

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Bennett, Chair
Senator Norman, Vice Chair

MEETING DATE: Monday, November 14, 2011
TIME: 1:30 —3:30 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Bennett, Chair; Senator Norman, Vice Chair; Senators Gibson, Richter, Ring, Storms, Thrasher, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 368 Gaetz	Local Government; Clarifying that certain assessments must be approved by a majority vote of specified voting electors; authorizing a financial emergency review board for a local governmental entity or district school board to consult with other governmental entities for the consolidation of all administrative direction and support services; authorizing the Governor or Commissioner of Education to require a local governmental entity or district school board to develop a plan implementing the consolidation, sourcing, or discontinuance of all administrative direction and support services; providing that the members of the governing body of a local governmental entity or the members of a district school board who fail to resolve a state of financial emergency are subject to suspension or removal from office, etc.	CA 11/14/2011
2	SJR 314 Simmons (Link SJR 312)	Ad Valorem Taxation; Proposing amendments to the State Constitution to allow the Legislature by general law to prohibit increases in the assessed value of homestead and specified nonhomestead property if the just value of the property decreases, reduce the limitation on annual assessment increases applicable to nonhomestead real property, provide an additional homestead exemption for owners of homestead property, authorize the Legislature to adjust the amount of the exemption, provide that the additional exemption is to be reduced by the difference between the just value and the assessed value, delay a future repeal of provisions limiting annual assessment increases for specified nonhomestead real property, and provide effective dates, etc.	CA 11/14/2011 JU BC

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Monday, November 14, 2011, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SJR 312 Simmons (Link SJR 314)	Rescinding and Withdrawing House Joint Resolution 381 (2011); Rescinding and withdrawing House Joint Resolution 381 (2011), which relates to ad valorem taxation, contingent upon adoption of a joint resolution proposing alternative amendments to the State Constitution, etc. CA 11/14/2011 JU BC	
4	SB 110 Wise (Identical H 59)	Spaceport Territory; Revising spaceport territory to include certain properties. MS 09/20/2011 Favorable CM 10/04/2011 Favorable CA 11/14/2011	
Other Related Meeting Documents			

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 Community Affairs Committee

BILL: SB 368

INTRODUCER: Senator Gaetz

SUBJECT: Local Government

DATE: October 31, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill allows entities in a state of financial emergency to consult with other governmental bodies regarding the consolidation of administrative and support services. Plans created to end a financial emergency must include provisions implementing any consolidation, sourcing, or discontinuance of administrative direction or support services. In addition, this bill provides that governing board members who fail to resolve a financial emergency may be suspended from office by executive order.

The bill also amends the approval process for special assessments designed to improve business and historic districts in municipalities.

The bill amends sections 170.01 and 218.503 of the Florida Statutes.

II. Present Situation:

Supplemental and Alternative Methods of Making Local Municipal Improvements

Section 170.01, F.S., grants municipalities, by their governing authority, to provide a number of local improvements. These range from the construction of streets and sidewalks to the excavation and grading of greenbelts and sewers. Utilities may be relocated, parks and recreation facilities built, and water mains constructed. Improvements related to offstreet parking facilities, parking garages or other similar facilities, and mass transportation systems are also possible but must be approved by a vote of a majority of affected property owners.

Special assessments may be levied for the local improvements with conditions. Assessments may be collected only on benefited property and only at a rate of assessment based on the special advantage accruing to the property. The benefit is to be different in type or degree from benefits provided to the community as a whole.

Subsection 3 of s. 170.01, F.S., outlines further guidance on special assessments levied for the purpose of stabilizing and improving three specific types of improvements:

- Retail business districts,
- Wholesale business districts, or
- Nationally recognized historic districts.

A special assessment collected against property benefited for these purposes is “subject to the approval of a majority of the affected property owners.”¹

Local Government Entity and District School Board Financial Emergencies

Part V of Chapter 218, F.S., comprises the Local Governmental Entity, Charter School, Charter Technical Career Center, and District School Board Financial Emergency Act (Act). The purpose of the Act is to preserve the fiscal solvency of local government entities,² charter schools, charter technical career centers, and district school boards that are in a state of financial emergency. Under the Act’s provisions, those bodies that meet one of the statutory indicators of financial distress are required to notify the Governor or Commissioner of Education and the Legislative Auditing Committee.³

Conditions Indicating Financial Distress

Subsections (a)-(e) of s. 218.503(1), F.S., provide indicators of financial distress which include any one of the following conditions based on lack of funds:

- Failure to pay short-term loans or failure to make bond debt service or other long-term debt payments within the same fiscal year in which due;
- Failure to pay uncontested claims from creditors within 90 days after the claim is presented;
- Failure to transfer taxes withheld on the income of employees, failure to transfer employer and employee contributions for Federal social security, or failure to transfer any pension, retirement, or benefit plan of an employee at the appropriate time;
- Failure to pay wages and salaries owed to employees or retirement benefits owed to former employees for one pay period;

¹ Section 170.01(3), F.S.

² s. 218.502, F.S., defines local government entity to mean “a county, municipality, or special district”.

³ s. 218.503(1)-(2), F.S. Note: a charter school must notify the charter school sponsor, the Commissioner of Education, and the Legislative Auditing Committee; a charter technical career center must notify the charter technical career center sponsor, the Commissioner of Education, and the Legislative Auditing Committee; and the district school board shall notify the Commissioner of Education and the Legislative Auditing Committee.

- An unreserved or total fund balance or retained earnings deficit, or unrestricted or total net assets deficit, for which sufficient resources of the entity are not available to cover the deficit.⁴

According to the Florida State Auditor’s office, the following are figures for entities the office has reviewed that met one or more of the financial distress indicators for the 2009-2010 fiscal year:⁵

Entity	Audit Reports Reviewed	Met at Least One Indicator
Counties ⁶	66	None (0.0%)
Municipalities	379	10 (2.6%)
Special Districts ⁷	730	73 (10.0%)
Charter Schools	398	39 (9.8%)

Determination of Financial Emergency

Upon notification that one or more of these conditions is met, the Governor or Commissioner of Education, as appropriate, must determine whether state assistance is needed to resolve or prevent the financial deterioration. The entity is determined to be in a state of financial emergency if state assistance is needed.⁸

Once a determination is made, the Governor or Commissioner of Education has the power to implement certain remedial measures to resolve the financial emergency. Pursuant to s. 218.503(3), F.S., the Governor or Commissioner of Education may:

- Require the local governmental entity or district school board’s budget to be approved by the Governor or Commissioner of Education, respectively;
- Authorize and provide for repayment of a state loan to the local governmental entity;
- Prohibit issuance of bonds, notes, certificates of indebtedness, or any other form of debt while in a state of financial emergency;
- Inspect and review the entity’s records, information, reports, and assets;
- Consult with local governmental entity and district school board officials and auditors to discuss necessary procedures to bring accounting books, systems, financial procedures, and reports into state compliance;

⁴ Section 1011.051, F.S., provides additional insufficient resource conditions for school districts. If the unreserved general fund balance in a district’s approved operating budget is projected to drop below 3 percent and 2 percent of projected general fund revenues, the school board superintendent is required to provide written notice to the district school board and the Commissioner of Education. Florida Auditor General Report No. 2012-023 cited three school districts in the state that met this condition in the 2009-10 fiscal year.

⁵ E-mail from Marilyn Rosetti, Audit Manager, Local Government Reviews & Special Audits, State of Florida Auditor General (Nov. 2, 2011) (on file with the Senate Committee on Community Affairs). The audit report filing deadline for FY 2009-10 was September 30, 2011; the Auditor General’s office is still receiving FY 2009-10 fiscal year audits.

⁶ The consolidated government of Duval County/City of Jacksonville is included in municipalities.

⁷ Approximately 750 additional special districts are not captured here. Dependent special districts may satisfy the reporting requirements of s. 218.32, F.S., (annual financial reports filed with Department of Financial Services) and s. 218.39, F.S., (audit reports) through inclusion with the local governing authority’s annual financial report or audit. For FY 2008-09, about 450 dependent special districts were included in the local governing authority’s audit. In addition, nearly 300 special districts in FY 2008-09 did not meet the thresholds of s. 218.39, F.S. requiring an audit by the Auditor General.

⁸ s. 218.503(3), F.S.

- Provide technical assistance;
- Establish a financial emergency board to oversee local government or district school board activities, appointed by the Governor or State Board of Education as appropriate; and
- Require and approve a plan to be prepared by the local governmental entity or district school board that prescribes necessary actions to adjust the entity's debt.

Subsection (5) of s. 218.503, F.S., prohibits a local government entity or district school board from applying for bankruptcy under the United States Constitution without prior approval from the Governor for local governmental entities or the Commissioner of Education for district school boards.

Financial Emergency Board

One of the measures available to the Governor or the Commissioner of Education to assist in resolving a financial emergency is the establishment of a financial emergency board.⁹ This board is charged with overseeing activities of the targeted entity. The Governor or the State Board of Education shall appoint members and select a chair. Once established, the board may:

- Review the entity's records, reports, and assets;
- Consult with local entity officials and auditors and with state officials regarding the necessary steps to bring the entity's accounting books, systems, financial procedures, and reports into compliance with state requirements; and
- Review the entity's operations, management, efficiency, productivity, and financing of functions and operations.¹⁰

All recommendations and reports made by the financial emergency board must be provided to the Governor for local governmental entities or to the Commissioner of Education and the State Board of Education for district school boards.¹¹

Financial Emergency Plan

Another measure the Governor or Commissioner of Education may require of entities when resolving a financial emergency is the development of a plan prescribing remedial actions.¹² Subject to Governor or Commissioner approval, the adopted plan must include but is not limited to:

- Provision for full payment of obligations outlined in s. 218.503(1), F.S., designated as priority items, that are currently due or will become due;
- Establishment of priority budgeting or zero-based budgeting to eliminate items that are not affordable; and
- The prohibition of a level of operations which can be sustained only with nonrecurring revenues.¹³

⁹ s. 218.503 (3)(g)1., F.S.

¹⁰ s. 218.503 (3)(g)1.a.-c., F.S.

¹¹ s. 218.503 (3)(g)2., F.S.

¹² s. 218.503 (3)(h), F.S.

¹³ Section 1011.051(2), F.S. provides additional emergency plan provisions for school districts. If a school district's unreserved general fund is projected to drop below 2 percent of general fund revenues and the Commissioner of Education

Article IV, Section 7 of the Florida Constitution: Suspensions

Article IV, section 7 of the Florida Constitution provides the following:

By executive order stating the grounds and filed with the custodian of state records, the governor may suspend from office any state officer not subject to impeachment, any officer of the militia not in the active service of the United States, or any county officer, for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or commission of a felony, and may fill the office by appointment for the period of suspension.¹⁴

III. Effect of Proposed Changes:

Section 1 amends s. 170.01(3), F.S., to require that special assessments on property to stabilize and improve certain business and historic districts be subject to the approval by a majority vote of the affected property owners voting in an election. The determination of a majority will be predicated by the number of property owners who actually participate in an election.

