

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Community Affairs Committee

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BILL: SJR 2190

INTRODUCER: Senator Bennett and others

SUBJECT: Ad Valorem Tax Limitation

DATE: April 7, 2008

REVISED: 04/09/08

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Molloy	Yeatman	CA	Fav/1 amendment
2.			FT	
3.			EA	
4.			RC	
5.				
6.				

## I. Summary:

This joint resolution proposes an amendment to Section 9, Article VII, Florida Constitution, to limit the total property taxes that may be collected by counties, municipalities, special districts, and school districts, when combined, to a maximum of 1.35 percent of a parcel's highest taxable value.

The joint resolution does not directly limit the taxing authority of counties, cities, special districts, or school boards to a collective rate of 13.5 mills. It does provide that they may not retain any more than 13.5 mills worth of the highest taxable value of real property and that the Legislature will provide, by general law, for the distribution of any taxes collected in excess of 13.5 mills.

## II. Present Situation:

### Just Value and Taxable Value

*Just Value* – Section 4, Article VII, Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Since 1965, the settled law in Florida has been that "just valuation" is synonymous with "fair market value" and is defined as what a willing buyer and willing seller would agree upon as a transaction price for the property.<sup>1</sup>

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<sup>1</sup> *Walter v. Schuler*, 176 So.2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).

The Florida Constitution authorizes certain alternatives to the just value standard for specific types of property. Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes are exceptions that may be assessed solely on the basis of their character or use.<sup>2</sup> 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.<sup>3</sup> In addition, the Save Our Homes amendment to the Florida Constitution provides a limitation in the amount by which assessments for homesteads may be changed on January 1 of each year. Changes in assessment for the prior year may not exceed the lesser of three percent or the percent change in the Consumer Price Index.<sup>4</sup> Counties and municipalities may also authorize historic properties to be assessed solely on the basis of character of use.<sup>5</sup> Counties may provide for a reduction in the assessed value of homestead property improvements made to accommodate parents or grandparents in an existing homestead.<sup>6</sup> Section 193.011, F.S., implements the just valuation requirements of the Florida Constitution.

*Taxable value* – The taxable value of real and tangible personal property is the just value (fair market value) of the property, adjusted for exclusions (agricultural lands, etc.), differentials (Save Our Homes), or exemptions (homestead) allowed by the constitution or by state law as authorized in the constitution.

## Millage

Section 9, Article VII, Florida Constitution, provides that counties, school districts, and municipalities **must** be authorized, and special districts **may** be authorized, by law, to levy ad valorem taxes on the assessed value of real estate and tangible personal property. With the exception of taxes levied to pay for bonds and taxes levied for periods of not longer than two years by vote of the electors who are owners of property not wholly exempt from being taxed, ad valorem taxes may not be levied in excess of the following rates:

- For all county purposes, ten mills.
- For all municipal purposes, ten mills.
- For all school purposes, ten mills.
- For all special districts, a millage rate authorized by law approved by vote of the electors who are property owners who are not wholly exempt from taxation.

Setting millage is the process by which governments can compute property taxes. A millage rate is the property tax rate in terms of tenths of cents in tax per dollar of property value. A tax rate of ten mills is equal to \$1 per \$1000 of property value. Section 200.001, F.S., provides for the establishment of county, municipal, school, and independent special district millage.

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<sup>2</sup> Article VII, §4 (a), Florida Constitution.

<sup>3</sup> Article VII, §4 (b), Florida Constitution.

<sup>4</sup> Article VII, §4 (c), Florida Constitution.

<sup>5</sup> Article VII, §4 (d), Florida Constitution

<sup>6</sup> Article VII, §4 (e), Florida Constitution.

Property taxes are the largest source of revenue for local governments. In 2006, the just value of all property in Florida was \$2.44 trillion and the taxable value was \$1.65 trillion. The just value of homestead property was \$1.05 trillion, and the taxable value was \$534.5 billion.<sup>7</sup>

### **Recent Legislation and Revisions to the Florida Constitution**

In 2007, the Legislature enacted chapter 2007-321, Laws of Florida, to provide for statutory millage caps that required most county, city, and special district local governments to reduce the 2007-08 millage rates beyond the rolled back rates.<sup>8</sup> Those governments could override the prescribed rate reductions by extraordinary votes of the local governing body or by referendum of the electorate. Exceptions to the cap requirements were provided for local governments of special financial concern.<sup>9</sup> For 2008-09 and beyond, local governments must impose maximum millage rates based on growth in the statewide per capita personal income and growth attributable to the value of net new construction added to the tax roll each year.

A constitutional amendment approved by the voters on January 29, 2008, was implemented by Chapter 2007-339, Laws of Florida.<sup>10</sup> This amendment provides an increase in the homestead exemption (not applicable to school taxes), allows for the transfer of up to \$500,000 of the Save-Our-Homes benefits, provides a \$25,000 exemption for tangible personal property, and limits assessment increases for certain non-homestead real property (also not applicable to school taxes).

