

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SJR 344

INTRODUCER: Community Affairs Committee and Senator Diaz

SUBJECT: Homestead Assessments

DATE: March 6, 2019

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Toman | Yeatman | CA | Fav/CS |
| 2. | | | FT | |
| 3. | | | AED | |
| 4. | | | AP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SJR 344 proposes an amendment to the Florida Constitution to prohibit increases in the assessed value of homestead property for school district levy purposes to a person who is at least 65 years of age, has held legal or equitable title to the property, and has maintained permanent residence on the property for at least twenty-five years.

CS/SJR 344 will require approval by a three-fifths vote of the membership of each house of the Legislature for passage. If adopted by the Legislature, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election in November 2020.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2021.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of

January 1 of each year.¹ The property appraiser annually determines the assessed or “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Major Property Tax Exemptions Available to Seniors and Assessment Limitations

Statewide Homestead Exemption

Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹¹ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. This exemption does not apply to ad valorem taxes levied by school districts.

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ *See* s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art VII, s. 6(a).

Additional Homestead Exemptions for Certain Persons 65 years of Age or Older

The Florida Constitution also authorizes the Legislature to allow counties and municipalities to grant two additional homestead property tax exemptions for persons aged 65 years or over whose household income does not exceed \$20,000 (low-income seniors).¹² The income limitation is adjusted each year according to changes in the consumer price index. The 2019 household income threshold for these exemptions is \$30,174.¹³ The exemptions require the owner to hold legal or equitable title to the real estate and maintain thereon their permanent residence. The two additional exemptions are:

\$50,000 Additional Exemption. Since 1999, counties and municipalities have been authorized to grant an additional homestead exemption not exceeding \$50,000 for low-income seniors.¹⁴

Long-term, Low-Income Seniors with Homesteads under \$250,000. Since 2013, counties and municipalities have been authorized to also exempt the entire assessed value of a low-income senior's homestead with a just value less than \$250,000 if the low-income senior has maintained that homestead for not less than 25 years.¹⁵

A county or municipality may grant either or both of the additional exemptions and must do so by ordinance pursuant to the procedures prescribed in chapters 125 and 166, F.S.¹⁶ The ordinance must specify that the exemption applies only to taxes levied by the unit of government granting the exemption.¹⁷

For purposes of the exemption, "household income" means "the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household."¹⁸ The term "household" means "a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling."¹⁹

Save Our Homes Assessment Limitation and Portability

In 1992, Florida voters approved an amendment to the Florida Constitution known as the Save Our Homes amendment.²⁰ Article VII, section 4(d) of the Florida Constitution limits the amount that the assessed value of a homestead property may increase annually to the lesser of 3 percent or the percentage increase in the Consumer Price Index (CPI).²¹ The accumulated difference between the assessed value and the just value is the Save Our Homes Benefit. The assessed value

¹² FLA. CONST. art. VII, s. 6(d)(1) and (2).

¹³ Florida Department of Revenue, *Two Additional Homestead Exemptions for Persons 65 and Older* (Revised January 2019) available at <http://floridarevenue.com/property/Documents/AdditionalHomesteadExemptions.pdf> (last visited Feb. 20, 2019).

¹⁴ FLA. CONST. art. VII, s. 6(d)(1) and s. 196.075(2), F.S.

¹⁵ FLA. CONST. art. VII, s. 6(d)(2).

¹⁶ Section 196.075(4)(a), F.S.

¹⁷ Because the exemption applies only to taxes levied by the county or municipality that enacts the exemption, it does not apply to taxes levied by school districts or other taxing authorities. *See* s. 196.075, F.S.

¹⁸ Section 196.075(1)(b), F.S.

¹⁹ Section 196.075(1)(a), F.S.

²⁰ The Florida Legislature implemented the Saves Our Homes amendment in s. 193.155, F.S.

²¹ FLA. CONST. art. VII, s. 4(d).

may increase even if the value of the home decreases, but only by this limited amount. In addition, the assessed value of a homestead property will never be more than the 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.²² This amendment allows homestead property owners who relocate to a new homestead to transfer, or “port,” up to \$500,000 of the accrued benefit to the new homestead. To transfer the Save Our Homes benefit, you must establish a homestead exemption for the new home within 2 years of January 1 of the year you abandoned the old homestead (not 2 years after the sale).²³

School District Ad Valorem Taxes

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes.²⁴ The levy of nonvoted ad valorem tax levies for school purposes is restricted to ten mills.²⁵ The voted levies, which are constitutionally available to counties and municipalities as well as school districts, do not count toward the ten-mill cap. School district millage rates are composed of five categories:²⁶