Section 2 amends paragraphs (g) and (h) of s. 218.503(3), F.S., regarding measures to resolve financial emergencies. This section authorizes financial emergency boards appointed by the Governor or Commissioner of Education to consult with other governmental entities for the consolidation of all administrative direction and support services. Such services include, but are not limited to, services for:

- asset sales,
- economic and community development,
- building inspections,
- parks and recreation,
- facilities management,
- engineering and construction,
- insurance coverage,
- risk management,
- planning and zoning,
- information systems,
- fleet management, and
- purchasing.

This section also provides that entities required by the Governor or Commissioner of Education to develop remedial financial emergency plans must include provisions implementing the consolidation, sourcing, or discontinuance of all administrative direction and support services as part of the entity's adopted plan. Such services include, but are not limited to, the services cited above.

determines that the district does not have a plan that is reasonably anticipated to avoid a financial emergency, the Commissioner shall appoint a financial emergency board to assist the district.

¹⁴ FLA CONST. art. IV, s. 7.

Finally, this section creates s. 218.503(6), F.S., to clarify the constitutional ability of a Governor to suspend and recommend removal of members of governing bodies who fail to resolve a state of financial emergency. This failure constitutes malfeasance, misfeasance, and neglect of duty for purposes of Article IV, s. 7 of the Florida Constitution.

Section 3 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Financial emergency boards acting on behalf of an entity that has been declared to be in a state of financial emergency will be authorized to consult with other governmental entities for the consolidation of all administrative direction and support services.

Local government entities and district school boards in a state of financial emergency who are required to adopt financial emergency plans must include provisions implementing the consolidation, sourcing or discontinuance of all administrative direction and support services as part of the entity's adopted financial emergency plan.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

By Senator Gaetz

4-00046-12

2012368__

1 A bill to be entitled
 2 An act relating to local government; amending s.
 3 170.01, F.S.; clarifying that certain assessments must
 4 be approved by a majority vote of specified voting
 5 electors; amending s. 218.503, F.S.; authorizing a
 6 financial emergency review board for a local
 7 governmental entity or district school board to
 8 consult with other governmental entities for the
 9 consolidation of all administrative direction and
 10 support services; authorizing the Governor or
 11 Commissioner of Education to require a local
 12 governmental entity or district school board to
 13 develop a plan implementing the consolidation,
 14 sourcing, or discontinuance of all administrative
 15 direction and support services; providing that the
 16 members of the governing body of a local governmental
 17 entity or the members of a district school board who
 18 fail to resolve a state of financial emergency are
 19 subject to suspension or removal from office;
 20 providing an effective date.

22 Be It Enacted by the Legislature of the State of Florida:

24 Section 1. Subsection (3) of section 170.01, Florida
 25 Statutes, is amended to read:

26 170.01 Authority for providing improvements and levying and
 27 collecting special assessments against property benefited.—

28 (3) Any municipality, subject to the approval ~~by~~ of a
 29 majority vote of the affected property owners voting in an

Page 1 of 9

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-00046-12

2012368__

30 election, may levy and collect special assessments against
 31 property benefited for the purpose of stabilizing and improving:
 32 (a) Retail business districts,
 33 (b) Wholesale business districts, or
 34 (c) Nationally recognized historic districts,
 35

36 or any combination of such districts, through promotion,
 37 management, marketing, and other similar services in such
 38 districts of the municipality. This subsection does not
 39 authorize a municipality to use bond proceeds to fund ongoing
 40 operations of these districts.

41 Section 2. Section 218.503, Florida Statutes, is amended to
 42 read:

43 218.503 Determination of financial emergency.—

44 (1) Local governmental entities, charter schools, charter
 45 technical career centers, and district school boards shall be
 46 subject to review and oversight by the Governor, the charter
 47 school sponsor, the charter technical career center sponsor, or
 48 the Commissioner of Education, as appropriate, when any one of
 49 the following conditions occurs:

50 (a) Failure within the same fiscal year in which due to pay
 51 short-term loans or failure to make bond debt service or other
 52 long-term debt payments when due, as a result of a lack of
 53 funds.

54 (b) Failure to pay uncontested claims from creditors within
 55 90 days after the claim is presented, as a result of a lack of
 56 funds.

57 (c) Failure to transfer at the appropriate time, due to
 58 lack of funds:

Page 2 of 9

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-00046-12 2012368__

59 1. Taxes withheld on the income of employees; or
60 2. Employer and employee contributions for:
61 a. Federal social security; or
62 b. Any pension, retirement, or benefit plan of an employee.
63 (d) Failure for one pay period to pay, due to lack of
64 funds:
65 1. Wages and salaries owed to employees; or
66 2. Retirement benefits owed to former employees.
67 (e) A fund balance deficit in total or for that portion of
68 a fund balance not classified as restricted, committed, or
69 nonspendable, or a total or unrestricted net assets deficit, as
70 reported on the fund financial statements of entities required
71 to report under governmental financial reporting standards or on
72 the basic financial statements of entities required to report
73 under not-for-profit financial reporting standards, for which
74 sufficient resources of the local governmental entity, charter
75 school, charter technical career center, or district school
76 board, as reported on the fund financial statements, are not
77 available to cover the deficit. Resources available to cover
78 reported deficits include fund balance or net assets that are
79 not otherwise restricted by federal, state, or local laws, bond
80 covenants, contractual agreements, or other legal constraints.
81 Property, plant, and equipment, the disposal of which would
82 impair the ability of a local governmental entity, charter
83 school, charter technical career center, or district school
84 board to carry out its functions, are not considered resources
85 available to cover reported deficits.
86 (2) A local governmental entity shall notify the Governor
87 and the Legislative Auditing Committee; a charter school shall

4-00046-12 2012368__

88 notify the charter school sponsor, the Commissioner of
89 Education, and the Legislative Auditing Committee; a charter
90 technical career center shall notify the charter technical
91 career center sponsor, the Commissioner of Education, and the
92 Legislative Auditing Committee; and a district school board
93 shall notify the Commissioner of Education and the Legislative
94 Auditing Committee, when one or more of the conditions specified
95 in subsection (1) have occurred or will occur if action is not
96 taken to assist the local governmental entity, charter school,
97 charter technical career center, or district school board. In
98 addition, any state agency must, within 30 days after a
99 determination that one or more of the conditions specified in
100 subsection (1) have occurred or will occur if action is not
101 taken to assist the local governmental entity, charter school,
102 charter technical career center, or district school board,
103 notify the Governor, charter school sponsor, charter technical
104 career center sponsor, or the Commissioner of Education, as
105 appropriate, and the Legislative Auditing Committee.
106 (3) Upon notification that one or more of the conditions in
107 subsection (1) have occurred or will occur if action is not
108 taken to assist the local governmental entity or district school
109 board, the Governor or his or her designee shall contact the
110 local governmental entity or the Commissioner of Education or
111 his or her designee shall contact the district school board to
112 determine what actions have been taken by the local governmental
113 entity or the district school board to resolve or prevent the
114 condition. The Governor or the Commissioner of Education, as
115 appropriate, shall determine whether the local governmental
116 entity or the district school board needs state assistance to

4-00046-12 2012368__
 117 resolve or prevent the condition. If state assistance is needed,
 118 the local governmental entity or district school board is
 119 considered to be in a state of financial emergency. The Governor
 120 or the Commissioner of Education, as appropriate, has the
 121 authority to implement measures as set forth in ss. 218.50-
 122 218.504 to assist the local governmental entity or district
 123 school board in resolving the financial emergency. Such measures
 124 may include, but are not limited to:

125 (a) Requiring approval of the local governmental entity's
 126 budget by the Governor or approval of the district school
 127 board's budget by the Commissioner of Education.

128 (b) Authorizing a state loan to a local governmental entity
 129 and providing for repayment of same.

130 (c) Prohibiting a local governmental entity or district
 131 school board from issuing bonds, notes, certificates of
 132 indebtedness, or any other form of debt until such time as it is
 133 no longer subject to this section.

134 (d) Making such inspections and reviews of records,
 135 information, reports, and assets of the local governmental
 136 entity or district school board. The appropriate local officials
 137 shall cooperate in such inspections and reviews.

138 (e) Consulting with officials and auditors of the local
 139 governmental entity or the district school board and the
 140 appropriate state officials regarding any steps necessary to
 141 bring the books of account, accounting systems, financial
 142 procedures, and reports into compliance with state requirements.

143 (f) Providing technical assistance to the local
 144 governmental entity or the district school board.

145 (g)1. Establishing a financial emergency board to oversee

4-00046-12 2012368__
 146 the activities of the local governmental entity or the district
 147 school board. If a financial emergency board is established for
 148 a local governmental entity, the Governor shall appoint board
 149 members and select a chair. If a financial emergency board is
 150 established for a district school board, the State Board of
 151 Education shall appoint board members and select a chair. The
 152 financial emergency board shall adopt such rules as are
 153 necessary for conducting board business. The board may:

154 a. Make such reviews of records, reports, and assets of the
 155 local governmental entity or the district school board as are
 156 needed.

157 b. Consult with officials and auditors of the local
 158 governmental entity or the district school board and the
 159 appropriate state officials regarding any steps necessary to
 160 bring the books of account, accounting systems, financial
 161 procedures, and reports of the local governmental entity or the
 162 district school board into compliance with state requirements.

163 c. Review the operations, management, efficiency,
 164 productivity, and financing of functions and operations of the
 165 local governmental entity or the district school board.

166 d. Consult with other governmental entities for the
 167 consolidation of all administrative direction and support
 168 services, including, but not limited to, services for asset
 169 sales, economic and community development, building inspections,
 170 parks and recreation, facilities management, engineering and
 171 construction, insurance coverage, risk management, planning and
 172 zoning, information systems, fleet management, and purchasing.

173 2. The recommendations and reports made by the financial
 174 emergency board must be submitted to the Governor for local

4-00046-12 2012368__

175 governmental entities or to the Commissioner of Education and
176 the State Board of Education for district school boards for
177 appropriate action.

178 (h) Requiring and approving a plan, to be prepared by
179 officials of the local governmental entity or the district
180 school board in consultation with the appropriate state
181 officials, prescribing actions that will cause the local
182 governmental entity or district school board to no longer be
183 subject to this section. The plan must include, but need not be
184 limited to:

185 1. Provision for payment in full of obligations outlined in
186 subsection (1), designated as priority items, which ~~that~~ are
187 currently due or will come due.

188 2. Establishment of priority budgeting or zero-based
189 budgeting in order to eliminate items that are not affordable.

190 3. The prohibition of a level of operations which can be
191 sustained only with nonrecurring revenues.

192 4. Provisions implementing the consolidation, sourcing, or
193 discontinuance of all administrative direction and support
194 services, including, but not limited to, services for asset
195 sales, economic and community development, building inspections,
196 parks and recreation, facilities management, engineering and
197 construction, insurance coverage, risk management, planning and
198 zoning, information systems, fleet management, and purchasing.

