

STORAGE NAME: h1451.lgva.doc
DATE: March 29, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
ANALYSIS**

BILL #: HJR 1451
RELATING TO: Ad Valorem Exemption/Personal Property
SPONSOR(S): Representatives Negron & other
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC)
 - (2) FISCAL POLICY & RESOURCES (FRC)
 - (3) FISCAL RESPONSIBILITY COUNCIL
 - (4)
 - (5)
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I. SUMMARY:

HJR 1451 is a House Joint Resolution proposed to amend Article VII, Section 3, of the Florida Constitution. The Resolution allows the exemption from ad valorem taxation, by general law, of all appurtenances and attachments to mobile home dwellings classified as tangible personal property and all appliances, furniture, and fixtures so classified which are included in single-family and multifamily residential rental facilities having 10 or fewer units. The resolution amends Article VII, Section 3, of the Florida Constitution to add a new subsection (f) as follows:

(f) By general law and subject to conditions specified therein, in addition to any other exemption granted to tangible personal property pursuant to this section, all appurtenances and attachments to mobile home dwellings that are classified as tangible personal property and all appliances, furniture, and fixtures classified as tangible personal property which are included in single-family and multi-family residential rental facilities that have ten or fewer individual housing units may be exempted.

Each house of the Legislature must pass a joint resolution by a three-fifths vote in order for the proposal to be placed on the ballot.

There is an estimated fiscal impact of \$47,000 associated with advertising this amendment. In 1999, the Revenue Estimating Conference estimated that enacting this exemption in all counties would have a negative fiscal impact of \$19.2 million to local revenues.

The constitutional amendment will be effective on January 1, 2003, following the approval of the amendment by the voters of Florida. If the Florida Constitution is amended pursuant to the provisions of HJR 1451, then implementing legislation will be necessary to effectuate its provisions.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Ad Valorem Taxation/Background

Article VII, Section 1, of the Florida Constitution preempts to the state all forms of taxation other than ad valorem taxes levied upon real estate and tangible personal property, except as provided by general law. Article VII, Section 9 of the Florida Constitution provides that counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes, and limits these taxes to 10 mills for all county purposes, 10 mills for all municipal purposes, and 10 mills for all school purposes. Additional millage may be levied for the payment of bonds and taxes levied for a period not longer than two years when authorized by vote of the electors.

Article VII, Section 2, of the Florida Constitution requires:

"All ad valorem taxation shall be at a uniform rate within each taxing unit, except the taxes on intangible personal property may be at different rates but shall never exceed two mills on the dollar of assessed value; . . ."

Just Valuation

Article VII, Section 4, of the Florida Constitution requires:

"By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, . . ."

The Florida Supreme Court has interpreted "just valuation" to mean fair market value, i.e., the amount a purchaser, willing but not obliged to buy, would pay a seller who is willing but not obliged to sell. *Walter v. Schuler*, 176 So.2d 81 (Fla. 1965).

Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes are exceptions that may be assessed solely on the basis of their character or use. Tangible personal property held for sale as stock in trade and livestock may be assessed at a specified percentage of its value or totally exempted. The legislature may also allow counties and municipalities to authorize by ordinance that historic

property may be assessed solely on the basis of character of use, but such assessment may only apply to the jurisdiction adopting the ordinance.

Exemptions from Ad Valorem Taxation

Article VII, Section 3 of the Florida Constitution provides or allows for exemptions from ad valorem taxation. These include:

- property owned by a municipality and used exclusively by it for municipal purposes shall be exempt, and portions of property used predominantly for educational, literary, scientific, religious, or charitable purposes may be exempted by general law;
- household goods, to every head of a family, in an amount fixed by general law, and property, to every widow or widower or blind or totally and permanently disabled person, in an amount fixed by general law, shall be exempt;
- any county or municipality may grant community and economic development ad valorem tax exemptions, for the purpose of its respective tax levy, and subject to general law;
- by general law, an exemption is granted to a renewable energy source device and to the real property on which such device is installed; and
- any county or municipality may grant historic preservation tax exemptions for the purpose of its respective tax levy, subject to the limits of general law.

The Legislature is without authority to grant an exemption from taxes where the exemption does not have a constitutional basis. *Archer v. Marshall*, 355 So.2d 781 (Fla. 1978).

Taxation of Tangible Personal Property

Section 192.042, F.S., requires all tangible personal property to be assessed according to its just value as follows:

- (2) Tangible personal property, on January 1, except construction work in progress shall have no value placed thereon until substantially completed as defined in s. 192.001(11)(d), F.S.

