

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 Committee on Military and Veterans Affairs, Space, and Domestic Security

BILL: SJR 910

INTRODUCER: Senator Altman

SUBJECT: Homestead Exemption/Living Spouse of Deceased Combat-Disabled Veteran

DATE: March 9, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanders	Ryon	MS	Pre-meeting
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

I. Summary:

Senate Joint Resolution 910 proposes an amendment to Article VII, section 6 of the Florida Constitution to allow the ad valorem tax discount on homestead property for combat-disabled veterans age 65 or older to carry over to the spouse of the veteran if the veteran predeceases his or her spouse. The spouse is eligible for the tax relief while he or she remains unmarried and uses the residence as his or her primary residence. The discount applied to the residence is determined by the percentage of the veteran's disability.

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

Florida law provides a number of options to reduce property tax liability. Article VII, section 2 of the Florida Constitution, provides for uniform ad valorem taxation, stating that "all ad valorem taxation shall be at a uniform rate within each taxing unit."¹ The property tax burden for an owner of any particular piece of real estate will depend on the property's just value, its assessed value, and whether the property benefits from any tax exemptions or assessment limitations.

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 arms-length transaction.²

¹ FLA. CONST. art. VII, s. 2.

² 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 alternatives to the just valuation standard for specific types of property.³ 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.⁴ Land used for conservation purposes must be assessed solely on the basis of character or use.⁵ Counties and municipalities may authorize historic properties to be assessed solely on the basis of character or use.⁶ Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents that are 62 years of age or older.⁷ 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.⁸ Certain working waterfront property is assessed based upon the property's current use.⁹

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.¹⁰

Assessment Limitations

Save Our Homes

The *Save Our Homes* assessment limitation was amended into the Florida Constitution in 1992. 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 3 percent or the percentage increase in the Consumer Price Index (CPI).¹¹ In addition, an assessment may not exceed just value.

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 benefit under the *Save Our Homes* assessment limitation. This amendment allows homestead property owners who relocate to a new homestead to transfer up to \$500,000 of the accrued benefit to the new homestead.

³ The constitutional provisions in section 4, Art. VII, of the Florida Constitution, are implemented in Part II of ch. 193, F.S.

⁴ FLA. CONST. art. VII, s. 4(a).

⁵ Art. VII, section 4(b) of the Florida Constitution.

⁶ FLA. CONST. art. VII, s. 4(e).

⁷ FLA. CONST. art. VII, s. 4(f).

⁸ FLA. CONST. art. VII, s. 4(i).

⁹ FLA. CONST. art. VII, s. 4(j).

¹⁰ FLA. CONST. art. VII, ss. 3 and 6.

¹¹ FLA. CONST. art. VII, s. 4(d).

Property Tax Exemptions for Homesteads

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.¹²

Homestead Exemption

Article VII, section 6 of the Florida Constitution provides that every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including levies by 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 school districts.

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.¹³

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.

Total Ad Valorem Tax Exemption for Ex-Service Members and Surviving Spouses

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

¹²*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).

¹³ FLA. CONST. art. VII, s. 3(a)-(f).

which exemption is being claimed or . . . on January 1 of the year the veteran died. If the totally and permanently disabled veteran predeceases his or her spouse . . . the exemption from taxation carries over to the benefit of the veteran's spouse until such time as he or she remarries or sells or otherwise disposes of the property.

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 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. In the event the veteran did or shall predecease his or her spouse, the exemption from taxation shall carry over to the benefit of the veteran's spouse.

Ad Valorem Tax Exemption for Surviving Spouses of Veterans Who Died from Service-Connected Causes

Article VII, section 6(f) of the Florida Constitution, allows the Legislature to adopt a general law allowing counties and municipalities to grant a homestead exemption 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 Forces. Section 196.081(4), F.S., currently provides, under specified conditions, a full exemption from ad valorem taxes on property that is owned and used as a homestead by such spouse. To be eligible for the exemption the surviving spouse must provide a letter from the United States Government or United States Department of Veterans Affairs or its predecessor certifying that the veteran died from service-connected causes while on active duty. Additionally, the veteran must have been a permanent resident of this state on January 1, of the year in which he or she died.

\$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.

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 honorably discharged veterans who are 65 years or older and who are partially or totally disabled. To qualify for the discount, the veteran must submit proof of the veteran's disability percentage to the county property appraiser and show that the disability is combat-related.

The ad valorem tax discount percentage is equal to the veteran's percentage of disability, as determined by the U.S. Department of Veterans Affairs.¹⁴

In 2014, 6,595 veterans received the combat-disabled ad valorem tax discount which amounted to a statewide property value discount of \$336,648,499.¹⁵ There are currently 793,907 veterans over the age of 65 residing in Florida.¹⁶ 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 2013.¹⁷

The Florida Constitution does not authorize this ad valorem tax discount to carry over to the surviving spouse a veteran should the veteran predecease the spouse.

III. Effect of Proposed Changes:

SJR 910 proposes an amendment to Article VII, section 6 of the Florida Constitution to allow the ad valorem tax discount on homestead property for combat-disabled veterans age 65 or older to carry over to the spouse of the veteran if the veteran predeceases his or her spouse. To be eligible for the discount, the spouse must remain unmarried and use the residence as his or her primary residence. The exemption is transferrable to another residence if the spouse remains unmarried and uses the residence as his or her primary residence.

The proposed amendment becomes effective if approved by the voters at the next general election or at an earlier special election specifically authorized by law for that purpose.

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.

¹⁴ 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. The USDVA does not make a definitive determination if a disability is combat-related.

¹⁵ Revenue Estimating Conference, *Spouses/Combat Disabled Vets Exemption: HJR 299 (companion to SJR 910)*. February 5, 2015.

¹⁶ E-mail correspondence with Florida Department of Veterans Affairs staff (March 9, 2015) (on file with Senate Military and Veterans Affairs, Space, and Domestic Security Committee).

¹⁷ 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 9, 2015).

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article XI, section 1 of the Florida Constitution, authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

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.’”¹⁸

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. 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 \$146,031.78.¹⁹

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.

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

The Revenue Estimating Conference has determined that SJR 910 will reduce local governments’ revenues by \$200,000 in Fiscal Year 2018-2019, with a negative \$200,000 recurring impact on local governments.²⁰

¹⁸ *Roberts v. Doyle*, 43 So. 3d 654, 659 (Fla. 2010), citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

¹⁹ Telephone conversation between Department of State staff and Senate Military and Veterans Affairs, Space, and Domestic Security Committee staff (March 9, 2015).

²⁰ Revenue Estimating Conference, *Spouses/Combat Disabled Vets Exemption: HJR 299 (companion to SJR 910)*. February 5, 2015.

B. Private Sector Impact:

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

C. Government Sector Impact:

Article XI, section 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 tenth 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 \$146,031.78.²¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This resolution amends Article VII, section 6 of the Florida Constitution.

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

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

None.

B. Amendments:

None.

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

²¹ Telephone conversation between Department of State staff and Senate Military and Veterans Affairs, Space, and Domestic Security Committee staff (March 9, 2015).