199 (4) (a) Upon notification that one or more of the conditions
200 in subsection (1) have occurred or will occur if action is not
201 taken to assist the charter school, the charter school sponsor
202 or the sponsor's designee and the Commissioner of Education
203 shall contact the charter school governing body to determine

4-00046-12 2012368__

204 what actions have been taken by the charter school governing
205 body to resolve or prevent the condition. The Commissioner of
206 Education has the authority to require and approve a financial
207 recovery plan, to be prepared by the charter school governing
208 body, prescribing actions that will resolve or prevent the
209 condition.

210 (b) Upon notification that one or more of the conditions in
211 subsection (1) have occurred or will occur if action is not
212 taken to assist the charter technical career center, the charter
213 technical career center sponsor or the sponsor's designee and
214 the Commissioner of Education shall contact the charter
215 technical career center governing body to determine what actions
216 have been taken by the governing body to resolve or prevent the
217 condition. The Commissioner of Education may require and approve
218 a financial recovery plan, to be prepared by the charter
219 technical career center governing body, prescribing actions that
220 will resolve or prevent the condition.

221 (c) The Commissioner of Education shall determine if the
222 charter school or charter technical career center needs a
223 financial recovery plan to resolve the condition. If the
224 Commissioner of Education determines that a financial recovery
225 plan is needed, the charter school or charter technical career
226 center is considered to be in a state of financial emergency.

228 The Department of Education, with the involvement of sponsors,
229 charter schools, and charter technical career centers, shall
230 establish guidelines for developing a financial recovery plan.

231 (5) A local governmental entity or district school board
232 may not seek application of laws under the bankruptcy provisions

4-00046-12

2012368

233 of the United States Constitution except with the prior approval
234 of the Governor for local governmental entities or the
235 Commissioner of Education for district school boards.

236 (6) The failure of the members of the governing body of a
237 local governmental entity or the failure of the members of a
238 district school board to resolve a state of financial emergency
239 constitutes malfeasance, misfeasance, and neglect of duty for
240 purposes of s. 7, Art. IV of the State Constitution.

241 Section 3. This act shall take effect July 1, 2012.

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 Community Affairs Committee

BILL: SJR 314

INTRODUCER: Senator Simmons

SUBJECT: Ad Valorem Taxation

DATE: October 24, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This joint resolution proposes amendments to Article VII, section 4, of the Florida Constitution to permit the Legislature to prohibit increases in the assessed value of homestead and certain non-homestead property if the just value of the property decreases. The joint resolution also reduces the limitation on annual assessment increases applicable to non-homestead property from 10 percent to 7 percent. An amendment to Article VII, section 6, of the Florida Constitution is also proposed to create an additional homestead exemption. The Legislature is authorized to adjust the amount of the exemption.

This joint resolution removes the current automatic repeal of subsections (f) and (g) of section 4, Article VII, of the Florida Constitution¹, relating to assessments of certain non-homestead residential property by amending Article XII, section 27, of the Florida Constitution. This section is further amended to provide when the amendments to Article VII sections 4 and 6, of the Florida Constitution shall take effect.

This joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature for passage. Should this joint resolution be adopted, an additional joint resolution will be required to rescind and withdraw HJR 381 (2011) which is to go before the voters as Amendment 4 on the November 2012 ballot.

¹ Subsections (f) and (g) of Article VII, section 4, of the Florida Constitution have been renumbered since this repeal was inserted. The provisions referenced are currently in the Constitution as subsections (g) and (h), Article VII, section 4. For ease of reference, these provisions will be referred to as referenced in the repeal, subsections (f) and (g).

II. Present Situation:

Property Valuation in Florida

Just Value

Article VII, section 4, of the Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.²

Assessed Value

The Florida Constitution authorizes certain exceptions to the just valuation standard for specific types of property.

- Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.³
- Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or totally exempt from taxation.⁴
- Counties and municipalities may authorize historic properties to be assessed solely on the basis of character and use.⁵
- Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents who are 62 years of age or older.⁶
- The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property's wind resistance or the installation of renewable energy source devices in the assessment of the property.⁷
- Certain working waterfront property is assessed based upon the property's current use.⁸

Taxable Value

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes. Such exemptions include, but are not limited to: homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.⁹

² 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 Fla. Const. art. VII, s. 4(a).

⁴ Fla. Const. art. VII, s. 4(c).

⁵ Fla. Const. art. VII, s. 4(e).

⁶ Fla. Const. art. VII, s. 4(f).

⁷ Fla. Const. art. VII, s. 4(i).

⁸ Fla. Const. art. VII, s. 4(j).

⁹ Fla. Const. art. VII, ss. 3 and 6.

Tax Exemptions and Assessment Limitations

Homestead Exemption

Article VII, section 6, of the Florida Constitution, as amended in January 2008, provides that every person with legal and equitable title to real estate and who maintains thereon the permanent residence of the owner is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school districts. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding ad valorem taxes levied by schools.

Other Specific Exemptions

Article VII, section 3, of the Florida Constitution, provides for other specific exemptions from property taxes.

- Property owned by a municipality and used exclusively for municipal or public purposes is exempt, and portions of property used predominantly for educational, literary, scientific, religious, or charitable purposes may be exempted by general law.¹⁰
- Additional exemptions are provided for household goods and personal effects, widows and widowers, blind persons, and persons who are totally and permanently disabled.¹¹
- A county or municipality is authorized to provide a property tax exemption for new and expanded businesses, but only against its own millage and upon voter approval.¹²
- A county or municipality may also grant an historic preservation property tax exemption against its own millage to owners of historic property.¹³
- Tangible personal property is exempt up to \$25,000 of its assessed value.¹⁴
- There is an exemption for real property dedicated in perpetuity for conservation purposes.¹⁵
- In November 2010, voters approved a constitutional amendment that adds an additional exemption for military personnel deployed on active duty outside of the United States in support of military operations designated by the Legislature.¹⁶

Homestead Assessment Limitation: Save Our Homes

The *Save Our Homes* assessment limitation was amended into the Florida Constitution in 1992. Article VII, section 4(d), of the Florida Constitution, limits the amount that a homestead's assessed value can increase annually to the lesser of three percent or the percentage increase in the Consumer Price Index (CPI).¹⁷ In addition, no assessment may exceed just value.

In 2008, Florida voters approved an additional amendment to Article VII, section 4(d), of the Florida Constitution, to provide for the portability of the accrued *Save Our Homes* benefit. This amendment allows homestead property owners who relocate to a new homestead to transfer up to \$500,000 of the *Save Our Homes* accrued benefit to the new homestead.

¹⁰ Fla. Const. art. VII, s. 3(a).

¹¹ Fla. Const. art. VII, s. 3(b).

¹² Fla. Const. art. VII, s. 3(c).

¹³ Fla. Const. art. VII, s. 3(d).

¹⁴ Fla. Const. art. VII, s. 3(e).

¹⁵ Fla. Const. art. VII s. 3(f).

¹⁶ Fla. Const. art. VII s. 3(g).

¹⁷ Fla. Const. art. VII, s. 4(d).

Nonhomestead Assessment Limitations

Article VII, sections 4(g) and (h), of the Florida Constitution,¹⁸ were created in January 2008, when Florida electors voted to provide an assessment limitation for nonhomestead residential real property containing nine or fewer units, and for all real property not subject to other specified classes or uses. For all levies, with the exception of school levies, the assessed value of property in each of these two categories may not be increased annually by more than 10 percent of the assessment in the prior year. However, nonhomestead residential real property containing nine or fewer units must be assessed at just value whenever there is a change in ownership or control. For the other real property subject to the limitation, the Legislature may provide that such property shall be assessed at just value after a change of ownership or control.¹⁹

Article XII, section 27, of the Florida Constitution, provides that the subsections (f), and (g), Article VII (creating limitations on annual assessment increases of specified nonhomestead property) are repealed effective January 1, 2019, and that the Legislature must propose an amendment abrogating the repeal, which shall be submitted to the voters for approval or rejection on the general election ballot for 2018.

Rule 12D-8.0062, Florida Administrative Code (F.A.C.): Recapture Rule

In October 1995, the Governor and the Cabinet adopted rule 12D-8.0062, F.A.C., of the Department of Revenue, entitled *Assessments; Homestead; and Limitations*.²⁰ The administrative intent of this rule is to govern “the determination of the assessed value of property subject to the homestead assessment limitation under Article VII, section 4(c), of the Florida Constitution, and s. 193.155, F.S.”²¹

Subsection (5) of Rule 12D-8.0062, F.A.C., is popularly known as the *Recapture Rule*. This provision requires property appraisers to increase the prior year assessed value of a homestead property by the lower of three percent or the percent increase in the CPI on all property where the value is lower than the just value.

Under current law, this requirement applies even if the just value of the homestead property has decreased from the prior year. Therefore, homestead owners entitled to the *Save Our Homes* cap whose property is assessed at less than just value may see an increase in the assessed value of their home during years when the just market value of their property decreased.²²

¹⁸ See note 1, *infra*.

¹⁹ Fla. Const. art. VII, s. 4(g) and (h).

²⁰ While s. 193.155, F.S., did not provide specific rulemaking authority, the Department of Revenue adopted Rule 12D-9.0062, F.A.C., pursuant to its general rulemaking authority under s. 195.027, F.S. Section 195.027, F.S., provides that the Department of Revenue shall prescribe reasonable rules and regulations for the assessing and collecting of taxes, and that the Legislature intends that the department shall formulate such rules and regulations that property will be assessed, taxes will be collected, and that the administration will be uniform, just and otherwise in compliance with the requirements of general law and the constitution.

²¹ Rule 12D-8.0062(1), F.A.C.

²² *Markham v. Dep't of Revenue*, Case No. 95-1339RP (Fla. DOAH 1995) (stating that “subsection (5) requires an increase to the prior year’s assessed value in a year where the CPI is greater than zero”).

Subsection (6) provides that if the change in the CPI is negative, then the assessed value shall be equal to the prior year's assessed value decreased by that percentage.

Markham v. Department of Revenue²³

On March 17, 1995, William Markham, the Broward County Property Appraiser, filed a petition challenging the validity of the Department of Revenue's proposed "recapture rule" within Rule 12D-8.0062, F.A.C. Markham alleged that the proposed rule was "an invalid exercise of delegated legislative authority and is arbitrary and capricious."²⁴ Markham also claimed that subsection (5) of the rule was at variance with the constitution – specifically that it conflicted with the "intent" of the ballot initiative and that a third limitation relating to market value or movement²⁵ should be incorporated into the language of the rule to make it compatible with the language in Article VII, section 4(c), of the Florida Constitution.

