

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: CS/SB 474

SPONSOR: Comprehensive Planning Local, and Military Affairs Committee and Senator Mitchell

SUBJECT: Ad valorem homestead tax exemption

DATE: March 14, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cooper	Yeatman	CA	Favorable/CS
2.	_____	_____	FT	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill provides 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 in Florida, 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.

This bill creates section 196.032, of the Florida Statutes.

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...” Qualification is also contingent upon meeting specified income requirements and disability certifications. 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.

III. Effect of Proposed Changes:

This bill implements Senate Joint Resolution 472, should it be approved by the electorate, which authorizes 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 in Florida, 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.

Section 1 creates s. 196.032, F.S., which establishes an exemption from all taxation, except for assessments for special benefits, for the homestead property of the following full-time or part-time employees who have become totally and permanently disabled in the line of duty: law enforcement officers, correctional officers, correctional probation officers, auxiliary law enforcement officers, auxiliary correctional officers, and auxiliary correctional probation officers. In addition, full-time firefighters who have become totally and permanently disabled in the line of duty are also eligible for the exemption. The exemption is available only to persons who become disabled while employed in Florida. Definitions of these job classifications are provided in the bill.

To qualify for the exemption, the totally and permanently disabled applicant must have legal or beneficial title in equity to the homestead, and reside on and in good faith makes the property his or her permanent residence. Such title may be held in the entireties, jointly or in common with others, and the exemption may be apportioned among the owners residing on the homestead, as their respective interests appear. If the qualifying owner is only one of the owners of an estate held by the entireties or held jointly with the right of survivorship and that owner resides on the property, the owner is allowed the exemption. The exemption also applies to each apartment or mobile home occupied by a tenant-stockholder or member of a cooperative corporation and to

each condominium parcel occupied by the qualified owner. Receipt of the exemption is contingent upon proper submission of ownership documents and documentation of the qualifying owner's disability to the property appraiser.

To be eligible for the exemption, the applicant must be certified by two licensed physicians of this state to be totally and permanently disabled. Furthermore, it must be documented that the person's medical condition was caused by a job-related illness or accident that occurred while the person was in an employee/employer relationship with his or her employer, and that the person has not been employed with any other employer after becoming disabled.

Section 2 provides that the bill will take effect on the effective date of the companion Senate Joint Resolution establishing the authority for the exemption in the Florida Constitution.

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 and Fee Issues:

This bill implements Senate Joint Resolution 472, should it be approved by the electorate, which authorizes 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 in Florida, 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.

B. Private Sector Impact:

If enacted into law, 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:

If enacted into law, local governments' tax base would be reduced by this new exemption.

Estimating the fiscal impact is problematic. The Department of Management Services, Division of Retirement, reports that there are currently 460 persons in the Florida Retirement System classified as totally and permanently disabled persons in the "Special Risk" job classification, of which state and county police officers, firefighters, correctional officers, correctional probation officers are members. The "Special Risk" job classification also includes emergency technicians and paramedics, and designated employees of correctional or forensic facilities or institutions. (s. 121.0515, F.S.) For firefighters under the Municipal and Special District Firefighters' Pension Trust Fund system under chap. 175, F.S., the division reports 854 persons as totally and permanently disabled. For police officers under the Municipal Police Officers' Retirement Trust Fund system, the division reports 953 persons as totally and permanently disabled.

It is not known how many of these 2,267 disabled persons qualify for the current total property exemption under s. 196.101, F.S. This exemption requires the recipient be quadriplegic, paraplegic, hemiplegic, or otherwise be totally and permanently disabled, requiring the use of a wheel chair for mobility, or be is legally blind. Qualification is also contingent upon meeting specified income requirements and disability certifications.

In summary, the fiscal impact of the bill is indeterminate at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

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