

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HJR 7057  
Assessment Increases

Reduction in Limitation on Nonhomestead Property Annual

**SPONSOR(S):** Finance & Tax Council; Military & Local Affairs Policy Committee and Hukill and Domino

**TIED BILLS:** **IDEN./SIM. BILLS:**

	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
Orig. Comm.:	Military & Local Affairs Policy Committee	13 Y, 0 N	Noriega	Hoagland
1)	Economic Development & Community Affairs Policy Council	15 Y, 0 N	Noriega	Tinker
2)	Finance & Tax Council	14 Y, 0 N, As CS	Diez-Arguelles	Langston
3)	Rules & Calendar Council			
4)				
5)				

**SUMMARY ANALYSIS**

Article VII, section 4 of the Florida Constitution provides that the property tax assessment of certain non-homestead property cannot increase by more than 10 percent per year, so long as ownership of the property does not change. The limitation does not apply to taxes levied by school districts.

This bill proposes a joint resolution to amend Article VII, section 4 of the Florida Constitution to reduce the limitation on assessment increases applicable to certain non-homestead real property from 10 percent to 5 percent.

The proposed constitutional amendment will be submitted to the electors at the general election in November 2010 or at an earlier special election if specifically authorized by law enacted by the Legislature for that purpose. If approved by 60 percent of the voters at the 2010 general election, the proposed amendment will take effect in January 2011.

The Department of State estimates that the cost of the proposed amendment is \$162,306. This cost is the result of placing the amendment on the ballot and publishing the notices as required by the Florida Constitution.

The Revenue Estimating Conference adopted an indeterminate negative fiscal impact for this bill because the proposed amendment requires voter approval. The Conference has estimated that if the provisions of this amendment applied to assessments on January 1, 2010, the statewide negative fiscal impact on non-school taxes property taxes would be \$100.1 million in FY 2010-11, \$185.2 million in FY 2011-12, and \$266.4m in FY 2012-13, assuming current millage rates.

**The joint resolution must be approved by a three-fifths vote of the membership of each house of the Legislature.**

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### General Overview of Ad Valorem Taxation and Assessments

The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts. The amount of tax levied is based on the taxable value of real and tangible personal property as of January 1 of each year and the tax rate (millage rate) applied to such value.<sup>1</sup> Ad valorem property tax revenues result from multiplying the millage rate adopted by counties, municipalities, and school boards, by the taxable value of property within that jurisdiction. The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.<sup>2</sup>

With the exception of the ad valorem tax and other home-rule revenue sources, local governments are dependent on the Legislature for authority to levy any other forms of taxation. The property tax is the largest single tax revenue source for local governments in Florida, with approximately \$31.0 billion levied in fiscal year 2007–08. Ad valorem property tax revenues are also the primary revenue source for school districts. Of the \$31.0 billion levied statewide during FY 2007-08, school districts levied an estimated \$13.25 billion in property taxes.<sup>3</sup>

The “taxable value” of real and tangible personal property is the fair market value, or “just value,” of the real and tangible personal property adjusted for any exclusions, differentials, or exemptions allowed by the

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<sup>1</sup> Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. The terms “land,” “real estate,” “realty,” and “real property” may be used interchangeably. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in s. 1(b), Art. VII of the State Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>2</sup> Article VII, s. 1(a), Florida Constitution.

<sup>3</sup> *Florida Tax Handbook*, 2008.

constitution or the statutes.<sup>4</sup> The Florida Constitution strictly limits the Legislature's authority to provide exemptions or adjustments to fair market value.<sup>5</sup>

#### January 29, 2008, Constitutional Amendment

On January 29, 2008, Florida's voters approved a constitutional amendment that made changes to the constitutional provisions dealing with property taxation. Some of the changes provided that the property tax assessment of certain non-homestead property<sup>6</sup> cannot increase by more than 10 percent per year, so long as ownership of the property does not change. The limitation does not apply to taxes levied by school districts.<sup>7</sup>

#### **Proposed Changes**

This bill proposes a joint resolution to amend Article VII, section 4 of the Florida Constitution to reduce the limitation on assessment increases applicable to certain non-homestead real property from 10 percent to 5 percent.

The proposed amendment will be submitted to the electors at the general election in November 2010 or at an earlier special election if specifically authorized by law enacted by the Legislature for that purpose. If approved by 60 percent of the voters at the 2010 general election, the proposed amendment will take effect on January 1, 2011.

#### B. SECTION DIRECTORY:

Not applicable to a joint resolution.

### **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

The joint resolution will not have a direct effect on state government revenues.

##### 2. Expenditures:

The state constitution requires publication of a proposed amendment or revision to the constitution in one newspaper of general circulation in each county in which a newspaper is published, once in the tenth week and once in the sixth week immediately preceding the week in which the election is held.<sup>8</sup>

Based on the 2008 election costs to advertise a proposed constitutional amendment, the Department of State, Division of Elections, estimates that the total non-recurring cost to advertise the proposed amendment is \$162,306. This cost is determined by multiplying the total number of words in the proposed amendment (approximately 1,764) by the per word cost of \$92.01.<sup>9</sup> The

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<sup>4</sup> Sections 192.001(2) and (16), F.S., define the terms "assessed value" and "taxable value." "Assessed value" is generally synonymous with "just value" unless a constitutional exception such as Save Our Homes applies to reduce the assessed value of the property. "Taxable value" is the assessed value minus any applicable exemptions such as the \$25,000 homestead exemption. "Just value" is the estimated fair market value of the property.

<sup>5</sup> Article VII, s. 4, Florida Constitution.

<sup>6</sup> The 10% limitation does not apply to homestead property, agricultural land, high water recharge land, land used for recreational purposes, and land used for conservation purposes.

<sup>7</sup> Article VII, ss. 4(g) and (h), Florida Constitution. Implemented in Secs. 193.1554-.1556. F.S.

<sup>8</sup> Article XI, s. 5(d), Florida Constitution.

<sup>9</sup> Based on information and methodology received from staff of the Department of State.

Department of State notes that there is no appropriation associated with the proposed joint resolution at this time.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The Revenue Estimating Conference adopted an indeterminate negative fiscal impact for this bill because the proposed amendment requires voter approval. The Conference has estimated that if the provisions of this amendment applied to assessments on January 1, 2010, the statewide negative fiscal impact on non-school taxes would be \$100.1 million in FY 2010-11, \$185.2 million in FY 2011-12, and \$266.4m in FY 2012-13, assuming current millage rates.

2. Expenditures:

Property Appraisers may incur additional costs to implement the provisions of the joint resolution.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Non-homestead real property owners to which the 5 percent limitation applies may experience a lower rate of tax increases over time. Property owners not subject to the limitation may experience higher tax increases if local governments choose to adjust their millage rates to account for the tax base loss.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The mandates provisions of Article VII, section 18 of the Florida Constitution do not apply to House Joint Resolutions.

2. Other:

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 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's office or at a special election held for that purpose.

Article XI, section 5(e) of the Florida Constitution requires 60 percent voter approval for a constitutional amendment to pass.

**B. RULE-MAKING AUTHORITY:**

The joint resolution does not require any agency to adopt administrative rules; however, it may be necessary for the Legislature to authorize rulemaking by the Department of Revenue in future implementing legislation.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

#### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 31, 2009, the Finance and Tax Council adopted an amendment to create Section 31 of Article XII of the Florida Constitution, providing an effective date of January 1, 2011 for the changes contained in the joint resolution. This analysis reflects the amendment.