

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HJR 949 Maximum Ad Valorem Tax Limitation; Voter-Approved Exception

**SPONSOR(S):** Lopez-Cantera and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 2190

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Urban &amp; Local Affairs</u>	<u>(W/D)</u>	<u>Camechis</u>	<u>Kruse</u>
2) <u>Government Efficiency &amp; Accountability Council</u>	<u>13 Y, 3 N</u>	<u>Camechis/Dykes</u>	<u>Cooper</u>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u>Diez-Arguelles</u>	<u>Hansen</u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

This joint resolution proposes an amendment to the Florida Constitution to limit the amount of ad valorem taxes collected by counties, school districts, municipalities, and special districts on any parcel of real property. If the proposed amendment is adopted, each entity authorized to levy property taxes may continue to levy taxes, but the combined amount of property taxes collected on an individual parcel of property cannot exceed 1.35 percent (or 13.5 mills) of the parcel's highest taxable value. The 1.35 percent limit, however, does not apply to: (1) ad valorem taxes levied for the payment of bonds maturing more than 12 months after issuance that are issued to finance or refinance capital projects authorized by law with the approval of the voters; or (2) ad valorem taxes levied for periods not longer than two years when authorized by a vote of the electors. The proposed amendment also requires the Legislature to enact general laws governing the distribution of all tax revenues derived from parcels for which the combined ad valorem tax levies of multiple taxing authorities exceed 1.35 percent of the parcel's highest taxable value.

By applying the millage rate to the "taxable value," rather than to the "just value" (market value) of each parcel, the proposed amendment preserves the full value of all exemptions, exceptions, and differentials (including Save Our Homes and portability) available.

The proposed amendment will be submitted to the electors at the general election in November 2008 or at an earlier special election if specifically authorized by law enacted by the Legislature for that purpose. If approved by 60 percent of the voters at the 2008 general election, the proposed amendment will take effect January 6, 2009, and the 1.35 percent cap will apply to taxes levied in November 2009.

Staff estimates that if the provisions of this joint resolution had been in place for Fiscal Year 2007-08, property taxes collected by local governments would have been reduced by \$5.9 billion. The Revenue Estimating Conference has not reviewed this proposal.

This joint resolution appears to have a minimal negative fiscal impact on state government related to the cost of publishing the proposed amendment as required by the state constitution.

**This joint resolution must be approved by a three-fifths vote of each house of the Legislature.**

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

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DATE: 4/11/2008

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Ensure Lower Taxes** - This proposed amendment limits the combined amount of property taxes collected on each parcel of real property to 1.35 percent of the highest taxable value of the property, excepting property taxes required by the constitution to be approved by voters. The proposed amendment preserves the Save Our Homes homestead protections (including portability) and all other current differentials, exclusions, and exemptions from ad valorem taxation.

#### B. EFFECT OF PROPOSED CHANGES:

##### CURRENT SITUATION<sup>1</sup>

###### **Ad Valorem Taxation Generally**

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.<sup>2</sup> With the exception of the ad valorem tax and other home-rule revenue sources, local governments are dependent on the Legislature for authority to levy any other forms of taxation. The property tax is the largest single tax revenue source for local government in Florida, with \$30.5 billion levied in FY2006–07.<sup>3</sup> Property taxes in Florida have grown in recent years from \$16 billion in 2001 to \$30.5 billion in 2006.

In general, the local ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based upon the value of real and tangible personal property as of January 1 of each year. The “taxable value” of real and tangible personal property is the fair market value, or just value, of the property adjusted for any exclusions, differentials, or exemptions allowed by the constitution or the statutes. The Florida constitution strictly limits the legislature’s authority to provide exemptions or adjustments to fair market value.

