

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 Judiciary Committee

BILL: CS/SJR 312

INTRODUCER: Judiciary Committee and Senator Simmons

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

DATE: December 8, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Favorable
2.	Munroe	Maclure	JU	Fav/CS
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The committee substitute for 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.

Senate Joint Resolution 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 an affirmative three-fifths vote as required by s. 1, Article XI of the State Constitution, Amendment 4 will not appear on the 2012 ballot.

II. Present Situation:

House Joint Resolution 381: Proposed Amendment 4 (2012 General Election)

In 2011, the Legislature approved House Joint Resolution 381 (HJR 381) (2011), which relates to ad valorem taxation. House Joint Resolution 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 Article 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 that 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.¹ In Attorney General Opinion 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.²

¹ The Florida Senate, *Manual for Drafting Legislation*, 130 (6th ed. 2009). See also *Crawford v. Gilchrist*, 59 So. 963, 968 (Fla. 1912) (“A right to reconsider action taken is an attribute of all deliberative bodies, and it is not forbidden to the Legislature by the Constitution.”).

² Attorney General Opinion 070-21 cites several examples of resolutions in 1962 and 1968 in which the Legislature exercised its authority to rescind a proposed constitutional amendment and prevent it from appearing on the ballot.

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 constitutional amendment that was rescinded is SJR 2788 (2006), which removed a proposed constitutional amendment dealing with term limits from the 2006 general election ballot.

III. Effect of Proposed Changes:

The committee substitute for 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.

Senate Joint Resolution 312 takes effect only if SJR 314 or similar language is adopted by the Legislature. Senate Joint Resolution 314 proposes a constitutional amendment to revise requirements governing property assessments and ad valorem taxation.

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:

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 comparable legislation.

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.)

CS by Judiciary on December 7, 2011:

The committee substitute states that “this joint resolution shall take effect only if Senate Joint Resolution 314 or similar legislation is adopted by the Legislature.”

B. Amendments:

None.

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

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