

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL:               SJR 472

SPONSOR:        Senator Mitchell

SUBJECT:         A joint resolution relating to finance and taxation

DATE:             March 10, 2001                REVISED:     03/13/01       \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>RC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The joint resolution proposes an amendment to the State Constitution to allow the Legislature to provide a homestead tax exemption on the entire assessed value of a homestead owned and used by a person who becomes totally and permanently disabled in the line of duty while serving, part-time or full-time, as a law enforcement officer, a correctional officer, a correctional probation officer, an auxiliary law enforcement officer, an auxiliary correctional officer, or an auxiliary correctional probation officer or while serving as a full-time firefighter.

**II. Present Situation:**

Article VII, s. 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 to this requirement 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 that is held as inventory may be assessed at a specified percentage of its value or totally exempted.

Article VII, s. 3(b) of the State Constitution requires that not less than \$500 of property, as established in general law, of persons who are blind or totally and permanently disabled be exempt from taxation.

Article VII, s. 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.

The exemption for totally and permanently disabled persons authorized in Article VII, s. 3(b) of the State Constitution, is implemented in chap. 196, F.S. Sections 196.081 and 196.091, F.S., provide for total homestead exemptions for disabled veterans and their surviving spouses. Section 196.101, F.S., exempts the total value of homesteads used and owned by quadriplegics, paraplegics, hemiplegics, or “other totally and permanently disabled person, as defined in s. 196.012(11), who must use a wheel chair for mobility or who is legally blind...” Section 196.012(11), F.S., defines a “totally and permanently disabled person” as a person certified as totally and permanently disabled by two licensed physicians, by the U.S. Department of Veterans Affairs, or by the Social Security Administration.

Section 196.24, F.S., provides a \$500 reduction in taxable value to any resident, ex-service member who has been disabled to a degree of 10 percent or more while serving during a period of wartime service or by misfortune. To qualify, the applicant must produce a certificate of disability from the United States Government or the United States Department of Veterans Affairs.

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

The joint resolution creates subsection (g) s. 6, Art. VII, State Constitution, to authorize the Legislature to provide a homestead tax exemption on the entire assessed value of a homestead owned and used by a person who becomes totally and permanently disabled in the line of duty while serving, part-time or full-time, as a law enforcement officer, a correctional officer, a correctional probation officer, an auxiliary law enforcement officer, an auxiliary correctional officer, an auxiliary correctional probation officer or while serving as a full-time firefighter.

The joint resolution also provides for placement on the ballot of proposed language to implement the exemption.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

This bill creates an additional tax exemption for a specified class of persons. As such, the exemption 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:**

The joint resolution creates subsection (g) s. 6, Art. VII, State Constitution, to allow the Legislature to provide a homestead tax exemption on the entire assessed value of a homestead owned and used by a person who becomes totally and permanently disabled in the line of duty while serving, part-time or full-time, as a law enforcement officer, a correctional officer, a correctional probation officer, an auxiliary law enforcement officer, an auxiliary correctional officer, or an auxiliary correctional probation officer or while serving as a full-time firefighter.

**B. Private Sector Impact:**

If the Legislature implements the constitutional provision, qualified totally and permanently disabled homeowners will benefit from reduced ad valorem taxes. This reduction in the property tax base will result in a corresponding shift in property tax burden to other taxpayers.

**C. Government Sector Impact:**

**Local Governments** — If the Legislature implements the constitutional provision, local governments' tax base would be reduced by this new exemption.

**State Government** — 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 2002 general election will range from \$20,000 to \$50,000.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Comprehensive Planning, Local and Military Affairs:

This authorizes the Legislature to prescribe what constitutes totally and permanently disabled.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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