

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.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/CS/SB 160

INTRODUCER: Fiscal Policy Committee; Community Affairs Committee; and Senator Gaetz

SUBJECT: Ad Valorem Tax Exemption for Deployed Servicemembers

DATE: January 21, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<u>Favorable</u>
3.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 160 adds 11 new designated operations for which deployed servicemembers may qualify for an ad valorem tax exemption and removes one operation for which the time to qualify for the exemption has expired. A servicemember may receive an exemption on homestead property based on the portion of the preceding calendar year during which the servicemember was deployed on active duty outside the continental United States, Alaska, or Hawaii in support of a statutorily-identified military operation.

The bill extends the normal March 1 application deadline for the exemption application for qualifying deployments during the 2014 and 2015 calendar years to June 1, 2016, and allows the servicemember to include days deployed in both years in an application for exemption for the 2016 calendar year.

The bill also provides refund procedures for servicemembers who were on qualifying deployments for more than 365 days during the 2014 and 2015 calendar years.

The Revenue Estimating Conference (REC) estimated on October 16, 2015, that an earlier version of this bill would reduce local property tax revenues by \$1.6 million in Fiscal Year 2016-2017, with a recurring impact of \$800,000. The REC has not yet determined the fiscal impact of CS/CS/SB 160.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, cities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes,⁴ and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

Ad Valorem Exemption for Deployed Servicemembers

The Florida Constitution grants an exemption for military servicemembers that have Florida homesteads and are deployed on active duty outside the United States, Alaska, or Hawaii in support of military operations designated by the Legislature.⁶ The exemption is equal to the taxable value of the qualifying servicemember’s homestead on January 1 of the year in which the exemption is sought multiplied by the number of days that the servicemember was on a qualifying deployment in the preceding calendar year and divided by the number of days in that year.⁷

Eligible Military Operations

The Legislature has designated the following military operations:

- Operation Noble Eagle, which began on September 15, 2001;
- Operation Enduring Freedom, which began on October 7, 2001;
- Operation Iraqi Freedom, which began on March 19, 2003, and ended on August 31, 2010;
- Operation New Dawn, which began September 1, 2010, and ended on December 15, 2011; or
- Operation Odyssey Dawn, which began on March 19, 2011, and ended on October 31, 2011.⁸

¹ Both real property and tangible personal property can be subject to the tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. See *Walter v. Shuler*, 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).

³ See s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a)

⁵ See FLA. CONST. art. VII, s. 4.

⁶ FLA. CONST. art. VII, s. 3(g).

⁷ Section 196.173(4), F.S. A “servicemember” is a member or former member of any branch of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard. Section 196.173(7), F.S.

⁸ Section 196.173(2), F.S.

Annual Report of All Known and Unclassified Military Operations

By January 15 of each year, the Department of Military Affairs must submit to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature a report of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year.⁹

To the extent possible, the report must include:

- The official and common names of the military operations;
- The general location and purpose of each military operation;
- The date each military operation commenced; and
- The date each military operation terminated, unless the operation is ongoing.¹⁰

Exemption Application

A servicemember who seeks to claim the tax exemption must file an application for exemption with the property appraiser on or before March 1 of the year following the year of the qualifying deployment.¹¹ The servicemember's application must include:

- Proof of the qualifying deployment;
- The dates of the qualifying deployment; and
- Other information necessary to verify eligibility for and the amount of the exemption.

The property appraiser must consider a servicemember's application for the exemption within 30 days after receipt of the application or within 30 days after receiving notice of the designation of qualifying deployments by the Legislature, whichever is later.¹² If a servicemember's application is denied, the property appraiser must send a notice of disapproval no later than July 1, citing the reason for disapproval and advising the servicemember of the right to appeal the decision to the value adjustment board (VAB) along with the procedures for filing such appeal.¹³

III. Effect of Proposed Changes:

Section 1 amends s. 196.173, F.S., to add 12 unclassified military operations for which deployed servicemembers may qualify for the exemption. These 12 operations are identified in the statutorily-required report submitted to the Legislature by the Department of Military Affairs¹⁴ and include the following operations:

- Operation Joint Task Force Bravo, which began in 1995;
- Operation Joint Guardian, which began on June 12, 1999;
- Operations in the Balkans, which began in 2004;
- Operation Nomad Shadow, which began in 2007;

⁹ Section 196.173(3), F.S.