A final order was issued by the Division of Administrative Hearings on June 21, 1995, which upheld the validity of Rule 12D-8.0062, F.A.C., and the Department of Revenue's exercise of delegated legislative authority. The hearing officer determined that subsections (5) and (6) of the administrative rule were consistent with Article VII, section 4(c), of the Florida Constitution. The hearing officer also held that the challenged portions of the rule were consistent with the agency's mandate to adopt rules under s. 195.027(1), F.S., since the rule had a factual and logical underpinning, was plain and unambiguous, and did not conflict with the implemented law.²⁶

In response to the petitioner's assertion of a third limitation on market movement, the hearing officer concluded that the rule was not constitutionally infirm since there was no mention of "market movement" or "market value" in the ballot summary of the amendment nor did the petitioner present any evidence of legislative history concerning the third limitation.²⁷

Amendment 3 Proposed for the November 2010, Ballot: SJR 532 (2009)

In 2009, the Legislature passed SJR 532 which was to go before the voters as Amendment 3 on the November 2010 ballot. Among the provisions of Amendment 3:

- Reduce the annual nonhomestead assessment limitation from 10 percent to 5 percent.
- Provide an additional homestead exemption for persons who have not owned a principal residence in the previous eight years.²⁸
 - The additional homestead exemption would have been equal to 25 percent of the just *value* of the homestead in the first year for all levies, up to \$100,000.
 - The amount of the additional homestead exemption was to decrease by 20 percent of the initial exemption during each of the succeeding five years, until it was no longer available in the sixth and subsequent years.²⁹

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* at 21 (stating that "[t]his limitation, grounded on "market movement," would mean that in a year in which market value did not increase, the assessed value of a homestead property would not increase").

²⁶ *Id.* at 20.

²⁷ *Id.* at 22.

²⁸ This was popularly referred to as a first-time homebuyer exemption.

In August 2010, the Florida Supreme Court removed Amendment 3 from the 2010 Ballot, on the grounds that the ballot title and summary were misleading and failed to comply with the constitutional accuracy requirement implicitly provided in Article XI, section 5(a), of the Florida Constitution.³⁰

Amendment 4 Proposed for the November 2012 Ballot: HJR 381 (2011)

In 2011, the Legislature approved HJR 381 which is to go before the voters as Amendment 4 on the November 2012 ballot. HJR 381 (2011) proposes amendments to Article VII, sections 4 and 6 and Article XII, section 27 of the Florida Constitution. It also proposes the creation of Article XII, sections 32 and 33 of the Florida Constitution. The ad valorem taxation provisions of HJR 381 (2011) comprise the following:

- Reducing the annual assessment limitation for specified nonhomestead property from 10 percent to 5 percent.
- Allowing the Legislature, by general law, to prohibit increases in the assessed value of a homestead property and certain nonhomestead property in any year where the market value of the property decreases.
- Providing an additional homestead exemption for persons who are entitled to a homestead exemption under s. 6(a), Art. VII, State Constitution, and have not received a homestead exemption in the previous three years.
 - The additional homestead exemption would be equal to 50 percent of the just value of the homestead property though the exemption may not exceed the median just value of all homestead property within the county.
 - The amount of the additional homestead exemption is reduced each year for five years by 20 percent of the initial exemption or by an amount equal to the difference between the just value and the assessed value, whichever is greater. The exemption is not available in the sixth and subsequent years after it is first received.
 - The exemption applies only to non-school property taxes.
- Delaying the currently scheduled repeal of constitutional amendments which limit annual assessments for specified nonhomestead property from 2019 to 2023.

If approved by voters at the 2012 general election, the assessment limitations and additional homestead exemption shall take effect January 1, 2013. The additional homestead exemption shall be available for properties purchased on or after January 1, 2012.

III. Effect of Proposed Changes:

Assessment Limitation on Homestead and certain Nonhomestead Property: Recapture

The joint resolution proposes to amend paragraph 1 of subsections (d), (g) and (h) in section 4, Article VII, of the Florida Constitution, to authorize the Legislature to provide by general law that an assessment may not increase if the just value of the property is less than the just value of

²⁹ Fla. CS for SJR 532, 1st Eng. (2009) (Senator Lynn and others).

³⁰ *Roberts v. Doyle*, 43 So. 3d 654 (Fla. 2010).

the property on the preceding January 1. This authority to limit increases in the assessed value of homestead and certain non-homestead property does not apply to the assessment of changes, additions, reductions, or improvements to homestead property as provided by subsection (d)(5) in section 4, Article VII, of the Florida Constitution.

The joint resolution also deletes obsolete language provided in paragraph 8 of subsection (d) in section 4, Article VII, of the Florida Constitution.

Assessment Limitation on Specified Nonhomestead Property

The joint resolution proposes to amend paragraph 1 of subsections (g) and (h) in section 4, Article VII, to reduce the limitation on annual assessment increases applicable to non-homestead property from 10 percent to 7 percent.

Additional Homestead Exemption

The joint resolution proposes to create subsection (f) in section 6, Article VII, of the Florida Constitution. This amendment allows individuals who establish a right to receive a homestead exemption under Article VII, section 6(a), of the Florida Constitution, to receive an additional homestead exemption. This exemption is equal to 30 percent of the homestead property's just value in excess of \$75,000 but less than or equal to \$200,000, plus 15 percent of the homestead property's just value in excess of \$200,000 but less than or equal to \$400,000. The value of the additional homestead exemption shall be reduced by the difference between the just value of the property and the assessed value of the property determined under subsection (d) in section 4, Article VII of the Florida Constitution.

By general law, the legislature may adjust the percent of just value or the maximum and minimum levels of just value used to calculate the additional homestead exemption, but may not reduce the value of the additional exemption below the value established in this subsection. The exemption does not apply to school levies.

Scheduled Repeal of Assessment Limitation on Specified Nonhomestead Property

The joint resolution amends Article XII, section 27 of the Florida Constitution, to delay until January 1, 2023, the repeal, currently scheduled to take effect January 1, 2019, of subsections (f) and (g) of section 4, of Article VII of the Florida Constitution. These subsections limit annual increases for specified nonhomestead real property. The joint resolution delays until 2022 the submission of an amendment proposing the abrogation of such repeal to the voters.

Article XII, section 27, of the Florida Constitution, is further amended to establish a schedule for authorizing the proposed property assessment and additional homestead exemption amendments of the joint resolution. If submitted to the electors at a special election held on the date of the 2012 presidential preference primary, the amendments shall take effect upon approval and shall operate retroactively to January 1, 2012. If submitted to the electors at the 2012 general election, the amendments, upon approval, shall take effect January 1, 2013.

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. Other Constitutional Issues:**Constitutional Amendments**

Article XI, section 1, of the Florida Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

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 once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is \$106.14 for this fiscal year.

Article XI, section 5(e), of the Florida Constitution, requires a 60 percent voter approval for a constitutional amendment to take effect. An approved amendment becomes effective on the first Tuesday after the first Monday in January following the election at which it is approved, or on such other date as may be specified in the amendment or revision.

Article XI, section 5(a), of the Florida Constitution, and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”³¹

³¹ *Roberts*, 43 So. 3d at 659, citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

Equal Protection Clause

The United States Constitution provides that “no State shall . . . deny to any person within its jurisdiction, the equal protection of law.”³² In the past, taxpayers have argued that disparate treatment in real property tax assessments constitutes an equal protection violation.³³ In these instances, courts have used the rational basis test to determine the constitutionality of discriminatory treatment in property tax assessments.³⁴ Under the rational basis test, a court must uphold a state statute so long as the classification bears a rational relationship to a legitimate state interest.³⁵

It has been argued that the recapture rule provided in section (5) of Rule 12D-8.0062, F.A.C., diminishes the existing inequity between property assessments over time.³⁶ To the extent that this view is adopted, taxpayers may argue that the elimination of the recapture rule creates a stronger argument for an Equal Protection Clause violation. If this argument is made, the court would need to determine whether the components of this joint resolution are rationally related to a legitimate state interest.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

If approved by the voters, this joint resolution will provide ad valorem tax relief to homestead and specified non-homestead owners. Owners of specified residential rental and commercial real property may experience a reduction in tax assessments due to the seven percent assessment limitation.

B. Private Sector Impact:

Assessment Limitation on Homestead Property: Recapture

If approved by the voters and implemented by the Legislature, taxes will be reduced for those taxpayers whose homesteads or specified nonhomesteads are depreciating but are still assessed at less than just value. The joint resolution will redistribute the tax burden. Non-homestead and recently established homestead property will pay a larger proportion of the cost of local services. To the extent that local governments do not raise millage rates, taxpayers may experience a reduction in government and education services due to any reductions in ad valorem tax revenues.

³² U.S. CONST. amend. XIV, § 1. *See also* FLA. CONST. art. I, s. 2.

³³ *Reinish v. Clark*, 765 So. 2d 197 (Fla. 1st DCA 2000) (holding that the Florida homestead exemption did not violate the Equal Protection Clause, the Privileges and Immunities Clause, or the Commerce Clause). *See also Lanning v. Pilcher*, 16 So. 3d 294 (Fla. 1st DCA 2009) (holding that the Save Our Homes Amendment of the State Constitution did not violate a nonresident’s rights under the Equal Protection Clause). *See also Nordlinger v. Hahn*, 505 U.S. 1 (1992) (stating that the constitutional amendment in California that limited real property tax increases, in the absence of a change of ownership to 2 percent per year, was not a violation of the Equal Protection Clause).

³⁴ *Nordlinger*, 505 U.S. at 33-34, stating that a “classification *rationally* furthers a state interest when there is some fit between the disparate treatment and the legislative purpose”.

³⁵ *Id.*

³⁶ Walter Hellerstein et al., Shackelford Professor of Taxation, LEGAL ANALYSIS OF PROPOSED ALTERNATIVES TO FLORIDA’S HOMESTEAD PROPERTY TAX LIMITATIONS: FEDERAL CONSTITUTIONAL AND RELATED ISSUES, at 83 (on file with the Senate Committee on Community Affairs).

Assessment Limitation on Non-homestead Property

Owners of existing residential rental and commercial real property may experience property tax savings. To the extent that local taxing authorities' budgets are not reduced, the tax burden on other properties will increase to offset these tax losses. New properties or properties that have changed ownership or undergone significant improvements will be assessed at just value, and will be at a competitive disadvantage compared to older properties with respect to their tax burden.

Additional Homestead Exemption

If approved by the voters, homestead owners whose just values are greater than \$75,000 may experience reductions in ad valorem taxes. Other property owners in the taxing jurisdiction will pay higher taxes if the jurisdiction adjusts the millage rate to offset the loss to the tax base.

C. Government Sector Impact:

The Revenue Estimating Conference (REC) has not yet determined the fiscal impact of SJR 314 though it is scheduled to do so. The REC is planning to revisit and update the fiscal impact of HJR 381 (2011) as well. The REC has previously adopted an indeterminate negative estimate for the various provisions of HJR 381 (2011).³⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

None.

B. Amendments:

None.