Millage rates<sup>4</sup> vary among local governments, but are subject to both constitutional and statutory limitations. With certain exceptions for millage levies approved by the voters, counties, cities, and school districts are each subject to a constitutional limitation of 10 mills (or 1 percent). In addition, school districts are subject to certain statutory caps less than ten mills to be eligible to participate in the state K-12 funding program (FEFP). Dependent special district millage rates are included in the limitation applicable to the authority to which they are dependent. Independent special district millage rates are limited by law establishing such districts. Local voters, by referendum, may authorize additional mills to be levied above the ten mill limitation for debt service without a time restriction, and for other purposes for a period of not longer than two years. Counties providing municipal services may also levy up to an additional ten mills above the ten mill county limitation within those areas receiving municipal-type services. Tax bills are mailed in November of each year based on the previous January 1st valuation and payment is due by the following March 31.

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<sup>1</sup> This discussion of ad valorem taxation was adapted, in part, from the *2007 Florida Tax Handbook Including Fiscal Impact of Potential Changes* (2007), The Legislature’s Senate Committee on Government Efficiency Appropriations, House Committee on Finance and Tax, Office of Economic & Demographic Research, and the Florida Department of Revenue’s Office of Tax Research.

<sup>2</sup> Art. VII, sec. 1(a), Fla. Const.

<sup>3</sup> Property Tax Reform Committee: Preliminary Report and Recommendations. Presentation to the House Committee on State Affairs, January 24, 2007.

<sup>4</sup> One mill rate may be expressed as follows: 1 mill = .1 cent or \$.001; also expressed as \$1 per \$1,000 or .1%.

In 1992, Florida voters approved the popularly named "Save Our Homes" amendment to the State Constitution. This amendment limits the annual growth in the assessed value of homestead property to 3 percent over the prior year assessment or the percentage change in the U. S. Consumer Price Index, whichever is less.

In 2007, the Legislature enacted statutory changes that required most county, municipal, and special district governments to reduce their 2007-08 millage rates below their rolled back rates. Exceptions were made for certain fiscally limited governments and for certain types of activities. Local governments were allowed to override the prescribed rate reductions by extraordinary votes of their governing boards or by referenda of the electorate. For fiscal year 2008-09 and beyond, the same legislation limited growth in each county's, city's, or independent special district's property tax levies to growth in state per capita personal income growth plus growth attributable to the value of net new construction added to the tax roll each year. Again, overrides of the limitation are allowed by certain extraordinary votes or referenda.

On January 29, 2008, a constitutional amendment was approved that made four major changes. First, an additional homestead exemption of up to \$25,000 for assessed value between \$50,000 and \$75,000 was granted. This exemption does not apply to school district tax bases. Second, owners of homesteads relocating within the state were given the ability to transfer up to \$500,000 of value protected from taxation due to the Save Our Homes assessment limitation. Third, an exemption was granted for the first \$25,000 of tangible personal property. Finally, a per parcel annual assessed value growth limitation of 10% was created for non-homestead, non-agricultural property. The value protected from taxation as a result of this limitation does not apply to school district tax bases.

#### **Pending Proposed Initiative Amendment: 1.35% property tax cap, unless voter approved**

On November 19, 2007, the Secretary of State approved the form of a proposed initiative amendment sponsored by *Cut Property Taxes Now*, a political committee. The proposed initiative amendment, entitled "1.35% property tax cap, unless voter approved," is virtually identical to the amendment proposed by this House Joint Resolution.<sup>5</sup>

#### **EFFECT OF PROPOSED CHANGES**

This joint resolution proposes an amendment to the Florida Constitution to limit the combined amount of ad valorem taxes collected by counties, school districts, municipalities, and special districts on any parcel of real property. If the proposed amendment is adopted, each entity authorized to levy property taxes may continue to levy taxes, but the combined amount of property taxes collected on an individual parcel of property cannot exceed 1.35 percent (or 13.5 mills) of the parcel's highest taxable value. The 1.35 percent cap, however, does not apply to:

- Ad valorem taxes levied for the payment of bonds maturing more than 12 months after issuance that are issued to finance or refinance capital projects authorized by law with the approval of the voters; or
- Ad valorem taxes levied for periods not longer than two years when authorized by a vote of the electors.

