

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/HJR 1009	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Local & Federal Affairs Committee; Finance & Tax Committee; Metz and others	114 Y's	0 N's
COMPANION BILLS:	CS/SJR 1194	GOVERNOR'S ACTION:	N/A

SUMMARY ANALYSIS

CS/HJR 1009 passed the House on February 11, 2016, and subsequently passed the Senate on March 9, 2016.

The Florida Constitution provides for exemption from property taxes for some persons who are totally and permanently disabled, including certain military veterans, as well as widows and widowers, including the surviving spouse of certain military veterans and the surviving spouse of certain first responders.

The joint resolution proposes an amendment to the Florida Constitution to allow the Legislature, as provided by general law, to grant a full or partial property tax exemption on homestead property to certain first responders. To qualify, the first responder must be totally and permanently disabled as a result of an injury or injuries sustained in the line of duty. The disability and its connection to service in the line of duty must be determined as provided by general law. The term "disability" does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease.

The Revenue Estimating Conference has not reviewed the joint resolution. However, if approved by the electorate the joint resolution alone will have a zero impact on local government revenue due to the need for further implementation at the option of the Legislature.

Based on 2014 advertising costs, the Division of Elections within the Department of State has estimated the full publication costs for advertising the proposed constitutional amendment to be approximately \$151,742. This would be paid from non-recurring General Revenue funds.

Subject to approval by 60 percent of the voters in the 2016 general election, the resolution provides the proposed amendment will take effect on January 1, 2017. The resolution is not subject to the Governor's veto powers.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Property Taxes in Florida

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.¹ The ad valorem 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.² The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,³ and it provides for specified assessment limitations, property classifications and exemptions.⁴ After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.⁵

Exemptions

Case law precedent provides that the Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁶

Article VII, section 3(b) of the Florida Constitution provides for exemptions from property taxes for widows and widowers, blind persons, and persons who are totally and permanently disabled. The Legislature implemented this provision through various property tax exemptions in chapter 196, Florida Statutes. For example, s. 196.101, F.S., provides property tax exemptions for any real estate used and owned as a homestead by any quadriplegic, and any real estate used and owned as a homestead by a paraplegic, hemiplegic, or other totally and permanently disabled person who must use a wheelchair for mobility or who is legally blind.⁷ Generally, in order to qualify for an exemption as a “totally and permanently disabled person”, he or she must submit evidence of such disability as certified by two licensed physicians of this state who are professionally unrelated, by the United States Department of Veterans Affairs or its predecessor, or by the Social Security Administration.⁸ Except for a quadriplegic, a person applying for an exemption under s. 196.101, F.S., must also show that they meet certain income limitations.⁹

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies

¹ Fla. Const. art. VII, s. 1(a).

² 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 article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

³ Fla. Const., art. VII, s. 4.

⁴ Fla. Const. art. VII, ss. 3, 4, and 6.

⁵ s. 196.031, F.S.

⁶ *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

⁷ s. 196.101(1)-(2), F.S.

⁸ s. 196.012(11), F.S.

⁹ S. 196.101(4), F.S.

to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

Article VII, section 6 also authorizes the Legislature to provide, by general law, ad valorem tax relief to the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces, as well as the surviving spouse of a first responder¹⁰ who died in the line of duty.¹¹ This constitutional provision was implemented¹² by the Legislature in s. 196.081, F.S. The Constitution defines “first responder” as a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic.¹³ The term is further defined in general law to mean:

- A law enforcement officer or correctional officer as defined in s. 943.10;
- A firefighter as defined in s. 633.102; or
- An emergency medical technician or paramedic as defined in s. 401.23 who is a full-time paid employee, part-time paid employee, or unpaid volunteer.¹⁴

The constitutional provision defines “in the line of duty” as arising out of and in the actual performance of duty required by employment as a first responder¹⁵ and the term is further defined in general law to include:

- Engaging in law enforcement;
- Performing an activity relating to fire suppression and prevention;
- Responding to a hazardous material emergency;
- Performing rescue activity;
- Providing emergency medical services;
- Performing disaster relief activity;
- Otherwise engaging in emergency response activity; or
- Engaging in a training exercise related to any of the events or activities enumerated in this subparagraph if the training has been authorized by the employing entity.¹⁶

Effect of the Bill

The joint resolution proposes an amendment to the Florida Constitution to allow the Legislature, as provided by general law, to grant a full or partial property tax exemption to certain first responders. To qualify, the first responder must be totally and permanently disabled as a result of an injury or injuries sustained in the line of duty. The exemption applies to the property tax otherwise owed on homestead property, and may be the total amount or a portion.

The first responder’s disability must be determined as provided by general law. In addition, causal connection between the disability and service in the line of duty must be established by the applicant in order to qualify for the exemption. The term “disability” does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease. General law implementation is required to establish a framework for making determinations of disability, causal connection, and disallowed chronic conditions and diseases.

The proposed constitutional amendment takes effect January 1, 2017, if approved by the voters.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

¹⁰ Fla. Const. art. VII, s. 6(f).

¹¹ “See s. 196.081(6)(c), F.S.

¹² Ch. 2012-54, Laws of Fla.

¹³ Fla. Const. art. VII, s 6(f)(3)a.

¹⁴ s. 196.081(6)(c)1., F.S.

¹⁵ Fla. Const. art. VII, s. (6)(f)(3)b.

¹⁶ s. 196.081(6)(c)2., F.S.

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, s. 5(d) of the State Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the sixth week immediately preceding the week the election is held. The Division of Elections (division) within the Department of State estimates the full publication costs for advertising the proposed amendment to be approximately \$135.97 per word, for a total publishing cost of approximately \$151,742.52.¹⁷

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not reviewed the joint resolution. However, if approved by the electorate the joint resolution alone will have a zero impact on local government revenue due to the need for further implementation at the option of the Legislature.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the proposed amendment is approved by the electorate and implemented by the Legislature, first responders with certain disabilities sustained in the line of duty would be eligible to receive property tax relief.

D. FISCAL COMMENTS:

None.

¹⁷ Department of State, Agency Analysis 2016 HJR 811 (December 21, 2015)