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

³⁷ Revenue Estimating Conference, *Implementing Bill for Constitutional Amendment – 10 to 5 Assessment Limitation for Certain Non-homestead Property, First Time Homesteader Additional Homestead Exemption* (May 18, 2011) & *Recapture, Homestead and Non-homestead* (Jun. 28, 2011). The table reflects total recapture.

By Senator Simmons

22-00173-12

2012314__

Senate Joint Resolution

A joint resolution proposing amendments to Sections 4 and 6 of Article VII and Section 27 of Article XII and the creation of two new Sections in Article XII of the State Constitution to allow the Legislature by general law to prohibit increases in the assessed value of homestead and specified nonhomestead property if the just value of the property decreases, reduce the limitation on annual assessment increases applicable to nonhomestead real property, provide an additional homestead exemption for owners of homestead property, authorize the Legislature to adjust the amount of the exemption, provide that the additional exemption is to be reduced by the difference between the just value and the assessed value, delay a future repeal of provisions limiting annual assessment increases for specified nonhomestead real property, and provide effective dates.

Be It Resolved by the Legislature of the State of Florida:

That the following amendments to Sections 4 and 6 of Article VII and Section 27 of Article XII and the creation of two new Sections in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

Page 1 of 15

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

22-00173-12

2012314__

FINANCE AND TAXATION

SECTION 4. Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) As provided by general law and subject to conditions, limitations, and reasonable definitions specified therein, land used for conservation purposes shall be classified by general law and assessed solely on the basis of character or use.

(c) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(d) All persons entitled to a homestead exemption under Section 6 ~~of this Article~~ shall have their homestead assessed ~~at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided in this subsection.~~

(1) Assessments subject to this subsection shall change ~~be changed~~ annually on January 1 ~~1st~~ of each year, ~~but these changes in assessments~~

a. A change in an assessment may ~~shall~~ not exceed the lower of the following:

1.a. ~~Three percent (3%)~~ of the assessment for the prior year.

2.b. ~~The percent change in the Consumer Price Index for all~~

Page 2 of 15

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

22-00173-12

2012314

59 urban consumers, U.S. City Average, all items 1967=100, or a
60 successor index reports for the preceding calendar year as
61 initially reported by the United States Department of Labor,
62 Bureau of Labor Statistics.

63 b. The legislature may provide by general law that, except
64 for changes, additions, reductions, or improvements to homestead
65 property assessed as provided in paragraph (5), an assessment
66 may not increase if the just value of the property is less than
67 the just value of the property on the preceding January 1.

68 (2) ~~An~~ ~~no~~ assessment may not ~~shall~~ exceed just value.

69 (3) After a ~~any~~ change of ownership, as provided by general
70 law, homestead property shall be assessed at just value as of
71 January 1 of the following year, unless the provisions of
72 paragraph (8) apply. Thereafter, the homestead shall be assessed
73 as provided in this subsection.

74 (4) New homestead property shall be assessed at just value
75 as of January 1 ~~1st~~ of the year following the establishment of
76 the homestead, unless the provisions of paragraph (8) apply.
77 That assessment shall ~~only~~ change only as provided in this
78 subsection.

79 (5) Changes, additions, reductions, or improvements to
80 homestead property shall be assessed as provided for by general
81 law, ~~provided~~. However, after the adjustment for any change,
82 addition, reduction, or improvement, the property shall be
83 assessed as provided in this subsection.

84 (6) In the event of a termination of homestead status, the
85 property shall be assessed as provided by general law.

86 (7) The provisions of this subsection amendment are
87 severable. If a provision ~~any of the provisions~~ of this

22-00173-12

2012314

88 subsection is amendment shall be held unconstitutional by a any
89 court of competent jurisdiction, the decision of the such court
90 ~~does shall~~ not affect or impair any remaining provisions of this
91 subsection amendment.

92 (8)a. A person who ~~establishes a new homestead as of~~
93 ~~January 1, 2009, or January 1 of any subsequent year and who~~ has
94 received a homestead exemption pursuant to Section 6 ~~of this~~
95 ~~Article~~ as of January 1 of either of the 2 ~~two~~ years immediately
96 preceding the establishment of a ~~the~~ new homestead is entitled
97 to have the new homestead assessed at less than just value. ~~If~~
98 ~~this revision is approved in January of 2008, a person who~~
99 ~~establishes a new homestead as of January 1, 2008, is entitled~~
100 ~~to have the new homestead assessed at less than just value only~~
101 ~~if that person received a homestead exemption on January 1,~~
102 ~~2007.~~ The assessed value of the newly established homestead
103 shall be determined as follows:

104 1. If the just value of the new homestead is greater than
105 or equal to the just value of the prior homestead as of January
106 1 of the year in which the prior homestead was abandoned, the
107 assessed value of the new homestead shall be the just value of
108 the new homestead minus an amount equal to the lesser of
109 \$500,000 or the difference between the just value and the
110 assessed value of the prior homestead as of January 1 of the
111 year in which the prior homestead was abandoned. Thereafter, the
112 homestead shall be assessed as provided in this subsection.

113 2. If the just value of the new homestead is less than the
114 just value of the prior homestead as of January 1 of the year in
115 which the prior homestead was abandoned, the assessed value of
116 the new homestead shall be equal to the just value of the new

22-00173-12 2012314
 117 homestead divided by the just value of the prior homestead and
 118 multiplied by the assessed value of the prior homestead.
 119 However, if the difference between the just value of the new
 120 homestead and the assessed value of the new homestead calculated
 121 pursuant to this sub-subparagraph is greater than \$500,000, the
 122 assessed value of the new homestead shall be increased so that
 123 the difference between the just value and the assessed value
 124 equals \$500,000. Thereafter, the homestead shall be assessed as
 125 provided in this subsection.

126 b. By general law and subject to conditions specified
 127 therein, the legislature shall provide for application of this
 128 paragraph to property owned by more than one person.

129 (e) The legislature may, by general law, for assessment
 130 purposes and subject to the provisions of this subsection, allow
 131 counties and municipalities to authorize by ordinance that
 132 historic property may be assessed solely on the basis of
 133 character or use. Such character or use assessment shall apply
 134 only to the jurisdiction adopting the ordinance. The
 135 requirements for eligible properties must be specified by
 136 general law.

137 (f) A county may, in the manner prescribed by general law,
 138 provide for a reduction in the assessed value of homestead
 139 property to the extent of any increase in the assessed value of
 140 that property which results from the construction or
 141 reconstruction of the property for the purpose of providing
 142 living quarters for one or more natural or adoptive grandparents
 143 or parents of the owner of the property or of the owner's spouse
 144 if at least one of the grandparents or parents for whom the
 145 living quarters are provided is 62 years of age or older. Such a

22-00173-12 2012314
 146 reduction may not exceed the lesser of the following:
 147 (1) The increase in assessed value resulting from
 148 construction or reconstruction of the property.

149 (2) Twenty percent of the total assessed value of the
 150 property as improved.

151 (g) For all levies other than school district levies,
 152 assessments of residential real property, as defined by general
 153 law, which contains nine units or fewer and which is not subject
 154 to the assessment limitations set forth in subsections (a)
 155 through (d) shall change only as provided in this subsection.

156 (1) Assessments subject to this subsection shall be changed
 157 annually on the date of assessment provided by law. However,
 158 ~~but~~ those changes in assessments may ~~shall~~ not exceed 7 ~~ten~~
 159 percent ~~(10%)~~ of the assessment for the prior year. The
 160 legislature may provide by general law that, except for changes,
 161 additions, reductions, or improvements to property assessed as
 162 provided in paragraph (4), an assessment may not increase if the
 163 just value of the property is less than the just value of the
 164 property on the preceding date of assessment provided by law.

165 (2) An ~~No~~ assessment may not ~~shall~~ exceed just value.

166 (3) After a change of ownership or control, as defined by
 167 general law, including any change of ownership of a legal entity
 168 that owns the property, such property shall be assessed at just
 169 value as of the next assessment date. Thereafter, such property
 170 shall be assessed as provided in this subsection.

171 (4) Changes, additions, reductions, or improvements to such
 172 property shall be assessed as provided for by general law.
 173 However, after the adjustment for any change, addition,
 174 reduction, or improvement, the property shall be assessed as

22-00173-12

2012314__

175 provided in this subsection.

176 (h) For all levies other than school district levies,
177 assessments of real property that is not subject to the
178 assessment limitations set forth in subsections (a) through (d)
179 and (g) shall change only as provided in this subsection.

180 (1) Assessments subject to this subsection shall be changed
181 annually on the date of assessment provided by law. However,
182 ~~but~~ those changes in assessments may ~~shall~~ not exceed 7 ~~ten~~
183 percent ~~(10%)~~ of the assessment for the prior year. The
184 legislature may provide by general law that, except for changes,
185 additions, reductions, or improvements to property assessed as
186 provided in paragraph (5), an assessment may not increase if the
187 just value of the property is less than the just value of the
188 property on the preceding date of assessment provided by law.

189 (2) An ~~No~~ assessment may not ~~shall~~ exceed just value.

190 (3) The legislature must provide that such property shall
191 be assessed at just value as of the next assessment date after a
192 qualifying improvement, as defined by general law, is made to
193 such property. Thereafter, such property shall be assessed as
194 provided in this subsection.

195 (4) The legislature may provide that such property shall be
196 assessed at just value as of the next assessment date after a
197 change of ownership or control, as defined by general law,
198 including any change of ownership of the legal entity that owns
199 the property. Thereafter, such property shall be assessed as
200 provided in this subsection.

201 (5) Changes, additions, reductions, or improvements to such
202 property shall be assessed as provided for by general law.
203 However, after the adjustment for any change, addition,

Page 7 of 15

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

22-00173-12

2012314__

204 reduction, or improvement, the property shall be assessed as
205 provided in this subsection.

206 (i) The legislature, by general law and subject to
207 conditions specified therein, may prohibit the consideration of
208 the following in the determination of the assessed value of real
209 property used for residential purposes:

210 (1) Any change or improvement made for the purpose of
211 improving the property's resistance to wind damage.

212 (2) The installation of a renewable energy source device.

213 (j) (1) The assessment of the following working waterfront
214 properties shall be based upon the current use of the property:

215 a. Land used predominantly for commercial fishing purposes.

216 b. Land that is accessible to the public and used for
217 vessel launches into waters that are navigable.

218 c. Marinas and drystacks that are open to the public.

219 d. Water-dependent marine manufacturing facilities,
220 commercial fishing facilities, and marine vessel construction
221 and repair facilities and their support activities.

222 (2) The assessment benefit provided by this subsection is
223 subject to conditions and limitations and reasonable definitions
224 as specified by the legislature by general law.

