

**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 Community Affairs

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BILL: SJR 1182

INTRODUCER: Senator Brandes

SUBJECT: Limitation on the Assessment of Real Property/Residential Purposes

DATE: March 8, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	<b>Pre-meeting</b>
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

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**I. Summary:**

SJR 1182 proposes an amendment to the Florida Constitution to authorize the Legislature to prohibit an increase in the assessed value of residential real property as a result of any change or improvement made to improve the property’s resistance to flood damage.

If adopted by the Legislature, the proposed amendment will be submitted to Florida’s electors for approval or rejection at the next general election in November 2022.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2023.

The Revenue Estimating Conference has not reviewed the proposed fiscal impact of the joint resolution.

**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

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<sup>1</sup> Both real property and tangible personal property are 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.

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 Florida Constitution prohibits the state from levying ad valorem taxes<sup>4</sup> on real estate or tangible personal property, and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.<sup>5</sup>

One way the Florida Constitution specifically authorizes the Legislature to provide for property valuations at less than just value is by specifying certain improvements that cannot be considered in evaluating a property's assessed value. Currently, the improvements under this provision are those made to improve a residential property's resistance to wind damage, and any installation of solar or renewable energy devices.<sup>6</sup>

### **Resistance to Flood Damage**

Hurricanes and severe storms cause flooding throughout Florida routinely, and sea-level rise due to climate change may increase the potency of flood damage over time. Florida holds nearly one-third of flood insurance policies issued by the National Flood Insurance Program (NFIP), a federal entity created in 1968 to provide standardized flood insurance.<sup>7</sup> According to the Federal Emergency Management Agency, 1,719,376 properties in Florida are at risk of flooding in a 100-year storm.<sup>8</sup>

Flood damage can be resisted through multiple strategies. These might include large structural mitigation public works projects, such as dams, seawalls, levees.<sup>9</sup> Mitigation can also include improvements made to individual properties. Examples of such improvements are elevating structures, filling basements, and waterproofing.<sup>10</sup> They might also include non-structural mitigation, such as maintaining land to allow for stormwater runoff, waterproofing basements, installing check valves capable of preventing water backup, and elevating furnaces, heaters, and electrical panels.<sup>11</sup>

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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).

<sup>3</sup> See s. 192.001(2) 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> FLA. CONST. art. VII, s. 4(i).

<sup>7</sup> *Facts + Statistics: Flood Insurance*, Insurance Information Institute (available at <https://www.iii.org/fact-statistic/facts-statistics-flood-insurance>, last accessed March 5, 2021).

<sup>8</sup> Emily Mahoney and Zachary Sampson, "Florida has thousands more properties with high flood risk than FEMA says, according to new study," Tampa Bay Times, Jun. 29, 2020 (available at <https://www.tampabay.com/news/environment/2020/06/29/florida-has-thousands-more-properties-with-high-flood-risk-than-fema-says-according-to-new-study/>). A "100-year storm" refers to rainfall totals that have a one percent probability of occurring at that location in that year.

<sup>9</sup> *U.S. Floods: The Necessity of Mitigation*, Beverly Cigler, State and Local Government Review Volume 49 Issue 2, Sept. 22, 2017 (available at [https://www.napawash.org/uploads/Standing\\_Panel\\_Blogs/cigler-floods-and-mitigation-Sept.-20172.pdf](https://www.napawash.org/uploads/Standing_Panel_Blogs/cigler-floods-and-mitigation-Sept.-20172.pdf), last accessed March 4, 2021).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

### III. Effect of Proposed Changes:

The joint resolution proposes an amendment to the Florida Constitution to authorize the Legislature to prohibit an increase in the assessed value of residential real property as a result of any change or improvement made to improve the property's resistance to flood damage.

If adopted by the Legislature, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election in November 2022.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2023.

### 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.

#### C. Trust Funds Restrictions:

None.

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

None.

#### E. Other Constitutional Issues:

Article XI, s. 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. Article XI, s. 5(a) of the Florida Constitution requires the amendment be placed before the electorate at the next general election<sup>12</sup> 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. Constitutional amendments submitted to the electors must be printed in clear and unambiguous language on the ballot.<sup>13</sup>

Article XI, s. 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

<sup>12</sup> Section 97.021(16), F.S., defines "general election" as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

<sup>13</sup> Section 101.161(1), F.S.

once in the 10th week and again in the 6th week immediately preceding the week the election is held.

Article XI, s. 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 on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

The Revenue Estimating Conference has not reviewed the proposed fiscal impact of the joint resolution.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

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 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 paid approximately \$351,834.45 to advertise six constitutional amendments in 2020.<sup>14</sup> Full publication costs for advertising a single constitutional amendment, on average, was approximately \$58,639.08. This cost was paid from non-recurring General Revenue funds.<sup>15</sup> Accurate cost estimates for the next constitutional amendment advertising cannot be determined until the total number of amendments to be advertised is known and updated quotes are obtained from newspapers.<sup>16</sup> The statewide average cost to the division to advertise constitutional amendments, in English and Spanish,<sup>17</sup> in newspapers for the 2020 election cycle was \$86.85 per English word of the originating document.<sup>18</sup>

There is an unknown additional cost for the printing and distributing of the constitutional amendments, in poster or booklet form, in English and Spanish, for each of the 67 Supervisors of Elections to post or make available at each polling room or each voting site, as required by s. 101.171, F.S. Historically, the division has printed and distributed booklets that include the ballot title, ballot summary, text of the constitutional

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<sup>14</sup> E-mail from Legislative Affairs Director, Department of State, to staff of Senate Committee on Health Policy (Feb. 1, 2021) (on file with Senate Committee on Community Affairs).

<sup>15</sup> See Ch. 2020-111, Specific Appropriation 3132, Laws of Fla.

<sup>16</sup> *Id.*

<sup>17</sup> Pursuant to *Section 203 of the Voting Rights Act (52 U.S.C.A. § 10503)*.

<sup>18</sup> *Supra*, note 14.

amendment, and, if applicable, the financial impact statement. Beginning in 2020, the summary of such financial information statements was also included as part of the booklets.<sup>19</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This resolution substantially amends section 4, Article VII of the Florida Constitution.

This resolution also creates section 42, Article XII 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.

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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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<sup>19</sup> Section 100.371(13)(e)4., F.S. *See also* Chapter 2019-64, s. 3, Laws of Fla.