

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.)

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

BILL: CS/SB 1748

INTRODUCER: Finance and Tax Committee and Senator Brodeur

SUBJECT: Homestead Property Tax Exemptions for Classroom Teachers, Law Enforcement Officers, Firefighters, Child Welfare Professionals, and Servicemembers

DATE: February 10, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	<u>Favorable</u>
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1748 is linked to CS/SJR 1746, which proposes an amendment to the Florida Constitution to authorize the Legislature to provide a new homestead tax exemption for classroom teachers, law enforcement officers, firefighters, child welfare professionals, and active duty members of the United States Armed Forces, or members of the Florida National Guard.

The bill provides that any of the defined people who hold legal or beneficial title in equity to real property in this state and makes such property their or their dependent's permanent residence is entitled to an exemption of up to \$50,000 on the property's value between \$100,000 and \$150,000, for all levies other than school district levies.

The bill directs the Legislature to appropriate money to fiscally constrained counties to offset reductions in ad valorem tax revenue resulting from the homestead exemption. Distributions to fiscally constrained counties will be made beginning in Fiscal Year 2023-2024.

The Revenue Estimating Conference (REC) has not analyzed the committee substitute; however, staff does not expect the committee substitute to change the estimate provided for the prior version of the bill. The REC determined that a fiscal impact of the prior version of the bill is contingent upon voter approval of the joint resolution. However, if the joint resolution is approved, the bill will reduce local property tax revenue for all levies other than school district levies by \$83.8 million beginning in Fiscal Year 2023-2024.

The bill will take effect on the effective date of the amendment proposed by CS/SJR 1746 or a similar joint resolution having substantially the same specific intent and purpose. If approved by the electors in the next general election in November 2022, the proposed amendment (CS/SJR 1746) and CS/SB 1748 will take effect on January 1, 2023.

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.¹ The property appraiser annually determines the assessed or “just value”² of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ 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 taxes⁴ and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida 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, and land used exclusively for noncommercial recreational purposes; land used for conservation purposes; historic properties when authorized by the county or municipality; and certain working waterfront property.⁷

Persons eligible for a property tax exemption must file an application with the property appraiser on or before March 1 of each year in which the exemption is claimed, unless such requirement has been waived by a county.⁸

¹ 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.

² 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 (Fla. 1973).

³ *See* s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4.

⁸ Section 196.011, F.S.

Property Tax Exemptions for Homestead Property

Homestead Exemption

Every person having legal or equitable title to real estate and who maintains thereon his or her permanent residence or the permanent residence of a dependent (homestead property) is eligible for a homestead tax exemption of up to \$25,000. The exemption applies to all ad valorem taxes levied, including levies by school districts.⁹ An additional homestead exemption of up to \$25,000 applies to the property's value between \$50,000 and \$75,000.¹⁰ Unlike the first \$25,000, the additional \$25,000 exemption does not apply to ad valorem taxes levied by school districts.

Additional Homestead Exemptions for Certain Persons

The Florida Constitution authorizes the Legislature to provide additional property tax exemptions for the following persons who maintain property as a homestead:

- Counties and municipalities may grant exemptions to persons aged 65 years or over whose household income does not exceed \$20,000 (low-income seniors).¹¹
- A veteran or first responder¹² with a total and permanent service-connected disability is entitled to a complete exemption for the property.¹³
- A veteran with a total service-connected disability that confines him or her to a wheelchair is entitled to a complete exemption for the property. Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.¹⁴
- 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.¹⁵
- The unremarried surviving spouse of a veteran or first responder who died while on active duty is entitled to a complete exemption for the property if the veteran was a permanent resident of Florida on the day he or she died.¹⁶

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.¹⁷ The discount is calculated as a

⁹ FLA. CONST. art VII, s. 6(a) and s. 196.031, F.S.

¹⁰ Section 196.031(1)(b), F.S.

¹¹ FLA. CONST. Art. VII, s. 6(d)(1) and (2). The income level is adjusted each year according to changes in the consumer price index. For 2022, persons will qualify if the household income does not surpass \$32,561. Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, available at: <https://floridarevenue.com/property/Documents/AdditionalHomesteadExemptions.pdf> (last visited Feb. 5, 2022).

¹² "First responder" in this context means a law enforcement officer or correctional officer as defined in s. 943.10, F.S., a firefighter as defined in s. 633.102, F.S., or an emergency medical technician or paramedic as defined in s. 401.23, F.S., who is a full-time paid employee, part-time paid employee, or unpaid volunteer. Section 196.081(6)(c)1., F.S.

¹³ Sections 196.081 and 196.102, F.S.

¹⁴ Section 196.091(1) and (3), F.S.

¹⁵ Section 196.24, F.S.

¹⁶ Section 196.081(4) and (6), F.S.

¹⁷ Section 196.082, F.S.

percentage equal to the percentage of the veteran's permanent, service-connected disability.¹⁸ The discount is applied as a reduction to the taxable value of the homestead property.¹⁹

Fiscally Constrained Counties

Fiscally constrained counties are counties entirely within a Rural Area of Opportunity or where a 1 mill levy would raise no more than \$5 million in annual tax revenue.²⁰ A Rural Area of Opportunity is a rural community or region that has been adversely affected by extraordinary economic events, severe distresses, natural disasters or that presents unique economic development opportunities of regional impact, as designated by the Governor.²¹

Florida's fiscally constrained counties are: Baker, Bradford, Calhoun, Columbia, Desoto, Dixie, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Okeechobee, Putnam, Suwannee, Taylor, Union, Wakulla, and Washington.²²

The Legislature annually appropriates money to fiscally constrained counties to offset ad valorem tax revenue reductions caused by various amendments to the Florida Constitution.²³ In order to receive an offset distribution, fiscally constrained counties must annually provide the Department of Revenue with an estimate of the expected reduction in ad valorem tax revenues that are directly attributable to specified revisions of Article VII of the Florida Constitution.²⁴ This prevents such amendments related to property tax from negatively affecting fiscally constrained county tax revenues.