225 SECTION 6. Homestead exemptions.-

226 (a) Every person who has the legal or equitable title to
227 real estate and maintains thereon the permanent residence of the
228 owner, or another legally or naturally dependent upon the owner,
229 shall be exempt from taxation thereon, except assessments for
230 special benefits, up to the assessed valuation of \$25,000
231 ~~twenty five thousand dollars~~ and, for all levies other than
232 school district levies, on the assessed valuation greater than

Page 8 of 15

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

22-00173-12 2012314
 233 \$50,000 ~~fifty thousand dollars~~ and up to \$75,000 ~~seventy five~~
 234 ~~thousand dollars~~, upon establishment of right thereto in the
 235 manner prescribed by law. The real estate may be held by legal
 236 or equitable title, by the entireties, jointly, in common, as a
 237 condominium, or indirectly by stock ownership or membership
 238 representing the owner's or member's proprietary interest in a
 239 corporation owning a fee or a leasehold initially in excess of
 240 98 ~~ninety eight~~ years. The exemption shall not apply with
 241 respect to any assessment roll until such roll is first
 242 determined to be in compliance with the provisions of Section 4
 243 by a state agency designated by general law. This exemption is
 244 repealed on the effective date of any amendment to this Article
 245 which provides for the assessment of homestead property at less
 246 than just value.

247 (b) Not more than one exemption under subsection (a) and
 248 one exemption under subsection (f) shall be allowed any
 249 individual or family unit or with respect to any residential
 250 unit. No exemption shall exceed the value of the real estate
 251 assessable to the owner or, in case of ownership through stock
 252 or membership in a corporation, the value of the proportion
 253 which the interest in the corporation bears to the assessed
 254 value of the property.

255 (c) By general law and subject to conditions specified
 256 therein, the legislature may provide to renters, who are
 257 permanent residents, ad valorem tax relief on all ad valorem tax
 258 levies. Such ad valorem tax relief shall be in the form and
 259 amount established by general law.

260 (d) The legislature may, by general law, allow counties or
 261 municipalities, for the purpose of their respective tax levies

22-00173-12 2012314
 262 and subject to the provisions of general law, to grant an
 263 additional homestead tax exemption not exceeding \$50,000 ~~fifty~~
 264 ~~thousand dollars~~ to any person who has the legal or equitable
 265 title to real estate and maintains thereon the permanent
 266 residence of the owner and who has attained age 65 ~~sixty five~~
 267 and whose household income, as defined by general law, does not
 268 exceed \$20,000 ~~twenty thousand dollars~~. The general law must
 269 allow counties and municipalities to grant this additional
 270 exemption, within the limits prescribed in this subsection, by
 271 ordinance adopted in the manner prescribed by general law, and
 272 must provide for the periodic adjustment of the income
 273 limitation prescribed in this subsection for changes in the cost
 274 of living.

275 (e) Each veteran who is age 65 or older who is partially or
 276 totally permanently disabled shall receive a discount from the
 277 amount of the ad valorem tax otherwise owed on homestead
 278 property the veteran owns and resides in if the disability was
 279 combat related, the veteran was a resident of this state at the
 280 time of entering the military service of the United States, and
 281 the veteran was honorably discharged upon separation from
 282 military service. The discount shall be in a percentage equal to
 283 the percentage of the veteran's permanent, service-connected
 284 disability as determined by the United States Department of
 285 Veterans Affairs. To qualify for the discount granted by this
 286 subsection, an applicant must submit to the county property
 287 appraiser, by March 1, proof of residency at the time of
 288 entering military service, an official letter from the United
 289 States Department of Veterans Affairs stating the percentage of
 290 the veteran's service-connected disability and such evidence

22-00173-12 2012314
 291 that reasonably identifies the disability as combat related, and
 292 a copy of the veteran's honorable discharge. If the property
 293 appraiser denies the request for a discount, the appraiser must
 294 notify the applicant in writing of the reasons for the denial,
 295 and the veteran may reapply. The legislature may, by general
 296 law, waive the annual application requirement in subsequent
 297 years. This subsection shall take effect December 7, 2006, is
 298 self-executing, and does not require implementing legislation.

299 (f) Every person who has established the right to receive
 300 the homestead exemption provided in subsection (a) is entitled
 301 to an additional homestead exemption for all levies other than
 302 school district levies in an amount equal to 30 percent of the
 303 homestead property's just value in excess of \$75,000 but less
 304 than or equal to \$200,000, plus 15 percent of the homestead
 305 property's just value in excess of \$200,000 but less than or
 306 equal to \$400,000. The value of the additional homestead
 307 exemption shall be reduced by the difference between the just
 308 value of the property and the assessed value of the property
 309 determined under Section 4(d). By general law, the legislature
 310 may adjust the percent of just value or the maximum and minimum
 311 levels of just value used to calculate the additional homestead
 312 exemption, but may not reduce the value of the additional
 313 exemption below the value established in this subsection.

314 ARTICLE XII

315 SCHEDULE

316 SECTION 27. Property tax exemptions and limitations on
 317 property tax assessments.—The amendments to Sections 3, 4, and 6
 318 of Article VII, providing a \$25,000 exemption for tangible
 319 personal property, providing an additional \$25,000 homestead

22-00173-12 2012314
 320 exemption, authorizing transfer of the accrued benefit from the
 321 limitations on the assessment of homestead property, and this
 322 section, if submitted to the electors of this state for approval
 323 or rejection at a special election authorized by law to be held
 324 on January 29, 2008, shall take effect upon approval by the
 325 electors and shall operate retroactively to January 1, 2008, or,
 326 if submitted to the electors of this state for approval or
 327 rejection at the next general election, shall take effect
 328 January 1 of the year following such general election. The
 329 amendments to Section 4 of Article VII creating subsections (g)
 330 ~~(f)~~ and (h) ~~(g)~~ of that section, creating a limitation on annual
 331 assessment increases for specified real property, shall take
 332 effect upon approval of the electors and shall first limit
 333 assessments beginning January 1, 2009, if approved at a special
 334 election held on January 29, 2008, or shall first limit
 335 assessments beginning January 1, 2010, if approved at the
 336 general election held in November of 2008. Subsections (g) ~~(f)~~
 337 and (h) ~~(g)~~ of Section 4 of Article VII are repealed effective
 338 January 1, 2023 ~~2019~~; however, the legislature shall by joint
 339 resolution propose an amendment abrogating the repeal of
 340 subsections (g) ~~(f)~~ and (h) ~~(g)~~, which shall be submitted to the
 341 electors of this state for approval or rejection at the general
 342 election of 2022 ~~2018~~ and, if approved, shall take effect
 343 January 1, 2023 ~~2019~~.

344 Property assessments.—This section and the amendments to
 345 Section 4 of Article VII authorizing the legislature to prohibit
 346 increases in the assessed value of homestead property that has a
 347 declining just value and reducing the limit on the maximum
 348 annual increase in the assessed value of nonhomestead property

22-00173-12 2012314
 349 from 10 percent to 7 percent, if submitted to the electors of
 350 this state for approval or rejection at a special election
 351 authorized by law to be held on the date of the 2012
 352 presidential preference primary, shall take effect upon approval
 353 by the electors and shall operate retroactively to January 1,
 354 2012, or, if submitted to the electors of this state for
 355 approval or rejection at the 2012 general election, shall take
 356 effect January 1, 2013.

Additional homestead exemption.—This section and the
 357 amendment to Section 6 of Article VII providing for an
 358 additional homestead exemption, if submitted to the electors of
 359 this state for approval or rejection at a special election
 360 authorized by law to be held on the date of the 2012
 361 presidential preference primary, shall take effect upon approval
 362 by the electors and shall operate retroactively to January 1,
 363 2012, or, if submitted to the electors of this state for
 364 approval or rejection at the 2012 general election, shall take
 365 effect January 1, 2013.

BE IT FURTHER RESOLVED that the following statement be
 367 placed on the ballot:

369 CONSTITUTIONAL AMENDMENT
 370 ARTICLE VII, SECTIONS 4, 6
 371 ARTICLE XII, SECTION 27

372 PROPERTY TAX LIMITATIONS; ADDITIONAL HOMESTEAD EXEMPTION.—

373 (1) In certain circumstances, the law requires the assessed
 374 value of real property to increase when the just value of the
 375 property is greater than its assessed value. This amendment
 376 authorizes the Legislature, by general law, to prohibit such
 377 increase in the assessment of property whose just value is less

22-00173-12 2012314
 378 than its just value on the preceding assessment date. If
 379 approved at a special election held on the date of the 2012
 380 presidential preference primary, this amendment takes effect
 381 upon approval by the voters and operates retroactively to
 382 January 1, 2012, or, if approved by the voters at the general
 383 election, takes effect January 1, 2013.

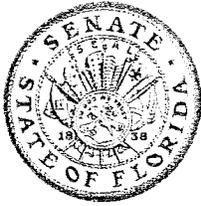
(2) The State Constitution generally limits increases in
 384 the assessed value of nonhomestead real property for property
 385 tax purposes to 10 percent annually. This amendment reduces that
 386 limit to 7 percent. If approved at a special election held on
 387 the date of the 2012 presidential preference primary, this
 388 amendment takes effect upon approval by the voters and operates
 389 retroactively to January 1, 2012, or, if approved by the voters
 390 at the general election, takes effect January 1, 2013.

(3) This amendment also provides owners of homestead
 392 property an additional homestead exemption for all levies other
 393 than school district levies in an amount equal to 30 percent of
 394 the homestead property's just value between \$75,000 and
 395 \$200,000, plus 15 percent of the homestead property's just value
 396 between \$200,000 and \$400,000. The Legislature may adjust the
 397 amount of the additional homestead exemption but may not reduce
 398 it below what is provided in this amendment. The value of the
 399 additional homestead exemption shall be reduced by the
 400 difference between the just value of the property and its
 401 assessed value. The amendment takes effect upon approval of the
 402 voters and operates retroactively to January 1, 2012, if
 403 approved at the special election held on the date of the 2012
 404 presidential preference primary, or on January 1, 2013, if
 405 approved by the voters at the 2012 general election.
 406

22-00173-12

2012314__

407 (4) The State Constitution provides for the automatic
408 repeal of the provisions that provide a general limit on annual
409 increases in the assessed value of nonhomestead properties for
410 the purposes of property taxes. This amendment delays until 2023
411 the repeal of those provisions, which is currently scheduled to
412 occur in 2019.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on Education Pre-K - 12
Appropriations, *Chair*
Agriculture
Budget
Budget - Subcommittee on Higher Education
Appropriations
Judiciary
Rules - Subcommittee on Ethics and Elections

SENATOR DAVID SIMMONS

Majority Whip
22nd District

October 18, 2011

The Honorable Michael Bennett
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Bennett:

I would like to respectfully request that you place Senate Joint Resolution 314, Relating to Ad Valorem Taxation, on the next agenda for the Community Affairs Committee.

Please feel free to contact me if you have any questions regarding this bill.

Sincerely yours,

A handwritten signature in black ink, appearing to read "David Simmons", written over a horizontal line.