¹⁰ *Id.*

¹¹ Section 196.173(5)(a), F.S.

¹² Section 196.173(6), F.S.

¹³ Sections 194.015 and 194.011, F.S.

¹⁴ Department of Military Affairs, Office of the Adjutant General, *Named Operations Report* (Jan. 15, 2016).

- Operation U.S. Airstrikes Al Qaeda in Somalia, which began in January 2007;
- Operation Copper Dune, which began in 2009;
- Operation Georgia Deployment Program, which began in August 2009;
- Operation Spartan Shield, which began June 2011;
- Operation Observant Compass, which began in October 2011;
- Operation Inherent Resolve, which began on August 8, 2014;
- Operation Atlantic Resolve, which began in April 2014; and
- Operation Freedom's Sentinel, which began on January 1, 2015.

The bill removes Operation Iraqi Freedom from the list of qualifying operations because the time for claiming an exemption for the applicable tax rolls has expired.

Section 2 changes the application deadline for qualifying deployments during the 2014 and 2015 calendar years to June 1, 2016, for the military operations added by the bill. A servicemember may include in the application for the exemption for the 2016 calendar year the number of days that he or she was on a qualifying deployment during the 2014 and 2015 calendar years.

The bill specifies that a property appraiser may grant the exemption to an otherwise qualifying applicant who fails to meet the June 1, 2016, deadline, under the following conditions:

- The applicant files on or before the 25th day after the mailing of the assessment notice by the property appraiser during the 2016 calendar year;
- The applicant is qualified for the exemption; and
- The applicant produces sufficient evidence to demonstrate that he or she was unable to apply in a timely manner.

The bill provides an opportunity for review by a VAB, if the applicant files a petition on or before the 25th day following the mailing of the assessment notice by the property appraiser and demonstrates extenuating circumstances that warrant granting the exemption. Payment of the VAB filing fee is waived.

The bill also provides that if the number of days that a servicemember was on qualifying deployments in the 2014 and 2015 calendar years exceeds 365 days, the servicemember may receive a refund of taxes paid for the 2015 tax year. The amount of the 2015 tax year refund is equal to the number of days in excess of 365 that the servicemember was on qualifying deployments in the 2014 and 2015 calendar years divided by 365.

Section 3 provides that the bill is effective upon becoming law and first applies to ad valorem tax rolls for 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The REC estimated on October 16, 2015, that an earlier version of this bill would reduce local property tax revenues by \$1.6 million in Fiscal Year 2016-2017, with a recurring impact of \$800,000.¹⁵ The REC has not yet estimated the impact of CS/CS/SB 160.

B. Private Sector Impact:

If the bill becomes law, servicemembers deployed overseas in support of the added military operations may receive property tax relief.

C. Government Sector Impact:

The bill provides additional duties to county property appraisers and VABs, which must consider servicemembers' applications for exemption that would otherwise not have met the filing deadline. The bill may also require tax collectors to issue refunds to servicemembers if the servicemembers were on qualifying deployment for more than 365 days during the 2014 and 2015 calendar years.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.173 of the Florida Statutes:

This bill creates an undesignated section of the Florida law.

¹⁵ Revenue Estimating Conference, *Tax Exemption for Deployed Servicemembers, House proposed language*, Adopted: October 16, 2015, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/_pdf/page46-52.pdf (last visited January 14, 2016).

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Fiscal Policy on January 20, 2016:

The committee substitute updates the list of operations to reflect the unclassified operations listed in the Department of Military Affairs' annual report due January 15, 2016.

CS by Community Affairs on October 20, 2015:

Provides an extension of the application deadline for qualifying deployments during the 2014 and 2015 calendar years, rather than the 2014 calendar year only. Similarly, the bill extends the normal March 1 application deadline for the exemption application for qualifying deployments during the 2014 and 2015 calendar years to June 1, 2016. Furthermore, the bill provides refund procedures for servicemembers who were on qualifying deployments for more than 365 days during the 2014 and 2015 calendar years. The bill also provides that the bill first applies to ad valorem tax rolls for 2016.

- B. **Amendments:**

None.