III. Effect of Proposed Changes:

The bill creates an additional homestead exemption for classroom teachers, law enforcement officers, firefighters, child welfare professionals, active duty members of the United States Armed Forces, or members of the Florida National Guard to exempt up to \$50,000 of the assessed value of the property greater than \$100,000.

In order to receive the exemption, the qualifying person must be employed on January 1 in a full-time position in one of the above-described qualifying professions.

The bill provides the following definitions:

- "Child welfare professional" means a state employee engaged in child welfare services as defined in s. 402.40(2), F.S., who holds a child welfare certification as defined in s. 402.40(2), F.S.;

¹⁸ Section 196.082(2), F.S.

¹⁹ Section 196.082(5), F.S.

²⁰ Section 218.67(1), F.S.

²¹ See Section 288.0656, F.S.

²² Florida Department of Revenue, *List of Fiscally Constrained Counties*, available at: <http://floridarevenue.com/property/Documents/fcco081210.pdf> (last visited Feb. 10, 2022)

²³ See s. 218.125, F.S.

²⁴ Section 218.125(2), F.S.

- “Classroom teacher” means a staff member assigned the professional activity of instructing K-12 students in courses and classroom situations, including basic instruction, exceptional student education, and career education;
- “Firefighter” means an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the division under s. 633.408, F.S.;
- “Law enforcement officer” means a law enforcement officer²⁵ or correctional officer²⁶ as defined by s. 943.10, F.S.; and
- “Servicemember” means a person serving as an active duty member of the United States Armed Forces or as a member of the Florida National Guard.

The bill prohibits a county from waiving the requirement that an annual application be made.

A person identified as receiving but not entitled to the exemption for any year in the prior 10 years is subject to repayment of the taxes exempted, plus a penalty of the unpaid taxes of 50 percent and 15 percent interest. Persons who knowingly and willfully give false information for the purpose of claiming the exemption are guilty of a first degree misdemeanor, punishable as provided by law or by fine not to exceed \$5,000.

The bill directs the Legislature to appropriate money, beginning in Fiscal Year 2023-2024, to fiscally constrained counties to offset any reductions in ad valorem tax revenue resulting from the homestead exemption provided by the proposed constitutional amendment. The amount appropriated to each county is based on the county’s proportion of the total reduction and is calculated as 95 percent of the estimated reduction in taxable value multiplied by the lesser of the 2023 millage rate or the millage rate for each taxing jurisdiction in the current year.

The bill authorizes the Department of Revenue to adopt emergency rules to administer the bill.

The bill will take effect on the effective date of the constitutional amendment proposed by CS/SJR 1746 and first applies to the 2023 tax roll.

²⁵ Section 943.10(1), F.S.: “Law enforcement officer” means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

²⁶ Section 943.10(2), F.S.: “Correctional officer” means any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term “correctional officer” does not include any secretarial, clerical, or professionally trained personnel.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution provides that, except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,^{27, 28} which is \$2.3 million for Fiscal Year 2022-2023.²⁹

The Revenue Estimating Conference determined that the reduction to local property tax revenue will be \$83.8 million beginning in Fiscal Year 2023-2024 if the joint resolution is approved by the voters. Therefore, the mandates provisions of Art. VII, s. 18 of the Florida Constitution may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise a state tax or fee. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

The homestead exemption provided by the bill extends to a qualified person's dependents; however, the joint resolution does not contemplate dependents receiving the benefit. Additionally, this bill specifies the exemption applies to all levies "other than school district levies," which is not contemplated by the joint resolution.

²⁷ FLA. CONST. art. VII, s. 18(d).

²⁸ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 3, 2022).

²⁹ Based on the Demographic Estimating Conference's estimated population adopted on March 3, 2021. The conference packet is available at: <http://edr.state.fl.us/Content/conferences/population/archives/210303demographic.pdf> (last visited Feb. 6, 2022).

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

The Revenue Estimating Conference (REC) has not analyzed the committee substitute; however, staff does not expect the committee substitute to change the estimate provided for the bill as filed. The REC determined that a fiscal impact of the prior version of the bill is contingent upon voter approval of the joint resolution. However, if the resolution is approved, the bill will reduce local property tax revenue for all levies other than school district levies by \$83.8 million beginning in Fiscal Year 2023-2024.

B. Private Sector Impact:

If the proposed amendment (CS/SJR 1746) is approved by 60 percent of voters in November 2022, qualifying homeowners will be entitled to reduced property taxation.

C. Government Sector Impact:

The bill requires the Legislature to appropriate money to fiscally constrained counties beginning in Fiscal Year 2023-2024. If the bill takes effect staff estimates the amount required to be appropriated is approximately \$4.6 million.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 196.011 and 218.125.

The bill creates section 196.077 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Finance and Tax on February 10, 2022:

The CS:

- Requires an appropriation to fiscally constrained counties, beginning in FY 2023-2024, to offset the reductions in ad valorem tax revenue resulting from the new homestead exemption.
- Requires the distribution to occur in January of each fiscal year to each fiscally constrained county based on each county's proportion of the total reduction.

- Calculates the reduction as 95 percent of the estimated reduction in taxable value multiplied by the lesser of the 2023 millage rate or the millage rate for each taxing jurisdiction in the current year.

B. Amendments:

None.

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