David Simmons

cc: Tom Yeatman, staff director for Community Affairs Committee

REPLY TO:

- 251 Maitland Avenue, Suite 304, Altamonte Springs, FL 32701 (407) 262-7578
- 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5050

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Community Affairs Committee

BILL: SJR 312

INTRODUCER: Senator Simmons

SUBJECT: Rescinding and Withdrawing House Joint Resolution 381 (2011)

DATE: October 28, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Pre-meeting
2.			JU	
3.			BC	
4.				
5.				
6.				

I. Summary:

Senate Joint Resolution 312 (SJR 312) rescinds and withdraws House Joint Resolution 381 (2011) which proposes constitutional Amendment 4 on ad valorem taxation scheduled for the 2012 general election ballot. Amendment 4 reduces annual nonhomestead assessment limitations, allows the Legislature, by general law, to prohibit assessment value increases in any year when the market value of a property decreases, and authorizes an additional homestead exemption. The amendment also delays the future repeal of nonhomestead assessment limitations.

SJR 312 is contingent upon adoption of Senate Joint Resolution 314 or similar legislation proposing alternative amendments to the Florida Constitution. If SJR 312 passes each house of Legislature by a 3/5ths affirmative vote,¹ Amendment 4 will not appear on the 2012 ballot.

II. Present Situation:

House Joint Resolution 381: Proposed Amendment 4 at the 2012 General Election

In 2011, the Legislature approved House Joint Resolution 381 (HJR 381) (2011) which relates to ad valorem taxation. HJR 381 (2011) proposes amendments to Article VII, sections 4 and 6 and Article XII, section 27 of the Florida Constitution. It also proposes the creation of Article XII,

¹ In AGO 070-21 (April, 1970), the Florida Attorney General opined that the legislature may rescind a proposed constitutional amendment and prevent it from appearing on the ballot by adopting a joint resolution at a subsequent session that is agreed to by the same percentage of the membership required to pass the original joint resolution (currently three-fifths of the membership of each house).

sections 32 and 33 of the Florida Constitution. The ad valorem taxation provisions of HJR 381 (2011) comprise the following:

- Reducing the annual assessment limitation for specified nonhomestead property from 10 percent to 5 percent.
- Allowing the Legislature, by general law, to prohibit increases in the assessed value of a homestead property and certain nonhomestead property in any year where the market value of the property decreases.
- Providing an additional homestead exemption for persons who are entitled to a homestead exemption under Art. VII, s. 6(a) of the Florida Constitution, and have not received a homestead exemption in the previous three years.
 - The additional homestead exemption would be equal to 50 percent of the just value of the homestead property though the exemption may not exceed the median just value of all homestead property within the county.
 - The amount of the additional homestead exemption is reduced each year for five years by 20 percent of the initial exemption or by an amount equal to the difference between the just value and the assessed value, whichever is greater. The exemption is not available in the sixth and subsequent years after it is first received.
 - The exemption applies only to non-school property taxes.
- Delaying until 2023, the repeal, currently scheduled to take effect in 2019, of constitutional amendments which limit annual assessments for specified nonhomestead property.

If approved by voters at the 2012 general election, the assessment limitations and additional homestead exemption shall take effect January 1, 2013. The additional homestead exemption shall be available for properties purchased on or after January 1, 2012.

Rescinding a Proposed Amendment

A joint resolution is used by the Legislature to rescind a proposed amendment or revision of the State Constitution.² In AGO 070-21 (April, 1970), the Florida Attorney General opined that the legislature may rescind a proposed constitutional amendment and prevent it from appearing on the ballot by adopting a joint resolution at a subsequent session that is agreed to by the same percentage of the membership required to pass the original joint resolution.

Article XI, section 1 of the Florida Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths vote of the membership of each house.

A recent example of a proposed amendment that was rescinded is SJR 2788 (2006), which removed a proposed constitutional amendment dealing with term limits from the 2006 general election ballot.

² Fla. Senate, *Manual for Drafting Legislation*, 130 (6th ed. 2009). *See also Crawford v. Gilchrist*, 59 So. 963 (Fla. 1912) (noting that a “right to reconsider action taken is an attribute of all deliberative bodies, and it is not forbidden to the Legislature by the Constitution”).

III. Effect of Proposed Changes:

The ad valorem tax provisions of HJR 381 (2011) are rescinded and withdrawn and the Secretary of State shall withhold the joint resolution from the 2012 ballot. Senate Joint Resolution 314 or similar legislation must be adopted by the Legislature.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

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

None.

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 once in the tenth week and again in the sixth week immediately preceding the week the election is held.

The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is \$106.14 for this fiscal year. The estimated cost for advertising Amendment 4 is \$376,903.14.³ While these costs will not be incurred if this joint resolution passes, similar costs will be required for SJR 314 or some comparable legislation.

³ Department of State, *SJR 314 Analysis* (Oct. 31, 2011) (on file with the Senate Committee on Community Affairs).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

By Senator Simmons

22-00252-12

2012312__

Senate Joint Resolution

A joint resolution rescinding and withdrawing House Joint Resolution 381 (2011), which relates to ad valorem taxation, contingent upon adoption of a joint resolution proposing alternative amendments to the State Constitution.

Be It Resolved by the Legislature of the State of Florida:

That House Joint Resolution 381, adopted in the 2011 Regular Session and entitled "A joint resolution proposing amendments to Sections 4 and 6 of Article VII and Section 27 of Article XII and the creation of Sections 32 and 33 of Article XII of the State Constitution to allow the Legislature by general law to prohibit increases in the assessed value of homestead and specified nonhomestead property if the just value of the property decreases, reduce the limitation on annual assessment increases applicable to nonhomestead real property, provide an additional homestead exemption for owners of homestead property who have not owned homestead property for a specified time before purchase of the current homestead property, and application and limitations with respect thereto, delay the future repeal of provisions limiting annual assessment increases for specified nonhomestead real property, and provide effective dates," is rescinded and withdrawn.

BE IT FURTHER RESOLVED that the proposed amendments to Sections 4 and 6 of Article VII and Section 27 of Article XII and the creation of Sections 32 and 33 of Article XII of the State Constitution not be submitted to the electors of this

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

22-00252-12

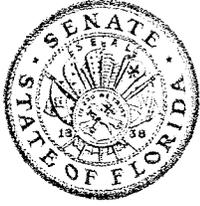
2012312__

state for approval or rejection at the 2012 presidential preference primary or the 2012 general election and the Secretary of State shall withhold House Joint Resolution 381 (2011) from the ballot.

BE IT FURTHER RESOLVED that this joint resolution shall take effect only if Senate Joint Resolution ____ or similar legislation is adopted by the Legislature.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Budget - Subcommittee on Education Pre-K - 12
Appropriations, *Chair*
Agriculture
Budget
Budget - Subcommittee on Higher Education
Appropriations
Judiciary
Rules - Subcommittee on Ethics and Elections

SENATOR DAVID SIMMONS

Majority Whip
22nd District

October 18, 2011

The Honorable Michael Bennett
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Bennett:

I would like to respectfully request that you place Senate Joint Resolution 312, Relating to Rescinding and Withdrawing House Joint Resolution 381, on the next agenda for the Community Affairs Committee.

Please feel free to contact me if you have any questions regarding this bill.

Sincerely yours,

A handwritten signature in black ink, appearing to read "David Simmons", written over a horizontal line.

David Simmons

cc: Tom Yeatman, staff director for Community Affairs Committee

REPLY TO:

- 251 Maitland Avenue, Suite 304, Altamonte Springs, FL 32701 (407) 262-7578
- 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5050

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Community Affairs Committee

BILL: SB 110

INTRODUCER: Senator Wise

SUBJECT: Spaceport Territory

DATE: November 1, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fleming</u>	<u>Carter</u>	<u>MS</u>	Favorable
2.	<u>Pugh</u>	<u>Hrdlicka</u>	<u>CM</u>	Favorable
3.	<u>Roam</u>	<u>Yeatman</u>	<u>CA</u>	Pre-meeting
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

In January 2010, the Federal Aviation Administration (FAA) issued Jacksonville Aviation Authority a Space Launch Cite Operator’s License, which authorizes the use of Cecil Field Spaceport for horizontal take-off and landings of suborbital launch vehicles.

SB 110 updates the inventory of existing spaceport territories in the state by designating the property Cecil Field Spaceport in Jacksonville as a spaceport territory. This bill also permits the board of directors of Space Florida to designate real property within the state as a spaceport territory if the property has been licensed by the FAA as a spaceport or if the property serves as space-related infrastructure.

This bill substantially amends s. 331.304, F.S.

II. Present Situation:

Background on the Commercial Space Launch Industry

The United States space program constitutes three sectors – civil, military and commercial. The commercial space sector will play an increasingly important role in the U.S. space program with the retirement of the Space Shuttle Program in July 2011. President Obama’s National Space Policy (policy),¹ issued on June 28, 2010, emphasizes the need to utilize the commercial space industry to meet the current and future U.S. space transportation needs. Specifically, the policy states, “[t]he United States is committed to encouraging and facilitating the growth of a U.S.

¹National Space Policy of the United States of America. June 28, 2010. Available at: http://www.whitehouse.gov/sites/default/files/national_space_policy_6-28-10.pdf. Site last visited Sept. 25, 2010.

commercial space sector that supports U.S. needs, is globally competitive, and advances U.S. leadership in the generation of new markets and innovation-driven entrepreneurship.”²

Space transportation is the movement of, or means of moving, objects such as communications and observation satellites, to, from, or in space. Commercial space transportation is carried out by vehicles owned and operated by private companies or organizations. The majority of such launches carry satellites and other payloads owned by private companies and procured through a competitive bidding process, although government payloads are occasionally launched commercially.³

In 2010, commercial launches comprised approximately 31 percent of all launches conducted worldwide.⁴ The chart below illustrates the worldwide participation in commercial and non-commercial orbital launch activity in 2010.

2010 WORLDWIDE ORBITAL LAUNCH ACTIVITY⁵			
Nations	Commercial Launches	Non-Commercial Launches	Total Launches
United States ⁶	4	11	15
Russia	13	18	31
Europe	6	0	6
China	0	15	15
Japan	0	2	2
India	0	3	3
Israel	0	1	1
South Korea	0	1	1
Total	23	51	74

The Office of Commercial Space Transportation (OCST) within the Federal Aviation Administration (FAA) is the U.S. government organization responsible for regulating and facilitating the safe operations and international competitiveness of the U.S. commercial space transportation industry. The FAA's launch regulations and licensing procedures apply to all commercial launches taking place within U.S. territory, and for launches being conducted abroad by U.S. companies. In general, the FAA does not license launches by U.S. government organizations and certain classes of small rockets. Since the OCST was created in 1984, the FAA has issued licenses for more than 200 launches, licensed the operation of eight FAA-approved launch sites known as spaceports, and has helped ensure that no loss of life or serious injury has been associated with these efforts.⁷

² Ibid p. 3.

³ Information in this paragraph summarized from information posted on FAA’s Office of Commercial Space Transportation website. See: http://ast.faa.gov/about/office_org/headquarters_offices/ast/industry. Site last visited Sept. 25, 2011.

