

**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.)

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Prepared By: The Professional Staff of the Committee on Finance and Tax

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BILL: SJR 886

INTRODUCER: Senators Brandes and Mayfield

SUBJECT: Homestead Tax Exemption/Surviving Spouse of a Veteran

DATE: April 3, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	<b>Favorable</b>
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<b>Favorable</b>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SJR 886 proposes an amendment to the Florida Constitution to allow the homestead property tax discount granted to veterans aged 65 or older who have permanent, combat-related disabilities to carry over to the veteran’s surviving spouse upon the death of the veteran.

The joint resolution would require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

If approved by the electors, the amendment takes effect January 1, 2021.

The Department of State estimates the publication costs for advertising the proposed amendment based on a rate of \$92.93 per word to be approximately \$115,697.85.

If the amendment is approved by the electors, the Revenue Estimating Conference has determined that the joint resolution will reduce local property taxes by \$1 million, beginning in Fiscal Year 2021-2022, with a recurring reduction of \$5.4 million per fiscal year.

**II. Present Situation:**

**General Overview of Property Taxation**

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of

January 1 of each year.<sup>1</sup> The property appraiser annually determines the “just value”<sup>2</sup> of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”<sup>3</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation, and payment is due by March 31. The State Constitution prohibits the state from levying ad valorem taxes,<sup>4</sup> and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.<sup>5</sup>

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;<sup>6</sup> however, the State Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, land used exclusively for noncommercial recreational purposes;<sup>7</sup> land used for conservation purposes;<sup>8</sup> historic properties when authorized by the county or municipality;<sup>9</sup> and certain working waterfront property.<sup>10</sup>

### **Homestead Exemption**

Every person having legal or equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.<sup>11</sup> An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. This exemption does not apply to ad valorem taxes levied by school districts.<sup>12</sup>

### **Property Tax Exemptions for Veterans and Surviving Spouses**

Florida provides several property tax exemptions for disabled veterans and their surviving spouses. These include:

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<sup>1</sup> Both real property and tangible personal property can be subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>2</sup> Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *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, 9 (Fla. 1973).

<sup>3</sup> *See* s. 192.001(3) and (16), F.S.

<sup>4</sup> FLA. CONST. art. VII, s. 1(a).

<sup>5</sup> *See* FLA. CONST. art. VII, s. 4.

<sup>6</sup> Section 193.011(2), F.S.

<sup>7</sup> FLA. CONST. art. VII, s. 4(a).

<sup>8</sup> FLA. CONST. art. VII, s. 4(b).

<sup>9</sup> FLA. CONST. art. VII, s. 4(e).

<sup>10</sup> FLA. CONST. art. VII, s. 4(j).

<sup>11</sup> FLA. CONST. art VII, s. 6(a).

<sup>12</sup> FLA. CONST. art VII, s. 6(a).

- A veteran with a total and permanent service-connected disability is entitled to a complete exemption for property owned and used as a homestead. Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.<sup>13</sup>
- A veteran with a total service-connected disability that confines him or her to a wheelchair is entitled to a complete exemption for property owned and used as a homestead. Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.<sup>14</sup>
- A veteran disabled to a degree of 10 percent or more by misfortune or during wartime service is entitled to an exemption for any property up to \$5,000. Upon the death of the veteran, the exemption carries over to the veteran's unremarried surviving spouse.<sup>15</sup>
- The unremarried surviving spouse of a veteran who died while on active duty is entitled to a complete exemption for property owned and used as a homestead if the veteran was a permanent resident of Florida on the day he or she died.<sup>16</sup>

### **Tax Discount on Homestead Property for a Combat-disabled Veteran**

In addition to the property tax exemptions described above, certain combat-disabled veterans are entitled to a discount on their homestead property taxes.<sup>17</sup> The discount is calculated as a percentage equal to the percentage of the veteran's permanent, service-connected disability.<sup>18</sup> The discount is applied as a reduction to the taxable value of the homestead property.<sup>19</sup>

