptions up to a certain amount specified in general law not less than \$500;
- Economic development exemptions created by county or municipal ordinance for new businesses and expansions of existing businesses;
- Historic preservation exemptions;
- \$25,000 tax exemption for tangible personal property; and
- Exemptions for real property dedicated in perpetuity for conservation purposes.⁵

Property Tax Exemptions for Ex-Service Members

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(1), 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(1), 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

⁵ FLA. CONST. art. VII, s. 3(a)-(f).

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 percent 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 the ex-service member’s 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 of entering the US military; and
- 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 statewide property value discount of \$28,749,630. During that time, the average individual discount in taxable value was \$23,839.⁷ The U. S. Department of Veterans Affairs indicates that there were 249,565 veterans in Florida receiving compensation for service-related conditions at the end of Fiscal Year 2010.⁸

The following table illustrates the number of veterans by percentage of assessed disability:

Number of Veterans in Florida Receiving Service-Connected Compensation by Percentage of Assessed Disability FY-2010

0%	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
881	65,812	36,742	29,009	23,662	15,494	18,762	16,986	12,976	6,945	22,296

Source: Florida Department of Veterans’ Affairs⁹

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

III. Effect of Proposed Changes:

SJR 592 proposes an amendment to Article VII, section 6 of the Florida Constitution, to allow totally or partially disabled veterans 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.

The joint resolution also deletes an effective date reference in the section that would become outdated upon passage of the amendment.

IV. This joint resolution creates Section 32 in Article XII of the Florida Constitution, providing an effective date of January 1, 2013. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in Article VII, section 18 of the Florida Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Constitutional Amendments

Section 1, 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 each house. 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 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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

If approved by the voters, this bill will allow partially or totally disabled veterans who were not Florida residents when they entered the military to qualify for the combat-related disabled veterans’ ad valorem tax discount on homestead property.

B. Private Sector Impact:

If approved by the voters, veterans who were not Florida residents when they entered the military and who became partially or totally disabled as a result of combat injury will qualify for the combat-related disabled veterans’ ad valorem tax discount on homestead property.

C. Government Sector Impact:

Since this amendment requires voter approval, the Revenue Estimating Conference has adopted an indeterminate negative estimate for SJR 592. Should the electorate approve the proposal, the Revenue Estimating Conference estimates that the impact on taxes would be as follows:¹⁰

	FY 2013-14	FY 2014-15	FY 2015-16	RECURRING
School Tax Impact	-\$1.1 million	-\$2.3 million	-\$3.6 million	-\$3.6 million
Non-school Tax Impact	-\$1.3 million	-\$2.6 million	-\$4.0 million	-\$4.0 million
Total Impact	-\$2.4 million	-\$4.9 million	-\$7.6 million	-\$7.6 million

The Florida Department of Veterans’ Affairs estimates the maximum number of veterans who may qualify for the benefit proposed in this bill to be approximately 74,000.¹¹

If approved by the voters, the Florida Department of Revenue states that it would need to amend form DR-501DV to remove the current requirement of providing documentation of evidence of Florida residency at the time of entering military service and that it would need to create a new rule in Ch. 12D-7, Florida Administrative Code.¹²

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.¹³ Costs for advertising vary depending upon the length of the

¹⁰ Revenue Estimating Conference, *Disabled Veterans’ Property Tax Discount SJR 592 & HJR 439* (March 11, 2011).
¹¹ Conversation with Jim Brodie, Legislative Director of Florida Department of Veterans’ Affairs (March 15, 2011) (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.).
¹² Florida Department of Revenue, *SJR 592 Fiscal Analysis*, 2 (Feb. 11, 2011) (on file with the Senate Committee on Community Affairs).
¹³ FLA. CONST. art. XI, s. 5(d).

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.

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.)

CS by Budget Committee on April 25, 2011:

- The joint resolution was amended to include an effective date of January 1, 2013, by creating Section 32 within Article XII of the Florida Constitution.

- B. **Amendments:**

None.