

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SJR 1194

INTRODUCER: Senator Negrón

SUBJECT: Tax Exemption for Senior, Totally Permanently Disabled First Responders

DATE: January 15, 2016

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

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION           |
|----|---------|----------------|-----------|------------------|
| 1. | Present | Yeatman        | CA        | <b>Favorable</b> |
| 2. |         |                | FT        |                  |
| 3. |         |                | AP        |                  |

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**I. Summary:**

SJR 1194 proposes an amendment to Article VII, section 6 of the Florida Constitution which would allow the Legislature to provide ad valorem tax relief to a first responder who is age 65 or older and totally permanently disabled as a result of an injury or injuries sustained in the line of duty. The amount of tax relief, to be defined by general law, can equal the total amount or a portion of the ad valorem tax otherwise owed on homestead property.

The joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

**II. Present Situation:**

**Property Valuation in Florida**

Florida law provides a number of options to reduce property tax liability. Article VII, section 2 of the Florida Constitution provides for uniform ad valorem taxation, stating that “all ad valorem taxation shall be at a uniform rate within each taxing unit.”<sup>1</sup> The property tax burden for an owner of any particular piece of real estate will depend on the property’s just value, its assessed value, and whether the property benefits from any tax exemptions or assessment limitations.

***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

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<sup>1</sup> FLA. CONST. art. VII, s. 2.

market value, or what a willing buyer would pay a willing seller for the property in an arms-length transaction.<sup>2</sup>

### ***Assessed Value***

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.<sup>3</sup> 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.<sup>4</sup> Land used for conservation purposes must be assessed solely on the basis of character or use.<sup>5</sup> Counties and municipalities may authorize historic properties to be assessed solely on the basis of character or use.<sup>6</sup> Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents that are 62 or older.<sup>7</sup> 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.<sup>8</sup> Certain working waterfront property is assessed based upon the property's current use.<sup>9</sup>

### ***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.<sup>10</sup>

### **Assessment Limitations**

#### ***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 3 percent or the percentage increase in the Consumer Price Index (CPI).<sup>11</sup> In addition, an assessment may not 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 benefit under the Save Our Homes assessment limitation. This amendment allows homestead property owners who relocate to a new homestead to transfer up to \$500,000 of the accrued benefit to the new homestead.

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<sup>2</sup> 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).

<sup>3</sup> The constitutional provisions in Art. VII, section 4 of the Florida Constitution are implemented in Part II of ch. 193, F.S.

<sup>4</sup> FLA. CONST. art. VII, s. 4(a).

<sup>5</sup> FLA. CONST. art. VII, s. 4(b).

<sup>6</sup> FLA. CONST. art. VII, s. 4(e).

<sup>7</sup> FLA. CONST. art. VII, s. 4(f).

<sup>8</sup> FLA. CONST. art. VII, s. 4(i).

<sup>9</sup> FLA. CONST. art. VII, s. 4(j).

<sup>10</sup> FLA. CONST. art. VII, ss. 3 and 6.

<sup>11</sup> FLA. CONST. art. VII, s. 4(d).

## **Property Tax Exemptions for Homesteads**

The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.<sup>12</sup>

### ***Homestead Exemption***

Article VII, section 6 of the Florida Constitution provides that every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including levies by 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 school districts.

### ***Additional Homestead Exemptions for Qualified Senior Citizens***

Since 1999, cities and counties have been authorized to offer an additional homestead exemption of up to \$50,000 to persons who are 65 or older and who satisfy certain low-income requirements. Section 196.075(2)(a), F.S., is the general law enacted to allow counties and municipalities to grant this additional homestead exemption.<sup>13</sup> This additional exemption applies to any person who has legal and equitable title to real estate, maintains a property as a permanent residence, has attained the age of 65, and has a household income, as defined by general law, which does not exceed \$20,000. In the implementing legislation for the exemption, the Legislature indexed the \$20,000 figure to inflation. Adjusted each year on January 1 according to changes in the consumer price index, the current household income threshold for the senior low income exemption is \$28,448.<sup>14</sup>

In November 2012, the voters approved a constitutional amendment that authorized the Legislature to allow cities and counties to grant an additional homestead exemption for persons 65 or older.<sup>15</sup> Amendment 11 allowed for an exemption equal to the assessed value of homestead property when the just value is less than \$250,000. The owner is still required to be 65 or older and maintain a permanent residence on the property. However, the owner must have maintained a permanent residence on the property for a minimum of 25 years. The same income limitations apply to both exemptions.