Section 192.001(11)(d), F.S., defines "Tangible personal property" to mean:

"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. "Construction work in progress" consists of those items of tangible personal property commonly known as fixtures, machinery, and equipment when in the process of being installed in new or expanded improvements to real property and whose value is materially enhanced upon connection or use with a preexisting, taxable, operational system or facility. Construction work in progress shall be deemed substantially completed when connected with the preexisting, taxable, operational system or facility. Inventory and household goods are expressly excluded from this definition."

Section 193.052, F.S., provides for taxpayers to file returns for tangible personal property. Returns are not required for real property when the ownership is reflected in instruments recorded in the public records unless a return is specifically required by other provisions in Title XIV of the Florida Statutes. Returns for tangible personal property must be filed by April 1 and must correctly reflect

the owner's estimate of the value of the property. Section 193.073, F.S., addresses erroneous returns and assessments when no returns are filed. Subsection (2) provides that if no tangible personal property return is filed, the property appraiser may estimate from the best information available the assessment of the property. The subsection states that such an assessment shall be deemed to be prima facie correct.

As indicated, Article VII, Section 3, subsection (b) of the Florida Constitution provides, in part:

"There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, . . ."

Section 196.181, F.S., implements this constitutional provision by providing:

"There shall be exempt from taxation to every person residing and making his or her permanent home in this state household goods and personal effects. Title to such household goods and personal effects may be held individually, by the entireties, jointly or in common with others."

Constitution Revision Commission

The Constitution Revision Commission placed the following language on the 1998 general election ballot as part of Revision #10 that proposed adding a new subsection (g) to Article VII, Section 3, of the Florida Constitution:

(g) In addition to any other exemption granted to tangible personal property, a county may exempt all appurtenances and attachments to mobile home dwellings that are classified as tangible personal property and all appliances, furniture, and fixtures classified as tangible personal property which are included in single-family and multi-family residential rental facilities that have ten or fewer individual housing units, as provided by general law. The general law shall require the adoption of the exemption on a county-option basis and may specify conditions for its application.

In its published information regarding Revision #10, the Commission stated that the authorization for tangible personal property tax exemption would allow counties to grant exemptions where the cost of collecting the tax would exceed the actual amount collected. Revision #10 was the only initiative proposed by the Commission that was not approved by the voters.

Constitutional Provision for Amending the Constitution

Article XI, Section 1, of the Florida Constitution, provides the Legislature the authority to propose amendments to the 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 may be placed at a special election held for that purpose.

C. EFFECT OF PROPOSED CHANGES:

HJR 1451 is a House Joint Resolution proposed to amend Article VII, Section 3, of the Florida Constitution. The Resolution allows the exemption from ad valorem taxation, by general law, of all appurtenances and attachments to mobile home dwellings classified as tangible personal property and all appliances, furniture, and fixtures so classified which are included in single-family and multifamily residential rental facilities having 10 or fewer units. The resolution amends Article VII, Section 3, of the Florida Constitution to add a new subsection (f) as follows:

(f) By general law and subject to conditions specified therein, in addition to any other exemption granted to tangible personal property pursuant to this section, all appurtenances and attachments to mobile home dwellings that are classified as tangible personal property and all appliances, furniture, and fixtures classified as tangible personal property which are included in single-family and multi-family residential rental facilities that have ten or fewer individual housing units may be exempted.

The constitutional amendment will be effective on January 1, 2003, following the approval of the amendment by the voters of Florida.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, Section 5 of the Florida Constitution requires that each proposed amendment to the Constitution be published in a newspaper of general circulation in each county two times prior to the general election. It is estimated that the cost to the Division of Elections would be approximately \$47,000, statewide, for each amendment proposed.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This joint resolution has no direct impact on local government revenues. (See "Fiscal Comments" section.)

2. Expenditures:

This joint resolution has no impact on local government expenditures. If approved by the voters, and implemented by general law, the proposed constitutional amendment could reduce current expenditures by property appraisers required to collect taxes on tangible personal property proposed for exemption.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This joint resolution has no direct impact on the private sector. (See "Fiscal Comments" section.)

D. FISCAL COMMENTS:

HJR 1451 proposes an amendment to the Florida Constitution to be submitted to the electors of Florida for approval or rejection. While the joint resolution has no fiscal impact on local government revenues, passage of the amendment and subsequent implementing legislation would have a fiscal

impact on local government revenues. In 1999, the Revenue Estimating Conference estimated that enacting this exemption in all counties would have a negative fiscal impact of \$19.2 million to local revenues.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

As a House joint resolution proposing an amendment to the Florida Constitution, the provisions of Article VII, Section 18 of the Florida Constitution do not apply.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

As a House joint resolution proposing an amendment to the Florida Constitution, the provisions of Article VII, Section 18 of the Florida Constitution do not apply.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

As a House joint resolution proposing an amendment to the Florida Constitution, the provisions of Article VII, Section 18 of the Florida Constitution do not apply.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

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