⁴ FAA report: *Commercial Space Transportation: 2010 Year in Review*. January 2011. Available at: http://www.faa.gov/about/office_org/headquarters_offices/ast/media/2010%20Year%20in%20Review.pdf. Site last visited Sept. 25, 2011.

⁵ Ibid p. 3.

⁶ Eleven of the 15 total U.S. orbital launches in 2010 took place in Florida, in which 3 were commercial launches and 8 were non-commercial.

⁷ Supra note 3.

FAA Licensed Commercial Spaceports

Spaceports are sites designated to launch orbital or suborbital vehicles into space. These sites often also provide the capability to integrate launch vehicle components, to integrate vehicles with payloads, to fuel and maintain vehicles, and to launch vehicles.⁸ As stated above, the FAA licenses the operation of commercial spaceports in the United States and thus far has issued eight licenses, listed below.

FAA LICENSED COMMERCIAL SPACEPORTS ⁹				
Spaceport	Operator	State	License First Issued	Expires
California Spaceport	Spaceport Systems International	CA	1996	9/18/2011
Cape Canaveral Spaceport	Space Florida	FL	1999	6/30/2015
Cecil Field Spaceport	Jacksonville Aviation Authority	FL	2010	1/10/2015
Kodiak Launch Complex	Alaska Aerospace Development Corp.	AK	1998	9/24/2013
Mid-Atlantic Regional Spaceport	Virginia Commercial Space Flight Authority	VA	1997	12/18/2012
Mojave Air and Space Port	East Kern Airport District	CA	2004	6/16/2014
Oklahoma Spaceport	Oklahoma Spaceport Industry Development Authority	OK	2006	6/11/2011
Spaceport America	New Mexico Spaceport Authority	NM	2008	12/15/2013

Florida's Existing Spaceports

Currently, there are four spaceport locations in Florida, which include two federally-owned spaceports and two FAA licensed commercial spaceports. The Cape Canaveral Air Force Station (CCAFS) and the National Aeronautics and Space Administration's Kennedy Space Center (KSC) constitute the federal spaceports in Florida. The two FAA licensed commercial spaceports in Florida include the Cape Canaveral Spaceport, operated by Space Florida, and Cecil Field Spaceport, operated by the Jacksonville Aviation Authority (JAA).

Cape Canaveral Spaceport

Space Florida was first issued a FAA commercial spaceport license in 1999 and with that license operates the Cape Canaveral Spaceport, a group of facilities that include launch complexes leased from and co-located on CCAFS. Space Florida utilizes these launch complexes to facilitate private and commercial space ventures as well as research and development.

Cecil Field Spaceport¹⁰

In January 2010, the FAA issued the JAA a Space Launch Site Operator's License. The license authorizes use of Cecil Field Spaceport for horizontal take off and landings for suborbital launch vehicles. The U.S. Navy once operated Cecil Field as an airfield, which was closed in 1993 and transferred to the City of Jacksonville in 1999. Cecil Field Spaceport is located about 15 miles from Jacksonville and features a 12,500 foot runway and three shorter runways. Cecil Field Spaceport shares assets with Cecil Field Airport, which services military and civil aircraft and

⁸ FAA report: *2011 U.S. Commercial Space Transportation Developments and Concepts: Vehicles, Technologies, and Spaceports*. January 2011. p. 47. Available at: http://www.faa.gov/about/office_org/headquarters_offices/ast/media/2011%20DevCon%20Report.pdf. Site last visited Sept. 25, 2011.

⁹ Ibid p. 48.

¹⁰ Ibid p. 50.

general aviation customers. The FAA awarded \$105,000 to JAA, as part of the FAA's Space Transportation Infrastructure Matching Grants program in 2010.¹¹ JAA will use the money to develop a Spaceport Master Plan for Cecil Field.

Spaceport Territories Designated in the Florida Statutes

Section 331.304, F.S., provides that certain property in the state constitutes "spaceport territory." This property includes:

- Certain real property in Brevard County that is included within the 1998 boundaries of Patrick Air Force Base, Cape Canaveral Air Force Station, or John F. Kennedy Space Center; and
- Certain real property located in Santa Rosa, Okaloosa, Gulf, and Walton counties which is included within the 1997 boundaries of Eglin Air Force Base.¹²

The property within Duval County which constitutes Cecil Field Spaceport is not currently designated as a "spaceport territory" in the Florida Statutes.

Economic Impact of Space and Aerospace Businesses in Florida

The Brevard Workforce Development Board, Inc. (BWDB), has estimated that, at its height, Space Shuttle-related activity in Florida supported a workforce level of approximately 9,160 employees, earning estimated total annual wages of \$660 million. The majority of this workforce is located at or near KSC.¹³ No statistics are currently available, but there may be hundreds more Florida workers, employed at businesses throughout the state that are part of the Space Shuttle program's "supply chain," who likely will be negatively impacted.

The most recent information compiled by the BWDB indicates that as many as 7,000 of the 9,160 Space Shuttle employees will likely encounter difficulties in finding new employment.¹⁴ These actions have accelerated efforts by BWDB, Space Florida, and other entities to help recruit out-of-state companies or promote development or expansion of Florida businesses to hire these displaced workers.

NASA's operations in Florida are a major economic driver.¹⁵ The total amount of NASA spending (so-called "outside money") for KSC-related activities was \$1.8 billion, including \$1.1 billion in wages in FY 2009-2010. Counting indirect spending, the total economic impact of

¹¹For more information on the FAA's Space Transportation Infrastructure Matching Grants program, see http://www.faa.gov/about/office_org/headquarters_offices/ast/grants_program/.

¹² Additionally, s. 331.307, F.S., refers to the "spaceport facility at Cape San Blas" in Gulf County, which appears to be owned by Eglin. This section of law, created in 1989, establishes certain conditions on Space Florida's use of the Cape San Blas launch site, related primarily to environmental safeguards and associated development. On Aug. 22, 1992, the Spaceport Florida Authority (one of Space Florida's predecessors) launched a 10-foot-tall, 90-pound Microstar rocket from Cape San Blas as part of a suborbital weather experiment by university researchers to take ozone measurements. No other space-related launches have occurred at Cape San Blas.

¹³ Brevard Workforce Development Board: *Aerospace Workforce Outlook Report - Phase III*. January 2010. p.7. Available at: <http://www.bwdb.org/DownloadDocuments/Misc%20Documents/AWO%20Phase%20III%20Report.pdf>. Site last visited Sept. 25, 2011.

¹⁴ Ibid p. 22.

¹⁵ NASA: *Economic Impact of NASA in Florida FY 2010*. pp. 1-2. On file with the Senate Commerce and Tourism Committee.

NASA to Florida was estimated at \$4.1 billion in production output; \$2.2 billion in household income; 33,049 jobs; and \$134 million in state and local tax revenues.

However, Florida-specific information about non-NASA spending on commercial space activities is not as readily available. The FAA's most recent economic impact study on the commercial space activities in the United States indicated that commercial space transportation and related industries, such as launch vehicle manufacturing and services and satellite manufacturing, remains a lucrative job-creator in this country.¹⁶ In 2009, the commercial space industry sectors generated a total of \$208.3 billion in economic activity in the United States, employing more than 1 million people with earnings that exceeded \$53 billion.¹⁷ While the overall numbers have increased each year, the employment, wages, and economic impact within certain related industry sectors have declined, due in part to a reduction in commercial space launches in this country and more launches in other nations.¹⁸

Another source of data for the space, aerospace, and defense fields is the Aerospace Industries Association, a professional organization that includes NASA and non-NASA contract employers. It reports that as of 2008, Florida was home to 105 aerospace-related companies that employed 28,508 persons earning an average wage of \$56,226.¹⁹

III. Effect of Proposed Changes:

SB 110 amends s. 331.304, F.S., to:

- Update the inventory of existing spaceport territories in the state by designating the property within the boundaries of Cecil Airport and Cecil Commerce Center in Jacksonville as a spaceport territory.
- Permit the board of directors of Space Florida to designate real property within the state as a spaceport territory if the property has been licensed by the FAA as a spaceport or if the property serves as space-related infrastructure.

SB 110 has an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁶ FAA: *The Economic Impact of Commercial Space Transportation on the U.S. Economy in 2009*. Available at: http://www.faa.gov/news/updates/media/Economic%20Impact%20Study%20September%202010_20101026_PS.pdf. Site last visited September 25, 2011.

¹⁷ Ibid p. 6.

¹⁸ Ibid p. 7.

¹⁹ Posted on the Aerospace Industries Association website is an interactive map of the United States with pertinent data on the number of aerospace companies, their number of employees, their payroll, and the combined value of their sales. Map available at https://www2.aia-aerospace.org/stats/state_data/#. Site last visited Sept. 28, 2011.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By designating Cecil Field Spaceport, future FAA licensed spaceports in Florida, and other space-related infrastructure in Florida as spaceport territory, SB 110 has the potential to increase the economic development and commercial space business in Florida. Specifically, Cecil Field Spaceport may attract commercial ventures, such as space tourism, when that industry advances.

C. Government Sector Impact:

Designating Cecil Field Spaceport as spaceport territory and permitting the board of directors of Space Florida to recognize future FAA licensed spaceports and other space-related infrastructure as spaceport territory may aid Space Florida in attracting different types of commercial space companies and competing for spaceflight businesses. Also, as designated spaceport territories, they may be included in Space Florida's master-planning efforts, primarily with the Florida Department of Transportation, making them eligible for state funds for road or other infrastructure improvements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.



559354

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Community Affairs (Wise) recommended the following:

Senate Amendment (with directory amendment)

Delete lines 18 - 20.

=====
D I R E C T O R Y C L A U S E A M E N D M E N T
=====

And the directory clause is amended as follows:

Delete line 8

and insert:

Section 1. Subsections (3) and (4) are added to

By Senator Wise

5-00109-12

2012110__

1 A bill to be entitled
2 An act relating to spaceport territory; amending s.
3 331.304, F.S.; revising spaceport territory to include
4 certain properties; providing an effective date.

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. Subsections (3), (4), and (5) are added to
9 section 331.304, Florida Statutes, to read:

10 331.304 Spaceport territory.—The following property shall
11 constitute spaceport territory:

12 (3) Certain real property located in Duval County which is
13 included within the boundaries of Cecil Airport and Cecil
14 Commerce Center.

15 (4) Real property within the state which is a spaceport
16 licensed by the Federal Aviation Administration, as designated
17 by the board of directors of Space Florida.

18 (5) Real property within the state which is space-related
19 infrastructure, as designated by the board of directors of Space
20 Florida.

21 Section 2. This act shall take effect July 1, 2012.



The Florida Senate
Committee Agenda Request

To: Senator Michael S. "Mike" Bennett, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: October 5, 2011

I respectfully request that **Senate Bill # 110**, relating to Spaceport Territory, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Stephen R. Wise

Senator Stephen R. Wise
Florida Senate, District 5

✓ rec'd 10/5/11
apw