



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: The HJR limits the millage rates that counties, municipalities, school districts and special districts may adopt without approval by a unanimous vote of the governing board. The HJR contains a property tax exemption for tangible personal property of up to \$25,000 in value. Finally, if the provisions of the HJR result in the elimination of property taxes on homesteads and an increase in the sales tax, the net effect will be to reduce tax collections in the state.

#### B. EFFECT OF PROPOSED CHANGES:

##### **PRESENT SITUATION**

##### Ad valorem taxation in Florida

The Florida constitution reserves ad valorem taxation to local governments. The state is prohibited from levying ad valorem taxes on real estate and tangible personal property.<sup>1</sup> Local governments may levy ad valorem taxes on real and tangible personal property, subject to the following limitations:

Ten mills for county purposes,  
Ten mills for municipal purposes,  
Ten mills for school purposes,  
Millage fixed by law for a county furnishing municipal services, and  
Millage authorized by law and approved by voters for special districts.<sup>2</sup>

Taxes levied for the payment of bonds and taxes levied for periods not longer than two years, when authorized by a vote of the electors, are not subject to the millage limitations.<sup>3</sup>

The property tax is the largest single tax revenue source for government in Florida, with \$30.5 billion levied in FY 2006–07.<sup>4</sup> Property taxes levied in Florida have grown rapidly in recent years from \$15.3 billion in 2000 to \$30.5 billion in 2006, an increase of 99%. For the same period, Florida personal income has increased 44% and growth measured by population and inflation has increased by 31%.

Unlike most other taxes in the state of Florida, the ad valorem tax does not have a set rate. Instead, the tax rate, or millage rate, is determined by the taxing authority each year. This process begins with the taxing authority considering its budget needs for the coming fiscal year. Then, on July 1, the Property Appraiser gives the taxing authority the taxable value of the property upon which taxes will be levied. The taxing authority is also instructed on how to calculate the rolled-back rate for the coming fiscal year.

The rolled-back rate is the millage that would provide the same amount of taxes for the taxing authority that it had during the previous year, and it is computed by excluding from the tax base the value of any new construction, major improvements to existing property, or boundary changes. Thus, levying the rolled-back rate typically provides a jurisdiction with higher revenues than it had the year before, even though the tax rate is lower than that of the previous year.

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<sup>1</sup> Art. VII, sec. 1(a), Fla. Const.

<sup>2</sup> Art. VII, sec. 9, Fla. Const. A mill is equal to \$1 per \$1,000 of value, or .001. A tax rate of 10 mills is equal to 1%.

<sup>3</sup> Art. VII, sec. 9(b), Fla. Const.

<sup>4</sup> Property Tax Reform Committee: Preliminary Report and Recommendations. Presentation to the House Committee on State Affairs, January 24, 2007.

Under current law, if a taxing authority levies a tax rate in excess of the rolled-back rate, the taxing authority must publish a Notice of Tax Increase. Likewise the Notice of Proposed Property Taxes (TRIM notice) received by each taxpayer shows the difference between the taxes which would be due if the rolled-back rate were levied and the taxes that would be due under the taxing authority's proposed budget. The intent of these measures is to help taxpayers know when the budgets of local taxing authorities are increasing. Because property values in most jurisdictions increase each year, multiplying the increased value by the millage rate from the prior year can result in large property tax revenue increases, even though the tax rate has remained the same. With the tremendous increases in value of real estate in Florida in recent years, property tax receipts have grown greatly while millage rates have remained the same or been reduced slightly.

The Homestead Exemption is an amendment to the Florida Constitution, originally adopted in 1934 and effective beginning in 1935. The exemption is available to every person having title to Florida real estate and maintaining a permanent residence on the property. The original exemption amount was \$5,000. Since 1982, the homestead exemption amount has been \$25,000 for all property tax levies.<sup>5</sup>

The Save Our Homes assessment growth limitation was added to the Constitution in 1992, and its limitations were first effective with the 1995 tax roll. It provides that growth in the assessed value of individual homestead parcels may not exceed the lower of 3% or the percentage change in the Consumer Price Index.

