

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 455 Tax Exemptions for First Responders and Surviving Spouses
SPONSOR(S): Appropriations Committee, Ways and Means, Metz and others
TIED BILLS: IDEN./SIM. **BILLS:** CS/CS/SB 764

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee	17 Y, 0 N, As CS	Dobson	Langston
2) Appropriations Committee	25 Y, 0 N, As CS	Hawkins	Leznoff

SUMMARY ANALYSIS

In November of 2016, Florida voters approved an amendment to the state constitution that allows the legislature to provide ad valorem tax relief to certain totally and permanently disabled first responders. This bill implements that amendment by providing a 100 percent homestead tax exemption to first responders who are totally and permanently disabled as a result of injury sustained in the line of duty. The bill also extends a 100 percent exemption to the surviving spouse of a totally and permanently disabled first responder, provided certain conditions are met.

The bill defines "first responder" by cross reference as a law enforcement officer, correctional officer, firefighter, emergency medical technician or paramedic, who is employed full-time, part-time or serves on a volunteer basis. The bill defines "total and permanent disability" as an impairment of the mind or body that renders a first responder unable to engage in any substantial gainful occupation and that is reasonably certain to continue throughout his or her life.

The bill provides that a first responder whose disability renders him or her legally blind, a quadriplegic, paraplegic, hemiplegic or otherwise confined to a wheelchair for mobility purposes may qualify for exemption by providing certification of such from two professionally unrelated Florida licensed physicians and a certification from their former employer that the injury which gave rise to disability occurred in the line of duty. The employer certification must be accompanied by any existing supporting documentation of the injury or incident that gave rise to the first responder's total and permanent disability.

All other applicants may qualify by providing certification of total and permanent disability from a Florida-licensed physician and an award letter from the Social Security Administration, based on the applicant's total and permanent disability. These documents must be accompanied by the employer certification and supporting documents described above.

The deadline to apply for exemption from taxes levied in 2017 is August 1st, 2017. However, property appraisers may accept untimely filed applications if certain conditions are met. The deadline to apply for exemption from taxes levied in 2018 and beyond is March 1 of each year.

The Revenue Estimating Conference has not determined the fiscal impact of the bill in its present form. However, staff estimates that the fiscal impacts will not exceed those associated with the prior version of the bill which amounted to -\$4.5 million on local government property tax revenues beginning in FY 2017-18, assuming current tax rates.

The bill applies retroactively to January 1, 2017 and takes effect upon becoming law.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0455b.APC

DATE: 4/19/2017

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. Present 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 (i.e., market value) for ad valorem tax purposes,³ and it provides for specified assessment limitations, property classifications and exemptions.⁴ Property appraisers calculate assessed value by adjusting just value in accordance with any applicable assessment limitations or usage classifications. The assessed value is then reduced by any exemptions to produce the taxable value.⁵ Each year, local government governing boards levy millage rates (i.e. tax rates) on taxable value to generate the property tax revenue contemplated in their annual budgets. Property appraisers must notify property owners of the adopted millage rates by mailing out notices of proposed property taxes, commonly referred to as truth in millage (TRIM) notices.⁶

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.⁷

Homestead Exemption

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 on assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

Exemptions Related to Disabled Persons or First Responders

Current law provides several exemptions related to the totally and permanently disabled or first responders:

- Homestead exemption for certain totally and permanently disabled veterans or their surviving spouse;⁸
- Homestead exemption for surviving spouses of first responders who die in the line of duty;⁹
- Homestead exemption for disabled veterans confined to wheelchairs;¹⁰

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 s. 200.065(2)(b), F.S.

⁷ *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).

⁸ ss. 196.081(1) and (3), F.S.

⁹ s. 196.081(6), F.S.

- Homestead exemption for certain totally and permanently disabled persons;¹¹ and
- Property to the value of \$500 owned by widows, widowers, and blind or totally and permanently disabled persons.¹²

Section 196.101, F.S., relating to the annual application process for property tax exemptions, requires applications for several homestead-related exemptions to include the social security number of the applicant and the applicant's spouse, if any.

2016 Constitutional Amendment

In November 2016, Florida electors approved a constitutional amendment that allows the legislature to provide homestead tax relief to first responders who are totally and permanently disabled as a result of injury sustained in the line of duty.¹³ The amendment specifies that a causal connection between an injury and service in the line of duty may not be presumed, and that the term "disability" does not include chronic disease, unless injury in the line of duty was the sole cause of the disease.

Effect of Proposed Changes

Exemption for Totally and Permanently Disabled First Responders

The bill completely exempts first responders who are totally and permanently disabled due to an injury sustained in the line of duty from all homestead taxes. The term "first responders" refers to law enforcement officers, firefighters, paramedics or emergency medical technicians as those terms are defined in statute.¹⁴

The bill defines "totally and permanently disabled" to mean an impairment of the mind or body that renders a first responder unable to engage in any substantial gainful occupation and that is reasonably certain to continue throughout his or her life.

The bill defines "In the line of duty" via cross reference as:

- While engaging in law enforcement;
- While performing an activity relating to fire suppression and prevention;
- While responding to a hazardous material emergency;
- While performing a rescue activity;
- While providing emergency medical services;
- While performing disaster relief activity;
- While otherwise engaging in emergency response activity; or
- While engaging in an authorized training exercise related to any of the events or activities enumerated above.