The county or municipality can grant either or both of the additional exemptions and must do so by ordinance, adopted by a supermajority vote of the county or municipal governing body pursuant to the procedures prescribed in ch. 125 or 166, F.S.

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<sup>12</sup>*Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

<sup>13</sup> Article VII, section 6(d)(1) of the Florida Constitution, allows the Legislature to adopt a general law allowing counties and municipalities to grant an additional homestead exemption of up to \$50,000.

<sup>14</sup> Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, available at <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited Oct. 29, 2015).

<sup>15</sup> Amendment 11, 2012 General Election. The amendment originated as CS/HJR 169 (2012). The text of the amendment can be found on the website of the Florida Department of State at <http://election.dos.state.fl.us/initiatives/fulltext/pdf/10-89.pdf>.

### **Homestead Exemptions for First Responders**

Homestead property of a surviving spouse of a first responder is exempt if the first responder died in the line of duty.<sup>16</sup> “First responder” means a law enforcement officer or correctional officer as defined in s. 943.10, F.S., a firefighter as defined in s. 633.102, F.S., or an emergency medical technician or paramedic as defined in s. 401.23, F.S., who is a full-time paid employee, part-time paid employee, or unpaid volunteer.<sup>17</sup> “In the line of duty” means:

- While engaging in law enforcement;
- While performing an activity relating to fire suppression and prevention;
- While responding to a hazardous material emergency;
- While performing rescue activity;
- While providing emergency medical services;
- While performing disaster relief activity;
- While otherwise engaging in emergency response activity; or
- While engaging in a training exercise related to any of the events or activities listed above if the training has been authorized by the employing entity.<sup>18</sup>

### **III. Effect of Proposed Changes:**

The joint resolution proposes an amendment to Article VII, section 6 of the Florida Constitution that would allow the Legislature to provide ad valorem tax relief to a first responder who is age 65 or older and totally permanently disabled as a result of an injury or injuries sustained in the line of duty. The amount of tax relief, to be defined by general law, can equal the total amount or a portion of the ad valorem tax otherwise owed on homestead property.

The proposed amendment requires a first responder’s total permanent disability to be determined by the United States Social Security Administration prior to qualifying for the ad valorem tax relief. Furthermore, causal connection between a disability and service in the line of duty will not be presumed, but must be determined as provided by general law. The term “disability” does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease.

If approved by 60 percent of voters, the proposed constitutional amendment will be effective January 1, 2017.

### **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.

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<sup>16</sup> Section 196.081, F.S.

<sup>17</sup> Section 196.081(6)(c)1., F.S.

<sup>18</sup> Section 196.081(6)(c)2., F.S.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

Article XI, section 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

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.’”<sup>19</sup>

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 10th week and again in the 6th week immediately preceding the week the election is held. The Department of State estimates that the costs for advertising the proposed constitutional amendment will be approximately \$136 per word with a minimum total publishing cost of \$151,742.<sup>20</sup>

Article XI, section 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect.

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

The proposed amendment, if approved by the voters and implemented by the Legislature, would make senior, totally permanently disabled first responders eligible for ad valorem tax relief.

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<sup>19</sup> *Roberts v. Doyle*, 43 So. 3d 654, 659 (Fla. 2010), citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

<sup>20</sup> Dep’t of State, *Legislative Bill Analysis for SJR 1194*, 3 (Jan. 12, 2016).

**B. Private Sector Impact:**

If the proposed amendment is approved by the electorate and implemented by the Legislature, totally permanently disabled first responders who are over the age of 65 may receive property tax relief.

**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 10th week and again in the 6th week immediately preceding the week the election is held. The Department of State estimated that the costs for advertising the proposed constitutional amendment will be approximately \$136 per word with a minimum total publishing cost of \$151,742.<sup>21</sup>

If the proposed amendment is approved by voters and implemented by the Legislature, the Department of Revenue would need to amend forms DR-501 and DR-490 to add the new information.<sup>22</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

No statutes are affected. However, the amendment proposed by this joint resolution, if approved by the electorate and implemented by the Legislature, would amend Article VII, section 6 and create Article XII of the Florida Constitution.

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

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

None.

**B. Amendments:**

None.

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

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<sup>21</sup> *Id.*

<sup>22</sup> Florida Dep't of Revenue, *Legislative Bill Analysis for SJR 1194*, 2 (Jan. 4, 2016).