If the proposed amendment is adopted, millage rates will be applied to the "highest taxable value" of each parcel of property to determine the amount of property taxes owed on the property. The "taxable value" is the fair market value of the property adjusted for any exclusions, differentials, or exemptions allowed by the constitution or the statutes.<sup>6</sup> By applying each millage rate to the "taxable value," rather

<sup>5</sup> The serial number of the proposed initiative amendment is 07-27. Specific information regarding the proposed amendment may be found at <http://election.dos.state.fl.us/initiatives/initiativelist.asp>.

<sup>6</sup> *2007 Florida Tax Handbook Including Fiscal Impact of Potential Changes*, p. 140 (2007). See Sections 192.001(2) and (16), F.S.

than to the "just value" (market value) of each parcel, the proposed amendment preserves the full value of all exemptions, exceptions, and differentials that are currently applicable. For example, the Save Our Homes homestead protection and the portability provisions related to Save Our Homes approved by the voters in January 2008 will continue to limit increases in the assessed value of homestead property.

The proposed amendment also requires the Legislature to enact general laws governing the distribution of all tax revenues derived from parcels for which the combined ad valorem tax levies exceed 1.35 percent of the parcel's highest taxable value. While the proposed amendment limits the amount of ad valorem taxes actually "collected" from a property owner, the taxes "levied" by multiple taxing entities on a single parcel often exceed 1.35 percent of the parcel's taxable value. If that situation occurs, the Legislature will determine how the 13.5 mills in tax revenues collected from the parcel owner are allocated among all entities levying taxes on the property.

C. SECTION DIRECTORY: Not applicable.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: The state 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 immediately preceding the week in which the election is held. The Department of State, Division of Elections, estimates that the average non-recurring cost of compliance is approximately \$60,000 in FY2007-08.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: Staff estimates that if the provisions of this joint resolution had been in place for Fiscal Year 2007-08, property taxes collected by local governments would have been reduced by \$5.9 billion. The Revenue Estimating Conference has not reviewed this proposal.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: Owners of real property located in areas of the state where combined millage rates exceed 13.5 mills will pay less property tax in the future.

D. FISCAL COMMENTS: The impact of this proposal on individual property owners, cities, counties, school district and special districts will depend on the millage rates levied by all the taxing authorities that can levy a tax on a particular parcel and on the method chosen by the Legislature to distribute taxes collected from properties where the limit applies. For example, for properties located in an area where the combined millage rates levied by all taxing authorities do not exceed the 1.35% limit, there will be no benefit to the property owner and no impact on the taxing authorities.

For properties located where the combined millage rates exceed the limit, the property owners will experience a reduction in property taxes, since their payments will be limited. Taxing authorities in these areas may experience a reduction in property tax revenues, depending on how the Legislature determines that taxes collected from these properties will be distributed to the taxing authorities. If the Legislature provides for a pro-rata distribution of the taxes collected, each taxing authority will receive a

proportionally reduced amount from what was levied. For example, if the combined millage rate levied by taxing authorities is 16.88 mills, each taxing authority will collect 80% (13.50/16.88) of the taxes levied on the affected properties. Alternatively, if the Legislature provides for a priority system to distribute the taxes collected, some taxing authorities may collect the entire amount levied while others may not collect anything.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision: The mandates provisions of Article VII, section 18 of the Florida Constitution do not apply to joint resolutions.

2. Other: Article XI, Section 1 of the State Constitution, authorizes the Legislature to propose amendments to the State Constitution 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 the Secretary of State's office or at a special election held for that purpose.

Article XI, Section 5(e) of the State Constitution, requires 60 percent voter approval for a constitutional amendment to pass.

B. RULE-MAKING AUTHORITY: This joint resolution does not require any agency to adopt administrative rules; however, it may be necessary for the Legislature to authorize rulemaking by the Department of Revenue in future implementing legislation.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

D. STATEMENT OF THE SPONSOR: No Sponsor Statement submitted.

### **IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

None.