

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 719 Surviving Spouse Ad Valorem Tax Reduction
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee, Killebrew
TIED BILLS: HJR 717 **IDEN./SIM. BILLS:** SB 888

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 0 N, As CS	Renner	Miller
2) Ways & Means Committee			
3) State 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.

The bill 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 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.

A spouse who is qualified to receive the discount and who fails to file an application by March 1 may file the application for the discount and may file a petition with the value adjustment board requesting that the discount be granted.

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 voters of the constitutional amendment proposed by HJR 717, in order for this bill to take effect. If the proposed constitutional amendment is approved by the voters, and assuming current millage rates, the REC estimated a negative impact on school tax revenues of \$0.4 million in FY 2021-22 with a recurring negative impact of \$2.2 million. The negative impact on non-school property tax revenues is estimated to be \$0.6 million in FY 2021-22 with a recurring negative impact of \$3.1 million.

The bill takes effect on the same date that HJR 717, or a similar joint resolution, is approved by the electors at the general election to be held in November 2020 or at an earlier special election specifically authorized for that purpose. If approved by the voters in the general election held November 2020, the joint resolution will become effective on January 1, 2021.

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. 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, and persons who are totally and permanently disabled.

Veteran Exemptions

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. Section 196.082, F.S., implements this provision. The discount is equal to the percentage of the veteran's permanent, service-connected disability as determined by the U.S. Department of Veterans Affairs.⁷ The discount is limited to veterans

¹ Art. VII, s. 1(a), Fla. Const.

² S. 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 Art. VII, s. 4, Fla. Const.

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

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).

⁷ 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. *See United States Department of Veterans Affairs, Office*

with a combat related disability, and not all service-connected disabilities are combat related. Furthermore, current law does not allow the spouse of a veteran receiving this discount to claim the benefit if he or she survives the veteran.

Effect of Proposed Changes

The bill 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 the legal or beneficial title to the homestead, permanently resides thereon, and does not remarry.

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, a discount not to exceed the amount granted from the most recent ad valorem tax roll may be transferred to his or her new residence, as long as the residence is used as the surviving spouse's permanent residence and he or she does not remarry.

A spouse who is qualified to receive the discount and who fails to file an application by March 1 may file the application for the discount and may file a petition with the value adjustment board requesting that the discount be granted.

B. SECTION DIRECTORY:

Section 1 amends s. 196.082, F.S., authorizing surviving spouses of deceased veterans to carry over certain discounts on ad valorem taxes on homestead properties under specified conditions.

Section 2 provides for a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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 voters of the constitutional amendment proposed by HJR 717, in order for this bill to take effect. If the proposed constitutional amendment is approved by the voters, and assuming current millage rates, the REC estimated a negative impact on school tax revenues of \$0.4 million in FY 2021-22 with a recurring negative impact of \$2.2 million. The negative impact on non-school property tax revenues is estimated to be \$0.6 million in FY 2021-22 with a recurring negative impact of \$3.1 million.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the bill is approved 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. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 12, 2019, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarifies that the term "amount" on line 28 of the bill means dollar amount.

This analysis is drafted to the committee substitute as approved by the Local, Federal & Veterans Affairs Subcommittee.