SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: February 3, 1998 Revised: ________ ________ ________ ________

Subject: Homestead Tax Exemption

	Analyst	Staff Director	Reference	Action
1.	Schmith	Yeatman	CA	Favorable/CS
2.			WM	
3.			RC	
4.				
5.				

I. Summary:

The joint resolution amends the State Constitution authorizing the legislature to allow counties and municipalities, by ordinance, to increase the homestead tax exemption by up to $25,000 for persons at least 65 years old whose total household income does not exceed $20,000.

This joint resolution creates subsection (f) of Article VII, Section 6 of the State Constitution.

II. Present Situation:

Article VII, Section 4 of the State Constitution requires that all property be assessed at its just value for ad valorem tax purposes. Just value has been interpreted to mean fair market value. Section 4 provides exceptions for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Additionally, tangible personal property which is held as inventory may be assessed at a specified percentage of its value or totally exempted.

Article VII, Section 6 of the State Constitution authorizes an exemption from ad valorem taxation for homestead property owned by a taxpayer and used as the owner's permanent residence or the permanent residence of another legally or naturally dependent upon the owner. The value of the homestead exemption is currently $25,000 of the assessed value of the real estate. The State Constitution requires that this provision be implemented pursuant to general law.

Section 196.031, F.S., primarily implements the homestead exemption, although other statutory sections provide specific procedures and conditions, i.e., procedures for application for the exemption (s. 196.011, F.S.), the extent of the exemption (s. 196.041, F.S.), and the effect of rental of homestead property. Additionally, three sections of chapter 196 provide for an exemption from taxation of the homesteads of the following classes of individuals: Section 196.081, F.S., exempts the homesteads of certain permanently and totally disabled veterans and surviving spouses of certain veterans; section 196.091, F.S., exempts the homesteads of disabled veterans confined to wheelchairs; and section 196.101, F.S., exempts the homesteads of quadriplegics.

Homestead Property Tax Deferral Act

Section 197.242, F.S., establishes the "Homestead Property Tax Deferral Act." Section 197.252, F.S., implements the act and provides for deferral of ad valorem taxes for qualified individuals. Ad valorem tax deferral is available to any homeowner whose tax burden is greater than five percent of household income, and homeowners over 70 years of age whose tax burden is greater than three percent of household income. Social security income is not included in this calculation. Participation in the tax deferment plan varies by county.

III. Effect of Proposed Changes:

The joint resolution contains two parts.

The first part creates subsection (f) of Article VII, Section 6 of the State Constitution to authorize the legislature to enact general law authorizing counties and municipalities to grant, by ordinance, an increased homestead tax exemption of up to $25,000 for persons 65 years old or older whose household income does not exceed $20,000. The resolution provides that household income will be defined by general law, that the ordinance must provide for periodic adjustment of the income limitation to account for changes in the cost of living, and provides a definition of the term "household." This part of the resolution also amends subsection (b) of Article VII, Section 6, to create a limited exception from the prohibition against granting more than one exemption for each individual or family unit with respect to any residential unit.

The second part provides for placement on the ballot of proposed language to implement the increased homestead exemption.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The joint resolution is not self-executing, but requires general law to implement the provisions. The joint resolution does not fall within the purview of Article VII, Section 18, Fla. Const.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article XI, Section 1 of the State Constitution requires a three-fifths vote of the membership of each house of the Legislature in order to enact the provisions of a joint resolution.

The joint resolution may be challenged as a violation of the equal protection clauses of either or both the state and federal constitutions. In *Osterndorf v. Turner*, 426 So.2d 540 (Fla. 1982), the Florida Supreme Court struck down durational residency requirements for the $25,000 homestead exemption as violative of the equal protection clause. In explanation, the Court stated, “It is not a legitimate state purpose to reward certain citizens for past contributions to the detriment of other citizens.” *Id*. However, both the Florida and U.S. Supreme Courts have upheld tax exemption disparities as long as there is a “rational basis” for selecting the particular class for special treatment. For example, in *Shevin v. Kahn*, 273 So.2d 72 (Fla. 1973); *aff’d*, 416 U.S. 351, the Florida Supreme Court upheld the constitutionality of a $500 homestead tax exemption for widows as having a “‘fair and substantial relation’ to the ability of women property owners to pay taxes on property of even minimal value.” *Id*.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

See Government Sector Impact, below, for the total fiscal impact on local governments.

While some counties may have the option of raising their millage rates to compensate for lost tax revenue, others are already operating at the maximum allowable millage rate. Inevitably, local governments will shift the ad valorem taxation burden to households which do not qualify for the exemption.

B. Private Sector Impact:

Qualified elderly homeowners will benefit from reduced ad valorem taxes.

C. Government Sector Impact:

Local Governments - The Revenue Estimating Conference estimates that the total revenue loss for local governments is $91.2 million in fiscal year 2000-01.

State - The Division of Elections estimates that the cost to advertise the proposed constitutional amendment twice in a newspaper of general circulation in each county prior to the 1998 general election is $35,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

All homesteads are shielded from rising tax assessments by the Save Our Homes initiative which was enacted in 1995. That initiative resulted in an amendment to the Article VII, Section 4, of the State Constitution which caps the annual assessment of homestead property to the lesser of either 3 percent of the prior year’s assessment, or the percent change in the consumer price index.

According to the National Conference of State Legislatures, four states currently provide, by general law, for local option ad valorem exemptions or deferrals for seniors. Delaware authorizes municipalities to exempt, by local ordinance, the realty of persons 65 or older. Virginia authorizes local governments to exempt the homesteads of persons 65 or older whose income does not exceed the greater of either $30,000 or the HUD income limit by family size for qualifying for federal housing assistance, excluding the first $6,500 of any relative of the owner, other than a spouse, and whose combined net worth does not exceed $75,000. New York authorizes cities to grant persons 65 or older an exemption not to exceed 50 percent of the assessed value of homestead property, and allows the municipality to set an income limitation between $3,000 and $17,500. Utah authorizes counties to defer or abate up to $300 (but not more than 50 percent of the total tax assessed for the current year) of the property taxes of persons age 65 or older whose total household income does not exceed the maximum income certified for the homeowner’s property tax credit.

VIII. Amendments:

None.