The Florida Constitution also provides that ad valorem tax relief may be granted to renters who are permanent residents.<sup>6</sup> This provision of the constitution has not been implemented by the Legislature.

### Sales Tax

Chapter 212, F.S., imposes a 6 percent sales tax on sales of tangible personal property, some services, admissions, and real estate rentals. When each article of tangible personal property in this state is either sold at retail, used or consumed, or rented or leased, it is taxed at a rate of 6 percent of the sales, use, or rental price.<sup>7</sup> Tangible personal property refers to personal property which may be weighed, measured, or touched or is in any manner perceptible to the senses.

Local governments are authorized to levy Local Discretionary Sales Surtaxes for various purposes, ranging from 0.5 percent to 1.0 percent each, with a maximum of 2.5 percent in some jurisdictions.<sup>8</sup> The local discretionary sales surtax applies to all transactions subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions.<sup>9</sup> The surtax is computed by multiplying the rate imposed by the county where the sale occurs by the amount of the taxable sale. The sales amount is not subject to the surtax if the property or service is delivered within a county that does not impose surtax. In addition, the tax on any sales amount above \$5,000 on any item of tangible personal property is not subject to the surtax.

### Property Taxes and School Funding

Public schools are funded through a combination of property tax revenues and state general revenue funds. The Legislature annually determines a level of education funding that will be used in the Florida Education Finance Program (FEFP). The portion of this funding that comes from property taxes levied by school boards is known as the Required Local Effort (RLE). Each school board must produce its

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<sup>5</sup> Florida's Property Tax Structure: An Analysis of Save Our Homes and Truth in Millage Pursuant to Chapter 2006 – 311, L.O.F. Florida Department of Revenue. January 2, 2007.

<sup>6</sup> Art. VII, Sec. 6(b), Florida Constitution

<sup>7</sup> s. 212.05, F.S.

<sup>8</sup> s. 212.055, F.S.

<sup>9</sup> s. 212.054, F.S.

share of the RLE in order to participate in the FEFP. For FY 2006–2007, the statewide RLE provided \$7.36 billion of FEFP funding.

In addition to the millage rate necessary to produce the RLE, school boards can levy two additional discretionary millages, limited by the Legislature to a total of 0.76 mills, for operations, and an additional 2 mills for capital improvements. Finally, there are two other millages that may be levied by school boards with referendum approval.

### Current Property Tax Issues

Many assert that the recent increases in property taxes are not affordable. Extraordinary strength in the Florida real estate market has resulted in the rapid increase of assessed values for real property in Florida. The median house price soared 90% from July 2001 to July 2006.<sup>10</sup> The growth in the fair market value of real property has outstripped taxpayer's growth in income.

Save Our Homes has suppressed the taxable value of homestead properties in Florida. In doing so, it has significantly shifted the tax burden away from homestead property and onto non-homestead residential and non-residential property.<sup>11</sup>

The Tax Foundation has devised a "State Business Tax Climate Index," which is based on the principle that "the ideal tax system . . . is neutral to business activity."<sup>12</sup> But the studies conducted by the Department of Revenue, the Office of Economic and Demographic Research, and the Property Tax Reform Committee all conclude that businesses are bearing an unequal share of the ad valorem tax burden. This tax burden may not be conducive to the growth of business in Florida. Indeed the sharp increases in ad valorem taxation on commercial property may discourage business activity in Florida. Several studies have found that commercial and industrial investment tends to be more responsive to tax rates than residential investment. This means that the increasing shift of the property tax burden to businesses may cause them to reduce or eliminate commercial investment – in some instances, leading them to investments in other states where property taxes are less burdensome.<sup>13</sup>

Residential non-homestead property has also been experiencing sharp increases in ad valorem taxation. Owners of these properties are forced to raise rental rates to pay for property taxes. These increases in residential rent further exacerbate the need for more affordable housing in Florida.