### **Proposed Revisions to the Florida Constitution**

On November 19, 2007, the Secretary of State approved the form of a proposed initiative amendment sponsored by *Cut Property Taxes Now, Inc.*, a political committee. The proposed initiative, entitled "1.35% property tax cap, unless voter approved", is substantially similar to the amendment proposed by this Senate Joint Resolution. Of the 611,009 signatures required for the ballot, only 74,973 (12%) have been collected and verified.<sup>11</sup>

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

This joint resolution proposes an amendment to Section 9, Article VII, Florida Constitution, to provide that notwithstanding any other provision in the constitution, the maximum amount of all ad valorem taxes collected by counties, municipalities, special districts, and school districts may

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<sup>7</sup> Statistical data contained in a report entitled "Florida's Property Tax Structure: An Analysis of Save Our Homes and Truth In Millage Pursuant to Chapter 2006-311, Laws of Florida", prepared by the Florida Department of Revenue, January 2, 2007.

<sup>8</sup> Section 200.065(1), F.S., defines "rolled-back rate" as the rate that will provide the same ad valorem tax revenue for each taxing authority as was levied during the prior year less the amount, if any, paid or applied as a consequence of an obligation measured by the dedicated increment value.

<sup>9</sup> Also, chapter 2007-339, Laws of Florida, requires the Legislature to appropriate money to offset the reductions in ad valorem revenue experienced by fiscally constrained counties, as defined in s. 218.67(1), F.S., because of the constitutional amendment approved by the voters January 29, 2008. These appropriations must begin in the 2008-2009 fiscal year.

<sup>10</sup> Revisions to Sections 3, 4 and 6, Article VII and Section 27, Article XII, Florida Constitution, adopted by 64 percent of voters who voted on January 29, 2008.

<sup>11</sup> Go to <http://election.dos.state.fl.us/initiatives/initdetail.asp?account=45595&seqnum=2> (last visited April 5, 2008)

not, when combined, exceed 1.35 percent of a parcel's highest taxable value. "Taxable value" is defined as the value of real property to which millage rates are applied.

Tax revenues collected in excess of the 1.35 percent cap are to be distributed as provided by general law. An exemption is provided for ad valorem taxes levied for the payment of bonds issued pursuant to s. 12, Art. VII, Florida Constitution<sup>12</sup>, or taxes levied for a period of 2 years or less when approved by a vote of the electors.

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

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

The mandate provisions of section 18, Article VII, Florida Constitution, do not apply to joint resolutions.

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

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. Other Constitutional Issues:**

Section 1, Article XI, Florida Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths of the membership of each house of the Legislature. 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 at a special election held for that purpose.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

The joint resolution preserves the full value of exceptions, homestead exemptions, the Save Our Homes limitation, and the Save Our Homes portability provisions approved by voters on January 29, 2008. The joint resolution does not affect the millage caps enacted by the 2007 Legislature so, to the extent that the proposal caps ad valorem taxes which

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<sup>12</sup> That provision of the Constitution allows counties, school districts, municipalities, and special districts to issue bonds (as well as certificates of indebtedness or any form of tax anticipation certificates) payable from ad valorem taxation and maturing in more than one year only when approved by vote of the electors to finance or refinance capital projects authorized by law; or to refund outstanding bonds and interest.

may be collected to a percentage of taxable value, all property owners may see a further reduction in ad valorem taxes.

**C. Government Sector Impact:**

The Revenue Estimating Conference has not reviewed this proposal. However, the joint resolution does not affect the ability of counties, municipalities, special districts, and school districts to set a millage rate in excess of 13.5 mills in total. Millage rates authorized under s. 9, Art. VII, Florida Constitution, and established in statute are not capped under the provisions of this joint resolution.

The joint resolution does cap the amount of taxes which may be retained by all local governments in total. To the extent that the Legislature will determine the distribution of excess ad valorem taxes collected, local government ad valorem tax revenues may be further reduced. It is important to note that school districts are not exempt under this proposal.

The joint resolution provides no guidance on how each local government in a geographic area (county/school district) already above the 1.35 percent limit will be affected. Will each local government take a proportionate reduction? If so, will the reduction be off the prior year's millage, off the statutorily capped millage, or off the constitutional millage cap? Will certain local governments (school districts) or services (law enforcement) get more than a proportionate share to guarantee continuation of certain services? The joint resolution also provides no guidance on how future tax revenues collected under the 1.35 percent cap will be distributed among the taxing authorities.

Had this proposal applied to the 2006 property tax roll and based on the Department of Revenue's June 2007 report entitled "2006 Florida Property Valuations & Tax Data", the following would have applied:

Total Taxable Value on Real Property statewide:	\$1,537,919,858,488
Actual taxes levied (counties, cities, schools & water management districts only)	\$ 25,969,963,315
Taxes collected under cap imposed at .0135:	\$ 20,761,918,089
Overage to be distributed as provided by general law:	\$ 5,208,045,226 <sup>13</sup>

The Florida Constitution requires publication of a proposed amendment or revision to the constitution 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 immediate preceding the

<sup>13</sup> This calculation does not include taxes assessed by all special districts with taxing authority, only the five water management districts.

week in which the election is held. The Department of State, Division of Elections, estimates that the average non-recurring cost of compliance is \$60,000 in FY 2007-08.

**VI. Technical Deficiencies:**

This joint resolution contains a deficiency in the title of the resolution and in the proposed ballot summary. On line 3, the title references "property tax that may be levied" when it should say "property tax that may be collected." In the ballot summary on line 62, the same provision should be corrected.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

**Barcode #316932 by the Community Affairs Committee:**

This amendment corrects the technical deficiency in the ballot summary and the title of the joint resolution. (WITH TITLE AMENDMENT)