

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HJR 811 Homestead Tax Exemption/Spouses of Deceased Combat-disabled Veterans  
**SPONSOR(S):** Veteran & Military Affairs Subcommittee; Plakon  
**TIED BILLS:** HB 813 **IDEN./SIM. BILLS:** CS/CS/SJR 778

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Veteran & Military Affairs Subcommittee	11 Y, 0 N, As CS	Renner	Thompson
2) Finance & Tax Committee			
3) Local & Federal Affairs Committee			

### SUMMARY ANALYSIS

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.

HJR 811 proposes an amendment to the Florida Constitution to expand the discount to also include surviving spouses. Specifically, the joint resolution would allow the same ad valorem tax discount on homestead property for combat-disabled veterans age 65 or older 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, sells, or otherwise disposes of, the property. If the surviving spouse sells the property, the discount may be transferred to the surviving spouse's new residence, not to exceed the dollar 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.

On December 18, 2015, the Revenue Estimating Conference (REC) estimated the bill to have a zero or negative indeterminate impact on local government revenue due to the need for approval by the electorate and further implementation by the Legislature (See Fiscal Analysis Section).

Additionally, the Division of Elections within the Department of State estimated the full publication costs for advertising the proposed constitutional amendment to be approximately \$146,167.75.

The joint resolution provides an effective date of January 1, 2017.

**A joint resolution proposing an amendment to the Florida Constitution must be passed by three-fifths of the membership of each house of the Legislature.**

**The Constitution requires 60 percent voter approval for passage of a proposed constitutional amendment.**

# 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.<sup>1</sup> 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.<sup>2</sup> The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,<sup>3</sup> and it provides for specified assessment limitations, property classifications and exemptions.<sup>4</sup> 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.<sup>5</sup>

##### 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.<sup>6</sup>

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, and persons who are totally and permanently disabled.

##### Military Service

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.<sup>7</sup> 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.<sup>8</sup> The discount is limited to veterans with a combat related

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<sup>1</sup> Fla. Const. art. VII, s. 1(a).

<sup>2</sup> 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.

<sup>3</sup> Fla. Const., art. VII, s. 4.

<sup>4</sup> Fla. Const. art. VII, ss. 3, 4, and 6.

<sup>5</sup> s. 196.031, F.S.

<sup>6</sup> *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).

<sup>7</sup> s.196.082, F.S., implements this provision.

<sup>8</sup> 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.

disability, and not all service-connected disabilities are combat related.<sup>9</sup> 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. This provision is self-executing and does not require implementing legislation. However, the Legislature appears to have implemented this provision through s. 196.182, F.S.

In 2015, 8,510 veterans received the combat-disabled ad valorem tax discount.<sup>10</sup> According to the Florida Department of Veterans Affairs, there are more than 731,000 veterans over the age of 65 residing in Florida.<sup>11</sup> 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.<sup>12</sup>

### **Effect of Proposed Changes**

HJR 811 proposes an amendment to Article VII, section 6(e) of the Florida Constitution to expand the discount to also include surviving spouses. Specifically, the joint resolution would allow the same ad valorem tax discount on homestead property for combat-disabled veterans age 65 or older 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..

Correspondingly, 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, 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 dollar 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.

#### **B. SECTION DIRECTORY:**

Not applicable to joint resolutions.

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

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

None.

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<sup>9</sup> 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](http://www.va.gov/opa/publications/benefits_book/benefits_chap02.asp) (last viewed December 14, 2015)

<sup>10</sup> Revenue Estimating Conference, *Combat-related Disability/Surviving Spouse Discount: HJR 811* (December 18, 2015).

<sup>11</sup> Florida Department of Veterans Affairs website, Fast Facts, available at: <http://floridavets.org/our-veterans/profilefast-facts/> (last viewed December 14, 2015).

<sup>12</sup> 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 December 14, 2015).

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 \$146,167.75.<sup>13</sup>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On December 18, 2015, the REC estimated the bill to have a zero or negative indeterminate impact on local government revenue due to the need for approval by the electorate and further implementation by the Legislature. However, if approved by the electorate and implemented by the Legislature, the REC determined the bill would have a local government revenue impact beginning in Fiscal Year 2016-17 of -\$1.5 million (-\$0.8 million school and -\$0.7 million non-school purposes), growing to -\$3.5 million in 2020-21 (-\$1.9 million school and -\$1.6 million non-school purposes), holding the 2014 statewide average property tax rates constant. The 2016-17 cash impact is zero because of the effective date.<sup>14</sup>

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 deceased veterans would be eligible to 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:

The Legislature may propose amendments to the state constitution by joint resolution approved by three-fifths of the membership of each house.<sup>15</sup> 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 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.<sup>16</sup>

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<sup>13</sup> Department of State, Agency Analysis 2016 HJR 811 (December 21, 2015)

<sup>14</sup> Revenue Estimating Conference, *Combat-related Disability/Surviving Spouse Discount: HJR 811* (December 18, 2015).

<sup>15</sup> Art. XI, s. 1 of the Florida Constitution.

<sup>16</sup> Art. XI, s. 5 of the Florida Constitution.

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. However, the joint resolution provides an effective date of January 1, 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**

On January 11, 2016, the Veteran & Military Affairs Subcommittee adopted a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute differs from the joint resolution as filed by making the joint resolution identical to CS/CS/SJR 778. The differences between the joint resolution as filed and CS/SJR 778 are mainly stylistic; however, CS/CS/SJR 778 provides a schedule provision stating the effective date of the provision will be January 1, 2017. The joint resolution as filed does not include this provision.

This analysis is drafted to the committee substitute as passed by the Veteran & Military Affairs Subcommittee.