- Nonvoted required school operating millage necessary to meet Required Local Effort (RLE) is determined by the Commissioner of Education and set by the school board. For operating purposes, it is imposed pursuant to s. 1011.60(6), F.S., and reflects the minimum financial effort required for support of the Florida Education Finance Program (FEFP) as prescribed in the current year’s General Appropriations Act.
- Nonvoted discretionary school operating millage is the rate set by the school board for operating purposes other than the RLE millage rate imposed pursuant to s. 1011.60(6), F.S., and the nonvoted capital improvement millage rate imposed pursuant to s. 1011.71(2), F.S. The Legislature annually prescribes in the General Appropriations Act the maximum amount of millage a district may levy.²⁷
- Nonvoted district school capital improvement millage is the rate set by the school board for capital improvements as authorized in s. 1011.71(2), F.S. General law limits the maximum rate at 1.5 mills.²⁸ However, a district school board is authorized to levy an additional millage of up to 0.25 mills for fixed capital outlay under certain circumstances.²⁹
- Voted district school operating millage is the rate set by the school board for current operating purposes as authorized by a vote of the electors pursuant to Article VII, section 9(b) of the Florida Constitution.

²² The Florida Legislature implemented the Saves Our Homes amendment in s. 193.155(8), F.S.

²³ See Florida Department of Revenue, *Save Our Homes Assessment Limitation and Portability Transfer* (July, 2018), available at <http://floridarevenue.com/property/Documents/pt112.pdf> (last visited Mar. 6, 2019).

²⁴ FLA. CONST. art. VII, s. 1(a).

²⁵ FLA. CONST. art. VII, s. 9(b). Counties, municipalities, and school districts may levy taxes in excess of the ten-mill limit to pay bonds or for periods no longer than two years when authorized by a vote of the electorate, pursuant to FLA. CONST. art. VII, s. 9(b). In addition, statutorily authorized voted millage lasting no more than four years may be levied under the ten-mill limitation, pursuant to s. 1011.71(9), F.S.

²⁶ Section 200.001(3), F.S.

²⁷ Section 1011.71(1), F.S.

²⁸ Section 1011.71(2), F.S.

²⁹ Section 1011.71(3), F.S.

- Voted district school debt service millage is the rate set by the school board as authorized by a vote of the electors pursuant to Article VII, section 12 of the Florida Constitution.

The Florida Department of Education's *2017-18 Funding for Florida School Districts* provides an overview of school district funding and discussion of school district millages.³⁰ According to the report, school districts in Fiscal Year 2015-16 received 40.39 percent of their financial support from state sources, 48.00 percent from local sources (including the RLE portion of the FEFP) and 11.61 percent from federal sources.³¹

III. Effect of Proposed Changes:

The joint resolution proposes to create subsection (k) in Article VII, section 4 of the Florida Constitution. This amendment authorizes the Legislature, by general law, for school district levy purposes, to prohibit increases in the assessed value of property for a homestead exemption, if the legal and equitable title to the property is held by a person who is at least 65 years of age and who has held legal or equitable title to the property and maintained permanent residence thereon for at least 25 years.

If adopted by a three-fifths vote of the membership of each house of the Legislature, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election in November 2020.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

³⁰ Florida Department of Education, *2017-18 Funding for Florida School Districts*, available at <http://fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf> (last visited Feb.20, 2019).

³¹ *Id.* at 2.

E. 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. Article XI, Section 5(a) of the Florida Constitution requires the amendment be placed before the electorate at the next general election³² 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. Section 101.161(1), F.S., requires 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.’”³³

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.

Article XI, Section 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose.

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

The Revenue Estimating Conference has not yet determined the impact of CS/SJR 344.

B. Private Sector Impact:

If the proposed amendment is approved by a 60 percent vote of the electors, qualifying homestead property owners will have their assessed values frozen for school district levy purposes.

C. Government Sector Impact:

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The

³² Section 97.012(16), F.S., defines “general election” as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

³³ *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).

Division is also required to provide each Supervisor of Elections with either booklets or posters displaying the full text of proposed amendments. According to the Division, the cost to advertise constitutional amendments for the 2018 primary and general election cycle was \$92.93 per word.

If the proposed amendment is approved by a 60 percent vote of the electors, the Department of Revenue may need to amend certain forms. However, it is likely the department could implement those changes with existing fiscal resources.

If the proposed amendment is approved by a 60 percent vote of the electors, local school districts will receive less ad valorem tax revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

CS/SB 562 provides a general law to implement the provisions of this joint resolution.

VIII. Statutes Affected:

This bill substantially amends Article VII, section 4 of the Florida Constitution. This bill creates a new section in Article XII of the Florida Constitution.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on March 5, 2019:

Provides an amendment to the Florida Constitution limiting the assessed value of homestead property of certain persons age 65 and older for purposes of their school district levies.

- B. **Amendments:**

None.