

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 Community Affairs Committee

BILL: SJR 1740

INTRODUCER: Senator Garcia

SUBJECT: Additional Homestead Tax Exemption

DATE: January 22, 2012

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Toman | Yeatman | CA | Pre-meeting |
| 2. | | | JU | |
| 3. | | | BC | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

This joint resolution amends Article VII, section 6 of the Florida Constitution, to authorize the Legislature, by general law and subject to conditions set forth in the general law, to allow counties and municipalities to grant an additional homestead tax exemption not exceeding the assessed value of the property to an owner who has maintained permanent residency on the property for not less than 20 years, who has attained age 65, and whose household income does not exceed \$15,000. The general law must allow counties and municipalities to grant this additional exemption by ordinance and must provide for periodic adjustment of the household income limitation of \$15,000 for changes in the cost of living.

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 in Florida

Just Value

Article VII, section 4, of the Florida Constitution, requires that all property be assessed at 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

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).

Assessed Value

The Florida Constitution authorizes certain exceptions to the just valuation standard for specific types of property.

- Agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.²
- Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or totally exempt from taxation.³
- Counties and municipalities may authorize historic properties to be assessed solely on the basis of character and use.⁴
- Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents who are 62 years of age or older.⁵
- The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property’s wind resistance or the installation of renewable energy source devices in the assessment of the property.⁶
- Certain working waterfront property is assessed based upon the property’s current use.⁷

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.⁸

Uniformity Requirement

Article VII, section 2 of the Florida Constitution, provides that “all ad valorem taxation shall be at a uniform rate within each taxing unit. . .” with certain specified exceptions for taxes on intangible personal property.⁹

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.¹⁰

Homestead Exemption

² Fla. Const. art. VII, s. 4(a).

³ Fla. Const. art. VII, s. 4(c).

⁴ Fla. Const. art. VII, s. 4(e).

⁵ Fla. Const. art. VII, s. 4(f).

⁶ Fla. Const. art. VII, s. 4(i).

⁷ Fla. Const. art. VII, s. 4(j).

⁸ Fla. Const. art. VII, ss. 3 and 6.

⁹ See FLA. CONST. art. VII, s. 2.

¹⁰ *Sebring Airport Authority v. McIntyre*, 783 So. 2d 238 (Fla. 2001). See also, *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978). See also, *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978). *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

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.

Additional Homestead Exemption for Certain Senior Citizens

Article VII, section 6(d) of the Florida Constitution, allows the Legislature to adopt a general law allowing counties and municipalities to grant an additional homestead exemption of up to \$50,000. This additional exemption applies to any person with legal and equitable title to real estate who maintains a property as a permanent residence, who has attained the age of 65, and whose household income, as defined by general law, does not exceed \$20,000 adjusted annually for inflation. The county or municipality must grant this additional exemption by ordinance which must be adopted pursuant to the procedures prescribed in chapters 125 and 166, F.S. The county or municipality must specify that the exemption applies only to taxes levied by the unity of government granting the exemption.¹¹

Section 196.075(1)(b), F.S., defines “household income” to mean “the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household.”

III. Effect of Proposed Changes:

The joint resolution amends Article VII, section 6 of the Florida Constitution, to authorize the Legislature, by general law and subject to conditions set forth in the general law, to allow counties and municipalities to grant an additional homestead tax exemption not exceeding the assessed value of the property to an owner who has maintained permanent residency on the property for not less than 20 years, who has attained age 65, and whose household income does not exceed \$15,000. The general law must allow counties and municipalities to grant this additional exemption by ordinance and must provide for periodic adjustment of the household income limitation of \$15,000 for changes in the cost of living.

IV. 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.

¹¹ See s. 196.075, F.S.

D. Other Constitutional Issues:***Constitutional Amendments***

Article XI, section 1, 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.

Article XI, section 5(d), 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.

Article XI, section 5(e), 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.

Article XI, section 5(a), of the Florida Constitution, and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”¹²

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

See Government Sector Impact.

B. Private Sector Impact:

Qualified low-income senior homeowners could benefit from reduced ad valorem taxes if this joint resolution is approved by the voters and counties or municipalities subsequently adopt an ordinance granting the additional homestead exemption.

¹² *Roberts*, 43 So. 3d at 659, citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

C. Government Sector Impact:

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.¹³

According to the Department of Revenue (DOR), the joint resolution would have an operational impact on the agency related to rulemaking and forms. DOR deems this fiscal impact as insignificant.¹⁴

The Revenue Estimating Conference (REC) discussed the provisions of SJR 1740 at their January 5, 2012, meeting and adopted an indeterminate negative impact should the electorate approve the joint resolution and all the individual jurisdictions pass the necessary ordinances. Due to the overlapping nature of this exemption with existing authorized additional homestead exemptions for seniors, the EDR identified various scenarios for measuring the impact.¹⁵

Based on a state-wide average of 10.9 mills, the REC ultimately estimated a potential loss in taxable value of \$4.3 million in FY 14-15 above what is currently authorized by the counties and the municipalities that currently grant the additional homestead exemptions for low-income seniors. The revenue impact to those local jurisdictions due to the loss in taxable value is \$14 million in FY 14-15 and \$14.3 million in FY 15-16.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SB 1738 provides general law to implement the provisions of this joint resolution.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

¹³ Department of State, *SJR 314 Analysis* (Oct. 31, 2011) (on file with the Senate Committee on Community Affairs). SJR 314 also proposes a Constitutional amendment.

¹⁴ Florida Department of Revenue, *SJR 1740 Analysis* (Jan. 17, 2012) (on file with the Senate Committee on Community Affairs).

¹⁵ Office of Economic and Demographic Research, The Florida Legislature, *Low Income Tenure Based Senior Exemption*, (January 5, 2012) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/impact0106.pdf>. Possible impact scenarios include 1) impact as if the current senior exemption did not exist; 2) impact as the additional exemption that could be authorized beyond what is currently in place; 3) impact as only the new capacity that previously could not be exempted under the low income senior exemption.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