The constitutional amendment authorizing an exemption for first responders imposes two requirements on those who wish to receive the exemption. First, applicants must be totally and permanently disabled. Accordingly, the bill provides that first responders qualify as totally and permanently disabled if they meet all of the non-income requirements in the existing exemption for totally and permanently disabled persons, which is provided in s. 196.101, F.S. That section requires two professionally unrelated Florida licensed physicians to attest that a first responder's disability renders him or her, a quadriplegic, paraplegic, hemiplegic, legally blind, or otherwise confined to a wheelchair for mobility purposes.¹⁵

¹⁰ s. 196.091, F.S.

¹¹ s. 196.101, F.S.

¹² s. 196.202, F.S.

¹³ See Article VII, section 6(f)(3) of the Florida Constitution.

¹⁴ The terms are respectively defined in ss. 943.10, 633.102, 401.21, F.S.

¹⁵ s. 196.101, F.S.

All other first-responder applicants may satisfy the “totally and permanently disabled” requirement by providing their property appraiser with a certification letter from a Florida licensed physician, attesting to their status as totally and permanently disabled and an award letter from the Social Security Administration based on the applicant’s total and permanent disability. Applicants must provide the Social Security award letters to their local property appraiser within 3 months of issuance.

The second constitutional requirement is that causal connection between disability and service in the line of duty cannot be presumed but must be determined in accordance with general law. To that end, the bill provides that all first responder applicants can prove a causal connection between their disability and service in the line of duty by submitting a letter from a representative of the entity who employed the first responder when the injury occurred. Among other information, the employer letter must include a statement that the first responder’s injury was directly and proximately caused by service in the line of duty, without willful negligence by the first responder, and that the injury is the sole cause of the first responder’s total and permanent disability. The employer letter must be accompanied by any existing supporting documentation such as an incident report or insurance claim.

The exemption applies to taxes levied on or after January 1, 2017.

Spousal Exemption

The bill allows the spouse of a totally and permanently disabled first responder to maintain the exemption if the first responder predeceases the spouse. The bill also allows the surviving spouse of a totally and permanently disabled first responder to transfer the exemption to a different homestead property. The surviving spouse exemption remains in effect as long as the new residence is used as the surviving spouse’s primary residence and he or she does not remarry.

Application Procedures

The deadline to apply for exemption from taxes levied in 2017 is August 1, 2017. For taxes levied in 2018 and beyond, the application deadline is March 1 of each year.¹⁶ The bill allows property appraisers to accept untimely filed applications until 25 days after TRIM notices are mailed if the applicant is otherwise qualified for exemption and the applicant produces evidence demonstrating that he or she was unable to apply for exemption in a timely manner. The bill also allows first responders to petition for appeal before value adjustment boards in the event the property appraiser denies an application for exemption. A petition for such an appeal must be filed no later than 25 days after the property appraiser mails TRIM notices.

The bill amends s. 196.011, F.S., to add the new exemption created by this bill to the current list of property tax exemptions, the applications for which must include the applicant’s social security number.

The bill takes effect upon becoming a law.

B. SECTION DIRECTORY:

Section 1. Amends s. 196.011, F.S., adding the new exemption created by this bill to the current list of property tax exemptions, the applications for which must include the applicant’s social security number.

Section 2. Creates 196.102, F.S. providing exemptions for totally and permanently disabled first responders and their surviving spouses; prescribes requirements for application; specifies that the deadline for submitting applications for exemption from taxes levied in 2017 is August 1, 2017, and authorizes the Department of Revenue (Department) to adopt emergency rules.

Section 3. Provides retroactivity and specifies that the bill takes effect upon becoming a law.

¹⁶ See s. 196.011(1)(a), F.S.
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II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not determined the fiscal impact of the bill in its present form. However, staff estimates the fiscal impacts will not exceed those associated with the prior version of the bill, which amounted to -\$4.5 million on local government property tax revenues beginning in FY 2017-18, assuming current tax rates.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18(b), of the Florida constitution may apply because this bill reduces local government's ability to raise ad valorem revenues. However, an exemption may apply if the fiscal impact is insignificant. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill grants the Department of Revenue emergency rulemaking authority to administer the application process for the 2017 calendar year. This emergency rulemaking authority expires on August 30, 2018.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 21, 2017, the Ways and Means Committee adopted two amendments to the bill. In addition to technical changes, the amendments define the term "total and permanent disability", revise the physician

certification form and limit the time period that property appraisers may accept a late-filed exemption application to no more than 25 days after TRIM notices are mailed. As amended, the bill provides that “totally and permanently disabled” means a medically determinable physical or cognitive impairment that permanently prevents a person from rendering useful and efficient service as a first responder. This analysis is drafted to the bill as amended.

On April 18, 2017, the Appropriations Committee adopted one strike all amendment. The amendment revises the bill as follows:

- Amends the definition of “totally and permanently disabled” to mean an impairment of the mind or body that renders a first responder unable to engage in any substantial gainful occupation and that is reasonably certain to continue throughout his or her life;
- Removes a provision providing general rule making authority to the Department of Revenue;
- The bill also revises application procedures by:
 - Recognizing that first responders who satisfy the medical requirements set forth in the existing totally and permanently disabled person’s exemption also satisfy the medical requirements of this bill;
 - Requiring all first responders who do not satisfy the requirements of the existing exemption for totally and permanently disabled persons to provide their local property appraiser with certification of total and permanent disability from a Florida licensed physician and an award letter from the Social Security Administration based on the first responder’s total and permanent disability.

This bill analysis has been rewritten to reflect the substance of the strike all amendment adopted on April 18, 2017 by the Appropriations Committee.