

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HJR 789 Homestead Exemption/Senior Citizens

**SPONSOR(S):** Finance & Tax Committee, Community & Military Affairs Subcommittee, Nuñez and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SJR 1906

| REFERENCE                                    | ACTION           | ANALYST  | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|--|------------------|----------|--|
| 1) Community & Military Affairs Subcommittee | 11 Y, 0 N, As CS | Morton   | Hoagland                                 |
| 2) Finance & Tax Committee                   | 23 Y, 0 N, As CS | Aldridge | Langston                                 |
| 3) Economic Affairs Committee                | 16 Y, 0 N        | Morton   | Tinker                                   |

### SUMMARY ANALYSIS

CS/CS/HJR 789 proposes an amendment to the state constitution that would allow the Legislature by general law to permit counties and municipalities to limit ad valorem tax assessments applicable to their respective levies to the previous year's assessed value for homestead property that is subject to the current local option low-income senior exemption. The limitation could apply if the market value of a homestead property is no more than 150 percent of the average homestead market value in the county.

The general law implementing the constitutional provision must designate a state agency that will calculate the average just value of homestead property within each county and municipality. The designated agency will provide this information to property appraisers. The implementing law must also require that counties and municipalities choosing to provide the assessment limitation do so by ordinance.

To the extent that county and city governments choose the option offered by this constitutional amendment, their property tax bases will be lower than would otherwise be the case.

The joint resolution would have a nonrecurring fiscal impact on the state for the cost of advertising the proposed amendment.

To be placed on the ballot, the joint resolution must be approved by three-fifths of the membership of each house.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### *Property Taxation in Florida*

Local governments, including counties, school districts and municipalities have the constitutional ability to levy ad valorem taxes. Special districts may also be given this ability by law.<sup>1</sup> Ad valorem taxes are collected on the fair market value of the property, adjusting for any exclusions, differentials or exemptions.

Ad valorem taxes are capped by the state constitution as follows:<sup>2</sup>

- Ten mills for county purposes.
- Ten mills for municipal purposes.
- Ten mills for school purposes.
- A millage fixed by law for a county furnishing municipal services.
- A 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 millage limitations. Millage rates vary among local governments and are fixed by ordinance or resolution of the taxing authority's governing body.<sup>3</sup>

Regardless of the body imposing the taxes, two county constitutional officers have primary responsibility for the administration and collection of ad valorem taxes. The county property appraiser calculates the fair market value, assessed value and the value of applicable exemptions of the property. The tax collector collects all ad valorem taxes levied by the county, school district, municipalities, and any special taxing districts within the county and distributes the taxes to each taxing authority.<sup>4</sup>

The Department of Revenue (DOR) supervises the assessment and valuation of property so that all property is placed on the tax rolls and valued according to its just valuation.<sup>5</sup> Additionally, the DOR prescribes and furnishes all forms as well as prescribes rules and regulations to be used by property appraisers, tax collectors, clerks of circuit court, and value adjustment boards in administering and collecting ad valorem taxes.<sup>6</sup>

All ad valorem taxation must be at a uniform rate within each taxing unit, subject to certain exceptions with respect to intangible personal property.<sup>7</sup> However, the Florida constitutional provision requiring that taxes be imposed at a uniform rate refers to the application of a common rate to all taxpayers within each taxing unit – not variations in rates between taxing units.<sup>8</sup>

The Florida Constitution grants property tax relief in the form of certain valuation differentials,<sup>9</sup> assessment limitations,<sup>10</sup> and exemptions,<sup>11</sup> including the homestead exemptions.

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<sup>1</sup> Section 9, Art. VII, Fla. Const.

<sup>2</sup> A mill is defined as 1/1000 of a dollar, or \$1 per \$1000 of taxable value.

<sup>3</sup> Section 200.001(7), F.S.

<sup>4</sup> Section 197.383, F.S.

<sup>5</sup> Section 195.002, F.S.

<sup>6</sup> Chapter 195, F.S.

<sup>7</sup> Article VII, s. 2, Fla. Const.

<sup>8</sup> See, for example, *Moore v. Palm Beach County*, 731 So. 2d 754 (Fla. Dist. Ct. App. 4th Dist. 1999) citing *W. J. Howey Co. v. Williams*, 142 Fla. 415, 195 So. 181, 182 (1940).

<sup>9</sup> Article VII, s. 4 of the Florida Constitution, authorizes valuation differentials, which are based on character or use of property.

## *Homestead Exemption*

The Homestead Exemption provides an exemption from all ad valorem taxes on the first \$25,000 of assessed value for owners of homestead property, provided that the tax roll in their county has been approved.<sup>12</sup> An additional \$25,000 exemption is provided for assessed values between \$50,000 and \$75,000; however, this exemption does not apply to school taxes.<sup>13</sup>

## *Low-Income Seniors*

Counties and cities may allow an additional homestead exemption of up to \$50,000 for anyone 65 years or older whose household income does not exceed \$20,000, adjusted annually by the percentage change in the average cost-of-living index.<sup>14</sup> The exemption only applies to taxes levied by the county or city enacting the exemption.<sup>15</sup>

Under the Homestead Property Tax Deferral Act, any homesteader 65 years or older who would qualify for the exemption would also qualify to defer all ad valorem taxes.<sup>16</sup> All senior homesteaders may defer the portion of their tax levy exceeding 3-percent of household income, so long as tax deferrals and other liens do not exceed 85-percent of assessed value and the primary mortgage does not exceed 70 percent. Deferred tax and interest up to 7 percent are due when the property is sold, property insurance is not maintained, or the property ceases to qualify for homestead exemption.

## Proposed Changes

The joint resolution proposes an amendment to the state constitution that would allow the Legislature by general law to permit counties and municipalities to limit, for homestead property qualifying for the low-income senior exemption, ad valorem tax assessments for their respective levies to the previous year's assessed value.

To be eligible for the limitation on assessment, the following conditions must be met:

- The property qualifies for the low-income senior exemption, which requires that:
  - The county or municipality has granted the exemption by ordinance;
  - The person has title to the property and maintains his or her permanent residence thereon;
  - The owner is 65 or older; and
  - The owner's annual household income is less than \$26,203.<sup>17</sup>
- The just value of the property is no more than 150% of the average just value of homestead property within the county.

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<sup>10</sup> Article VII, s. 4(c) of the Florida Constitution, authorizes the "Save Our Homes" property assessment limitation, which limits the increase in assessment of homestead property to the lesser of 3 percent or the percentage change in the Consumer Price Index. Section 4(e) authorizes counties to provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. This provision is known as the "Granny Flats" assessment limitation.

<sup>11</sup> Article VII, s. 3 of the Florida Constitution, provides authority for the various property tax exemptions. The statutes also clarify or provide property tax exemptions for certain licensed child care facilities operating in an enterprise zone, properties used to provide affordable housing, educational facilities, charter schools, property owned and used by any labor organizations, community centers, space laboratories, and not-for-profit sewer and water companies.

<sup>12</sup> Section 6, Art. VII, Fla. Const.

<sup>13</sup> *Id.* See also Am. C.S. for S.J.R. 2-D, 2007.

<sup>14</sup> Section 6, Art. VII, Fla. Const. See also s. 196.075, F.S.

<sup>15</sup> Section 196.075(4), F.S.

<sup>16</sup> Section 197.243, F.S.

<sup>17</sup> <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited April 19, 2011)

The general law implementing of the constitutional provision must designate a state agency that will calculate the average just value of homestead property within each county and municipality based upon the prior year final tax roll of each county. The designated agency will provide this information to property appraisers. The implementing law must also require that counties and municipalities choosing to provide the assessment limitation must do so by ordinance.

B. SECTION DIRECTORY:

Not applicable to joint resolutions.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

The Division of Elections is required to publish the proposed constitutional amendment twice in a newspaper of general circulation in each county. The Division estimates the cost of advertising the proposed constitutional amendment would be \$113,463.66.<sup>18</sup>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not evaluated the potential impact of this resolution. However, the amendment, if passed, would only affect a county or municipality that chose to impose the cap on assessed value for its assessment.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The resolution could reduce property taxes on certain qualifying seniors. Such a reduction in the property tax base could result in a corresponding shift in property tax burden to other property tax owners.

D. FISCAL COMMENTS:

The resolution would have a nonrecurring fiscal impact on the state for the cost of advertising the proposed amendment.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision is not applicable to Joint Resolutions.

2. Other:

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<sup>18</sup> Department of State, *House Joint Resolution 789 (2011) Fiscal Analysis* (February 2, 2011).

### *Legislative Proposed Amendments*

Article XI, s. 1 of the Florida Constitution, provides the Legislature the authority to propose amendments to the constitution by joint resolution approved by three-fifths 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's office or may be placed at a special election held for that purpose.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On April 1, 2011, the Community & Military Affairs Subcommittee adopted a strike-all amendment and reported the joint resolution favorably as a committee substitute.

The joint resolution, as filed, differed from the committee substitute, in that, as filed, the resolution would have allowed counties to exempt homestead property of senior citizens meeting certain age and income requirements from increases in the combined amount of ad valorem taxes levied by the county, school district, municipalities, water management district and any other special district in the county.

On April 12, 2011, the Finance and Tax Committee adopted an amendment that makes several clarifying changes to the HJR including specifying that the amendment requires legislative implementation and requiring such legislation to require implementation of the exemption by ordinance.

The analysis is updated to reflect the above changes.