

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 833

Homestead Ad Valorem Tax Credit for Deployed Military Personnel

SPONSOR(S): Horner

TIED BILLS:

IDEN./SIM. BILLS: SJR 1302

| | REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|----|---|--------|---------|----------------|
| 1) | Military & Local Affairs Policy Committee | | Noriega | Hoagland |
| 2) | Economic Development & Community Affairs Policy Council | | | |
| 3) | Finance & Tax Council | | | |
| 4) | Rules & Calendar Council | | | |
| 5) | | | | |

SUMMARY ANALYSIS

This joint resolution proposes an amendment to Article VII, section 3 of the Florida Constitution to provide a credit against future ad valorem taxes owed on homestead property for each person who is a member of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard, and who has previously received a homestead exemption provided in Article VII, section 6 of the Florida Constitution at the time of active duty deployment outside the continental United States, Alaska, or Hawaii.

This credit would be based on the number of days in a calendar year that the person is deployed on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. Future ad valorem taxes owed on the person's homestead property would be reduced by the amount of the credit until the credit is exhausted.

The proposed amendment will be submitted to the electors at the general election in November 2010 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 2010 general election, the proposed amendment will take effect in January 2011.

The Department of State estimates that the cost of the proposed constitutional amendment is \$86,213. This cost is the result of placing the amendment on the ballot and publishing the notices as required by the Florida Constitution.

The Revenue Estimating Conference has not met to evaluate the impact of the constitutional amendment. Therefore, the estimated fiscal impact to local governments and taxpayers is not known at this time.

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

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

General Overview of Ad Valorem Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.¹ The "taxable value" of real and tangible personal property is the fair market value, or "just value," of the real and tangible personal property adjusted for any exclusions, differentials, or exemptions allowed by the constitution or the statutes.² Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by the following March 31.

Property taxes are the largest single tax revenue source for local governments in Florida, with approximately \$31.0 billion levied in fiscal year 2007–08.

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.³ In addition, the Florida Constitution strictly limits the Legislature's authority to provide exemptions or adjustments to fair market value.⁴ However, the Florida Constitution provides for property tax relief in the form of valuation differentials, assessment limitations, and exemptions.⁵

¹ Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in s. 1(b), Art. VII of the State Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

² Sections 192.001(2) and (16), F.S., define the terms "assessed value" and "taxable value." "Assessed value" is generally synonymous with "just value" unless a constitutional exception such as Save Our Homes applies to reduce the assessed value of the property. "Taxable value" is the assessed value minus any applicable exemptions such as the \$25,000 homestead exemption. "Just value" is the estimated fair market value of the property.

³ Article VII, s. 1(a), Florida Constitution.

⁴ Article VII, s. 4, Florida Constitution.

⁵ Valuation differentials, assessment limitations, and exemptions are authorized in Article VII, Florida Constitution.

Property Tax Benefits Available to Veterans

Chapter 196, F.S., provides the following homestead exemptions that may apply to military service veterans:

- for certain permanently and totally disabled veterans and for surviving spouses of veterans;⁶
- for disabled veterans confined to wheelchairs;⁷
- for totally and permanently disabled persons;⁸ and
- for certain disabled ex-service members or surviving spouses.⁹

In addition, current law provides the following discount that may apply to military service veterans:

- An ad valorem tax discount for veterans who are age 65 or older who are partially or totally permanently disabled. This discount applies if the disability was combat related, the veteran was a Florida resident at the time of entering the military service of the United States, and the veteran was honorably discharged upon separation from military service.¹⁰

No special tax relief is provided to military personnel deployed on active duty for military operations outside the United States.

Deployed Military Personnel

The number of deployed military personnel is in constant flux. However, the following table shows the most recent data provided by the Florida Department of Military Affairs for the number of military personnel who claim Florida as their home of record, and are currently deployed overseas on active duty in support of Operation Iraqi Freedom and Operation Enduring Freedom:

| <u>Branch of Service</u> | <u>Number of Military Personnel</u> |
|---------------------------------|--|
| Army | 12,587 |
| Navy | 5,957 |
| Air Force | 3,333 |
| Marine Corps | 2,235 |
| Army Reserve | 765 |
| Florida National Guard | 301 |
| Marine Corps Reserve | 135 |
| Navy Reserve | 124 |
| Air Force Reserve | 85 |
| Coast Guard | 0 |
| Coast Guard Reserve | 0 |
| <u>TOTAL:</u> | 25,522 |

⁶ Section 196.081, F.S.

⁷ Section 196.091, F.S.

⁸ Section 196.101, F.S.

⁹ Section 196.24, F.S.

¹⁰ Section 196.082, F.S.

Data is not available to determine the total number of military personnel who are deployed outside the continental United States, Alaska, or Hawaii, and who actually own homestead property in Florida.

Proposed Changes

This joint resolution proposes an amendment to Article VII, section 3 of the Florida Constitution to provide a credit against future ad valorem taxes owed on homestead property for each person who is a member of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard, and who has previously received a homestead exemption provided in Article VII, section 6 of the Florida Constitution at the time of active duty deployment outside the continental United States, Alaska, or Hawaii.

This credit would be based on the number of days in a calendar year that the person is deployed on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. In addition, future ad valorem taxes owed on the person's homestead property would be reduced by the amount of the credit until the credit is exhausted.

Implementation of this credit is subject to requirements enacted in general law regarding definitions, conditions, and procedures. However, the proposed amendment does not limit the Legislature's authority to enact general laws addressing issues other than definitions, conditions, and procedures.

B. SECTION DIRECTORY:

Not applicable to a joint resolution.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The joint resolution will not have a direct effect on state government revenues.

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.¹¹

Based on the 2008 election costs to advertise a proposed constitutional amendment, the Department of State, Division of Elections, estimates that the total non-recurring cost to advertise the proposed constitutional amendment is \$86,213. This cost is determined by multiplying the total number of words in the proposed amendment (approximately 937) by the per word cost of \$92.01.¹² The Department of State notes that there is no appropriation associated with the proposed joint resolution at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

¹¹ Article XI, sec. 5(d), Florida Constitution.

¹² Based on information and methodology received from staff of the Department of State.

1. Revenues:

The ad valorem tax base will be reduced if the constitutional changes proposed by the House Joint Resolution are approved by the voters.

The Revenue Estimating Conference has not met to evaluate the effects of the proposed constitutional amendment. Therefore, the estimated fiscal impact to local governments is not known at this time. However, staff estimates that the constitutional amendment will have a negative fiscal impact on local governments by reducing the available property tax base. This reduction could result in lower expenditures and/or an increase in millage rates (in those jurisdictions where that capacity exists) to maintain current levels of property tax revenues.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Absent other factors, military personnel eligible for the homestead property tax credit proposed by this joint resolution would notice a reduction in property taxes beginning in 2011.

D. FISCAL COMMENTS:

In 2008, the Revenue Estimating Conference considered a similar joint resolution and adopted a negative fiscal impact of \$14.9 million to local governments in fiscal year 2010-11.

The Department of Military Affairs and the Department of Revenue have indicated that the provisions of this joint resolution would have no operational impact on their respective agencies.

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 House Joint Resolutions.

2. Other:

Article XI, section 1 of the 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. 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 Florida Constitution requires 60 percent voter approval for a constitutional amendment to pass.

B. RULE-MAKING AUTHORITY:

The joint resolution would 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.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES