

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 299 Homestead Exemption/Living Spouse of Deceased Combat-Disabled Veteran

SPONSOR(S): Plakon

TIED BILLS: **IDEN./SIM. BILLS:** SJR 910

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee		Dugan	Langston
2) Veteran & Military Affairs Subcommittee			
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

Article VII, section 6(e) of the Florida Constitution provides a discount from the amount of ad valorem tax otherwise owed on the homestead property of an honorably discharged veteran who is age 65 or older and is partially or totally permanently disabled as a result of combat. The discount is equal to the percentage of the veteran's disability as determined by the United States Department of Veterans Affairs.

The joint resolution proposes an amendment to the Florida Constitution to allow the ad valorem discount to carry over to the surviving spouse of a veteran receiving the discount if the surviving spouse holds legal or beneficial title to the homestead and permanently resides thereon. The discount would apply to the property until the surviving spouse remarries or sells, or otherwise disposes of, the property. If the spouse sells the property, the discount may be transferred to the surviving spouse's new residence, not to exceed the amount granted from the most recent ad valorem tax roll, as long as the residence is used as the surviving spouse's permanent residence and he or she does not remarry. The proposed constitutional amendment is self-executing and does not require implementing legislation.

The proposed constitutional amendment is effective January 3, 2017, if approved by the voters.

On February 6, 2015, the Revenue Estimating Conference estimated that, if the voters approve this constitutional amendment, beginning with the January 2018 tax rolls and assuming current millage rates, the estimated statewide revenue impact to local governments would be a negative \$200,000 beginning in Fiscal Year 2018-19.

The Division of Elections within the Department of State estimates the full publication costs for advertising the proposed constitutional amendment to be approximately \$146,031.78.

For the proposed constitutional amendment to be placed on the ballot at the general election in November 2016, the Legislature must approve the joint resolution 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

Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.¹ The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.² The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,³ and it provides for specified assessment limitations, property classifications and exemptions.⁴ After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.⁵

Exemptions

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

Case law precedent provides that the Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁶

Article VII, section 3 of the Florida Constitution provides for other specific exemptions from property taxes, including, but not limited to, exemptions for widows and widowers, blind persons, persons who are totally and permanently disabled.

Military Service

The State of Florida has granted a number of ad valorem tax exemptions for current and former military service members.

Article VII, section 3 of the Florida Constitution provides an exemption from property taxes for military personnel deployed on active duty outside of the United States in support of military operations designated by the Legislature. The Legislature implemented this provision through s. 196.173, F.S.

¹ Fla. Const. art. VII, s. 1(a).

² Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. The terms “land,” “real estate,” “realty,” and “real property” may be used interchangeably. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

³ Fla. Const., art. VII, s. 4.

⁴ Fla. Const. art. VII, ss. 3, 4, and 6.

⁵ s. 196.031, F.S.

⁶ *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

Article VII, section 6(f) of the Florida Constitution authorizes the Legislature to provide ad valorem tax relief to the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed. The Legislature implemented this provision through s. 196.081, F.S. That section currently provides a full exemption from ad valorem taxes on property that is owned and used as a homestead by an honorably discharged veteran who is totally and permanently disabled as a result of combat and is a permanent Florida resident on January 1 of the tax year for which the exemption is claim.⁷ In addition, the full exemption may be claimed on property that is owned and used as a homestead by the surviving spouse of an honorably discharged veteran who died from service-connected causes while on active duty;⁸ the veteran must have been a permanent Florida resident on January 1 of the year in which he or she died.⁹ The current full exemption under this section does not apply to partially disabled veterans.

In addition, article VII, section 6(e) of the Florida Constitution provides a discount on the amount of ad valorem tax otherwise owed on the homestead property of an honorably discharged veteran who is age 65 or older and is partially or totally permanently disabled as a result of combat. The discount is equal to the percentage of the veteran's permanent, service-connected disability as determined by the United States Department of Veterans Affairs.¹⁰ The discount is limited to veterans with a combat related disability, and not all service-connected disabilities are combat related.¹¹ Further, current law does not allow the spouse of a veteran receiving this discount to claim the benefit if he or she survives the veteran.

In 2014, 6,595 veterans received the combat-disabled ad valorem tax discount which amounted to a statewide property value discount of \$336,648,499.¹² According to the Florida Department of Veterans Affairs, there are more than 731,000 veterans over the age of 65 residing in Florida.¹³ The U. S. Department of Veterans Affairs indicates that there were 177,664 veterans over the age of 55 in Florida receiving compensation for service-related conditions at the end of Fiscal Year 2013.¹⁴

Effect of Proposed Changes

The joint resolution proposes an amendment to the Florida Constitution that would allow the Legislature to provide ad valorem tax relief to the surviving spouse of a veteran who received the discount provided in article VII, section 6(e) of the Florida Constitution if the surviving spouse holds legal or beneficial title to the homestead and permanently resides thereon. The discount would be equal to the percentage of discount received by the veteran, which is based on the percentage of the veteran's permanent, service-connected disability as determined by the United States Department of Veterans Affairs.

The discount would apply to the property until the surviving spouse remarries or sells, or otherwise disposes of, the property. If the spouse sells the property, the discount may be transferred to the surviving spouse's new residence, not to exceed the amount granted from the most recent ad valorem tax roll, as long as the residence is used as the surviving spouse's permanent residence and he or she does not remarry.

⁷ s. 196.081(1), F.S.

⁸ s. 196.081(4), F.S.

⁹ s. 196.081(4), F.S.

¹⁰ The U.S. Department of Veterans Affairs (USDVA) assigns a percentage evaluation from 0-percent to 100-percent (in 10-percent increments) for the amount of disability that the USDVA determines the veteran has sustained. The resulting disability percentage rating determines the level of a veteran's monthly disability compensation.

¹¹ United States Department of Veterans Affairs, Office of Public and Intergovernmental Affairs, Federal Benefits for Veterans, Dependents and Survivors, Chapter 2-Service-connected Disabilities, available at: http://www.va.gov/opa/publications/benefits_book/benefits_chap02.asp (last viewed March 13, 2015)

¹² Revenue Estimating Conference, *Spouses/Combat Disabled Vets Exemption: HJR 299* (February 5, 2015).

¹³ Florida Department of Veterans Affairs website, Fast Facts, available at: <http://floridavets.org/our-veterans/profilefast-facts/> (last viewed March 13, 2015).

¹⁴ The USDVA provides data in 20 year increments. There was no data available that provided the number of veterans receiving disability compensation in a range that began at age 65. U.S. Department of Veterans Affairs, Veterans Benefits Administration, *Annual Benefits Report: Fiscal Year 2013*, <http://www.benefits.va.gov/REPORTS/abr/ABR-Combined-FY13-09262014.pdf> (last visited March 13, 2015).

The proposed constitutional amendment is self-executing and does not require implementing legislation.

The proposed amendment is effective January 3, 2017, if approved by the voters. This effective date results in the exemption first applying to the 2018 tax rolls.

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:

Article XI, s. 5(d) of the State 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 10th week and again in the sixth week immediately preceding the week the election is held. The Division of Elections (division) within the Department of State estimates the full publication costs for advertising the proposed amendment to be approximately \$135.97 per word, for a total publishing cost of approximately \$146,031.78.¹⁵

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On February 6, 2015, the Revenue Estimating Conference estimated that, if the voters approve this constitutional amendment, beginning with the January 2018 tax rolls and assuming current millage rates, the estimated statewide revenue impact to local governments would be negative \$200,000 beginning in Fiscal Year 2018-19.¹⁶

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the proposed amendment is approved by the electorate and implemented by the Legislature, surviving spouses of certain veterans could receive property tax relief.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable to joint resolutions.

2. Other:

¹⁵ Department of State, Agency Analysis 2015 Bill SB 910, companion to HJR 299 (March 9, 2015).

¹⁶ Revenue Estimating Conference, *Spouses/Combat Disabled Vets Exemption: HJR 299* (February 5, 2015).

The Legislature may propose amendments to the state constitution by joint resolution approved by three-fifths of the membership of each house.¹⁷ The amendment must be submitted to the electors at the next general election more than 90 days after the proposal has been filed with the Secretary of State's office, unless pursuant to law enacted by the a three-fourths vote of the membership of each house, and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.¹⁸

Article XI, section 5(e) of the Florida Constitution, requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose. Without an effective date, the amendment becomes effective on the first Tuesday after the first Monday in the January following the election, which will be January 3, 2017.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The ballot summary is 83 words in length. Section 101.161, F.S., requires that the ballot summary not exceed 75 words. The Florida Supreme Court has found such a requirement implicit in Article XI, s. 5 of the Florida Constitution. See *Armstrong v. Harris*, 773 So.2d 7 (Fla. 2000).

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

¹⁷ Art. XI, s. 1 of the Florida Constitution.

¹⁸ Art. XI, s. 5 of the Florida Constitution.