### **CHANGES PROPOSED BY THE BILL:**

#### Ad Valorem Taxes on Homestead Property and Sales Tax

The HJR provides for the elimination of a portion of property taxes on homestead properties and provides an opportunity for all property taxes on homestead properties to be eliminated. In exchange for the reduction in property taxes on homesteads, sales taxes are increased.

#### Required Local Effort

<sup>10</sup> Property Tax Reform Efforts An Update. Office of Economic and Demographic Research, January 11, 2007

<sup>11</sup>

|                                    | <u>Percent of Taxable Value</u> |                               |
|------------------------------------|---------------------------------|-------------------------------|
|                                    | <u>Current</u>                  | <u>Without Save Our Homes</u> |
| Homestead Property                 | 32.1%                           | 45.5%                         |
| Non-Homestead Residential Property | 34.5%                           | 28.4%                         |
| Non-Residential Property           | 32.5%                           | 26.1%                         |

Source: Property Tax Reform Efforts An Update. Office of Economic and Demographic Research, January 11, 2007.

<sup>12</sup> Tax Foundation, "State Business Tax Climate Index" presentation to the Property Tax Reform Committee, September 20, 2006.

<sup>13</sup> Florida's Property Tax Study Interim Report. Legislative Office of Economic and Demographic Research.

The HJR exempts homestead property from the state-mandated required local effort property tax levied by school districts and replaces the forgone revenue by increasing the sales tax rate imposed pursuant to Chapter 212, Florida Statutes, by 1%, beginning on July 1, 2008.

#### School District Taxes (other than RLE)

The HJR provides for school boards to exempt homestead property from all ad valorem taxes levied by the school board and levy a discretionary sales surtax of up to 0.5%. The amount of revenue expected to be produced from the surtax may not exceed the revenues expected to be produced from the ad valorem tax being replaced. The grant of the exemption and the imposition of the surtax must be approved by a majority of the electors voting in a referendum. A referendum must be held no later than November 2010.

#### Non-school Tax Levies

The HJR provides that a county may exempt homestead property from all ad valorem tax levies imposed by all taxing authorities within the county other than school districts and levy a discretionary sales surtax of up to 1%. The amount of revenue expected to be produced from the surtax may not exceed the revenues expected to be produced from the ad valorem tax being replaced. The grant of the exemption and the imposition of the surtax must be approved by a majority of the electors voting in a referendum. A referendum must be held no later than November 2010.

#### Millage Rate Limitations

The HJR limits growth in property taxes by restricting the millage rates that taxing authorities may set. Specifically, the HJR provides that taxing authorities may not levy a millage rate in excess of the "rolled-back rate," adjusted by the percentage change in the Consumer Price Index (CPI) in the year ending the previous June. Also, the HJR limits the amount of state-mandated required local effort that school districts must raise from ad valorem taxes by a similar formula. These provisions have the effect of limiting annual property tax revenue growth to CPI inflation plus tax revenues associated with net new construction.

In 2008, millage rates are limited to what they would be if the millage limitation had been in place in the 2003-2004 fiscal year as the base year and had been carried forward from that year. In effect, this will require governments to reduce their property tax rates so that revenues will be no greater than if FY 2003-2004 revenues had grown no faster than CPI inflation plus tax revenues associated with net new construction. School districts and independent special districts are exempt from the millage limitation based on a FY 2003-2004 base year, but are subject to the limitation going forward. The Legislature must also exempt hospital and health care districts, children's services districts, fiscally constrained counties, municipalities located in a fiscally constrained county and municipalities located in rural areas of critical economic concern from the millage limitation based on a FY 2003-2004 base year, but not from the limitation going forward.

The "rolled-back" rate is defined as "a millage rate that, exclusive of new construction, additions to structures, deletions, increases in the value of improvement that have undergone a substantial rehabilitation that increased the assessed value of such improvements by at least 100 percent, and property added due to geographic boundary changes, will provide the same ad valorem tax revenue for each taxing authority as was levied during the prior year."<sup>14</sup> The exclusions contained in the definition of the rolled-back rate are intended to allow a taxing authority to receive additional property tax revenue from growth in the tax base that is not caused by increases in the value of existing properties. For example, new buildings and annexed territory are increases to the tax base that are not caused by appreciation in value.

