

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 41 Homestead/Assessed Value/Elderly
SPONSOR(S): Zapata
TIED BILLS: None **IDEN./SIM. BILLS:** HB 151, SB 1168, SB 1204

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance and Tax		Monroe	Diez-Arguelles
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This Joint Resolution proposes an amendment to Article VII, section 4 of the Florida Constitution, authorizing a county, in the manner prescribed by general law, to adopt an ordinance to prohibit an increase in the assessed value of homestead property, located in that county, which is owned by any person who has attained age 65 and whose household income, as defined by general law, does not exceed \$20,000, as adjusted in accordance with general law.

The Joint Resolution provides ballot language.

The Joint Resolution provides that the amendment be submitted to the electors of Florida for approval or rejection at the general election in November 2004.

The fiscal impact of this bill on Local Governments is indeterminate, since it is a local option. However, the Impact Conference has estimated that if this limitation on assessed value were fully implemented in all counties, assuming current millage rates, the fiscal impact to local governments would be \$6.5 million in the 2005-06 fiscal year, \$9.2 million in the 2006-07 fiscal year, and would grow to \$14.7 million by the 2008-09 fiscal year.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0041.ft.doc
DATE: March 20, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

The Florida Constitution does not currently authorize counties to prohibit an increase in the assessed value of homestead property for certain elderly persons.

Homestead Exemption

Florida's Constitution requires that all property be assessed at its just value for ad valorem tax purposes.¹ The term "just value" has been interpreted to mean fair market value.² Exceptions to this requirement include 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.³ Tangible personal property that is held as inventory may be assessed at a specified percentage of its value or totally exempted as provided by general law.⁴

Florida's 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 person who is legally or naturally dependent upon the owner.⁵ The value of the homestead exemption for permanent residents of Florida as set by general law is currently \$25,000 of the assessed value of the real estate.⁶

Save Our Homes

The Florida Constitution also provides that annual increases in homestead property values are limited to three percent or the Consumer Price Index percentage, whichever is lower, not to exceed just value.⁷ If there is a change in ownership, the property is to be assessed at its just value on the following January 1.⁸

¹ ART. VII, S. 4, FLA. CONST. Section 192.001(1), F.S., defines "ad valorem tax" as "a tax based upon the assessed value of property. The term "property tax" may be used interchangeably with the term "ad valorem tax."

² *District School Board of Lee County v. Askew*, 278 So.2d 272 (Fla. 1973); *Walter v. Schuler*, 176 So.2d 81 (Fla. 1965).

³ ART. VII, S. 4(a), FLA. CONST.

⁴ ART. VII, S. 4(b), FLA. CONST. This provision has been implemented by general law in s. 196.185, F.S., and provides that "[a]ll items of inventory are exempt from ad valorem taxation."

⁵ ART. VII, S. 6, FLA. CONST.

⁶ Section 196.031(3)(d), F.S. Section 196.031, F.S., primarily implements homestead exemption, although other statutory sections provide specific procedures and conditions, e.g., 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 renting homestead property (s. 196.061, F.S.). Section 196.031(4), F.S., requires all property appraisers to annually determine the classification of each parcel of property within their respective jurisdictions.

⁷ ART. VII, S. 4(c)(1) AND (2), FLA. CONST.

⁸ ART. VII, S. 4(c)(3), FLA. CONST.

Additional Homestead Exemption

Florida's Constitution allows both counties and municipalities, through adoption of an ordinance, to each grant an additional homestead tax exemption of up to \$25,000 to resident homeowners who have legal or equitable title to the real estate who are at least 65 years of age and whose household income does not exceed \$20,000.⁹ Section 196.075(7), F.S., allows a person entitled to the homestead exemption under s. 196.031, F.S., to apply for and receive this additional exemption, as provided by ordinance, and receipt of the additional exemption is subject to the provisions of ss. 196.131 and 196.161, F.S. Further, s. 196.075(8), F.S., provides that if title is held jointly with right of survivorship, the person residing on the property, and otherwise qualifying, may receive the entire amount of the additional homestead exemption.

House Joint Resolution 41 provides authority for a county, by ordinance, in the manner provided by law, to prohibit an increase in the assessed value of homestead property located in that county which is owned by a person who has attained age 65 and whose household income, as defined by general law, does not exceed \$20,000 per year, as adjusted in accordance with general law.

The joint resolution provides ballot language and provides for the amendment to be submitted to the electors of Florida for approval or rejection at the general election in November 2004.

C. SECTION DIRECTORY:

The joint resolution, if approved by the electorate, would amend s. 4, Art. VII, of the Florida Constitution to permit counties to prohibit any increase in the assessed value of homestead property for certain elderly persons.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Florida Constitution requires that a proposed constitutional amendment be published in one newspaper of general circulation in each county in which a newspaper is published, once in the tenth week and once in the sixth week immediately preceding the week in which the election is held.¹⁰ The Division of Elections estimates that the cost of compliance would be approximately \$35,000.¹¹

In addition, to the extent that this limitation reduces the amount of revenue generated by the required local effort imposed by local school boards, the State will need to provide replacement revenues in order to maintain school funding levels.

⁹ ART. VII, s. 6(f), FLA. CONST. This constitutional provision has been implemented by general law in s. 196.075, F.S. Section 196.075(1), F.S., defines "household" to exclude persons boarding or renting a portion of a dwelling. The term "household income" is defined to mean the adjusted gross income, as defined in s. 62 of the U.S. Internal Revenue Code, of all members of a household.

¹⁰ See Article XI, s. (5)(c), Fla. Const.

¹¹ Estimate based on 2002 advertising rates.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The fiscal impact of this bill on Local Governments is indeterminate, since it is a local option. However, the Impact Conference has estimated that if this limitation on assessed value were fully implemented in all counties, assuming current millage rates, the fiscal impact to local governments over the first four years would be:

Fiscal Year	Estimated Revenue Loss
2005-06	\$6.5 million
2006-07	\$9.2 million
2007-08	\$11.9 million
2008-09	\$14.7 million

Although this limitation on assessed value would be imposed by a vote of the county commission, the limitation will affect all local taxing authorities, including municipalities, special districts, and school boards.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This amendment will lower taxes for those individuals that qualify for this limitation on assessed value, and may raise taxes for those individuals that do not qualify for the limitation.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

By its own terms, Article VII, s. 18, Fla. Const., the local mandates provision of the state constitution, applies only to general laws, not to other constitutional provisions.

2. Other:

Provision for Amending the Florida Constitution

Article XI, s. 1, Fla. Const., provides the Legislature the authority to propose constitutional amendments 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 Secretary of State's office or may be placed at a special election held for that purpose.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.