To qualify for the tax discount, the veteran must:

- Be aged 65 or older;
- Be partially or totally disabled;
- Have become disabled through military combat; and
- Have received an honorable discharge.<sup>20</sup>

Unlike the exemptions described above, the discount for combat-related, disabled veterans does not carry over to a surviving spouse.<sup>21</sup>

### **III. Effect of Proposed Changes:**

SJR 886 proposes an amendment to the Florida Constitution to allow the homestead property tax discount for a veteran aged 65 or older who has a permanent, combat-related disability to carry over to the veteran's surviving spouse upon the veteran's death, provided that the veteran applied for and received the discount.

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<sup>13</sup> Section 196.081(1)-(3), F.S.

<sup>14</sup> Section 196.091(1) and (3), F.S.

<sup>15</sup> Section 196.24, F.S.

<sup>16</sup> Section 196.081(4), F.S.

<sup>17</sup> Section 196.082, F.S.

<sup>18</sup> Section 196.082(2), F.S.

<sup>19</sup> Section 196.082(5), F.S.

<sup>20</sup> Section 196.082(1), F.S.

<sup>21</sup> See s. 196.082, F.S.

To receive the property tax discount, the surviving spouse must permanently reside at, and hold legal or beneficial title to, the homestead property. The surviving spouse is eligible for the discount until he or she:

- Remarries;
- Sells the property; or
- Otherwise disposes of the property.

After selling the property, however, a surviving spouse may transfer the discount to a new, permanent residence as long as he or she remains unmarried. The amount of the discount transferred may not exceed the dollar amount granted on the most recent ad valorem tax roll of the original property.

If approved by the electors, the amendment takes effect January 1, 2021.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The mandate provisions in Article VII, section 18 of the State Constitution, do not apply to joint resolutions.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

Article XI, section 1, of the State Constitution, authorizes the Legislature to propose amendments to the State 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(e), of the State Constitution, requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the first Tuesday after the first Monday in January following the election, or on such other date specified in the amendment. The joint resolution specifies that the amendment takes effect January 1, 2021.

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

If the amendment is approved by the electors, the Revenue Estimating Conference has determined that the joint resolution will reduce local property taxes by \$1 million, beginning in Fiscal Year 2021-2022, with a recurring reduction of \$5.4 million per fiscal year.

**B. Private Sector Impact:**

A qualifying surviving spouse of a veteran who had received the tax discount on homestead property would be eligible for the same discount, thereby financially benefitting from the bill.

**C. Government Sector Impact:**

Section 5(d), Art. XI, of the State Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county in which a newspaper is published.

The Division of Elections is required to twice advertise the full text of proposed constitutional amendments in English and Spanish in the newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with English and Spanish booklets or posters displaying the full text of proposed amendments, for each polling room or early voting area in each county, and to translate the amendments into Spanish. The average cost for Spanish translation, booklet printing and distribution, and newspaper advertising of constitutional amendments for the 2018 election cycle was \$92.93 per English word of the originating document.

Accurate cost estimates cannot be determined until the total number and length of amendments to be translated, printed, distributed, and advertised is known. At this time, no amendments have achieved ballot position for the 2020 election by either joint resolution of the Florida Legislature or by the initiative petition process.

However, the Division of Elections within the Department of State estimates the total publication costs for advertising the proposed amendment based on a rate of \$92.93 per word to be approximately \$115,697.85.<sup>22</sup>

**VI. Technical Deficiencies:**

None.

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<sup>22</sup> E-mail correspondence with Florida Department of State staff (Mar. 6, 2019) (on file with the Senate Committee on Finance and Tax). Total publishing cost is determined as follows: the number of words estimated in the amendment to be published, 1,245 words, multiplied by the cost per word of \$92.93, is \$115,697.85.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The joint resolution amends Article VII, section 6, and creates a new section in Article XII, of the State 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.

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

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