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<sup>14</sup> Sec. 200.065, F.S.

Taxing authorities may levy a millage rate in excess of the limitation, if the millage rate is adopted by a unanimous vote of the governing board.

Also, the millage limitation does not apply to ad valorem taxes levied for the payment of bonds authorized by a vote of the electors pursuant to Section 12, Article VII, of the Florida Constitution, and to ad valorem taxes levied for periods not longer than two years when authorized by a vote of the electors. Finally, the millage rate limitations do not apply to taxing authorities until the sixth fiscal year in which property taxes are levied or to the millage set by school districts in order to generate the state-mandated required local effort.

#### Tangible Personal Property

The HJR provides an exemption from ad valorem taxes to tangible personal property up to a value of \$25,000.

#### Renters

The HJR expands the authority that the Legislature has to provide ad valorem tax relief to renters by making it clear that the relief may be granted in the form of tax relief to the owner of the property.

#### C. SECTION DIRECTORY:

Not applicable to Joint Resolutions.

### **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

If the HJR is approved by the voters, the state will receive additional revenues of \$3.56 billion in FY 2008-2009 and of \$4.16 billion in 2009-2010 from the increase in the sales tax by 1%.

##### 2. Expenditures:

Revenues received from the 1% sales tax increase will be distributed to school districts.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

a. Counties, municipalities and special districts that do not vote to override the millage limitations will see a reduction in property tax revenues. Assuming that no government overrides the limitations, and assuming that current millage rates would have remained the same in the absence of this HJR, the combined statewide impact to counties, municipalities, school districts and special districts is estimated to be a negative \$5.1 billion in FY 2008-09.

b. In addition, and using the same assumptions, the statewide fiscal impact of the \$25,000 exemption for tangible personal property is estimated to be negative \$185 million in FY 2008-09.

c. School districts will experience an estimated reduction of \$3.11 billion in FY 2008-09 in property tax revenues from the replacement of required local effort with the 1% sales tax increase. The distribution of the receipts from the sales tax increase may result in additional state revenue of \$3.56 billion being distributed to school districts in FY 2008-2009.

d. If all school districts choose to exempt homesteads from the remaining millages levied by school districts and impose a sales tax of up to 0.5%, and using the same assumptions set forth in a., the estimated statewide fiscal impact would be a reduction in property tax revenues of \$1.79 billion, and an increase from sales tax revenue of \$1.59 billion (full 1-year impact) in FY 2008-2009.

e. In addition to the impact shown in a., if all counties choose to exempt homesteads from all non-school property taxes and levy a sales tax of up to 1%, using the same assumptions set forth in a., the estimated statewide fiscal impact would be a reduction in property tax revenues of \$5.86 billion, and an increase in sales tax revenue of \$3.22 billion (full 1-year impact) in 2008-2009.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Taxpayers will experience a reduction in property taxes from the tax rate limitations applicable to 2008 of \$5.1 billion, assuming no local government overrides the limitations.

Businesses will benefit from the \$25,000 tangible personal property ad valorem tax exemption.

Also, taxpayers will see a reduction in taxes if the result of this HJR is to eliminate property taxes on homesteads and impose the sales tax increases set forth in the HJR.

D. FISCAL COMMENTS:

The millage limitations placed on school boards' ability to raise revenue and the limitation placed on the amount of state-mandated required local effort that is raised from property taxes may lead to more state general revenue funds being used to fund public schools.

The tax base for the local option sales surtax provided in the HJR does not include sales of communications services. Also, the fiscal impacts developed for this analysis do not take into consideration the \$5,000 sales amount limitation that applies to local discretionary sales surtaxes pursuant to Section 212.54, F.S.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision in the Florida Constitution does not apply to Joint Resolutions

2. Other:

None

B. RULE-MAKING AUTHORITY:

Not applicable

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES