

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 Community Affairs

BILL: SJR 1624

INTRODUCER: Senator Abruzzo

SUBJECT: Homestead Tax Exemption/Parents of Unmarried Veteran Who Died from Service-connected Causes

DATE: January 29, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SJR 1664 proposes an amendment to the Florida Constitution to allow the parent or parents of an unmarried veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces to receive ad valorem tax relief on a homestead property.

The joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

If approved by the voters in the general election held November 2016, the joint resolution will become effective on January 1, 2017, and will first apply to the 2017 property tax roll.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, 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

¹ Both real property and tangible personal property can be subject to 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).

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 it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Property Tax Exemptions for Ex-Servicemembers

Florida grants a number of property tax exemptions for disabled ex-servicemembers. Most of these exemptions carry over to the benefit of the surviving spouse after the ex-servicemember's death.

\$5,000 Ad Valorem Tax Exemption for Ex-Servicemembers and Surviving Spouses

Up to \$5,000 of property of an ex-servicemember is exempt if the ex-servicemember is a bona fide resident of the state, was discharged under honorable conditions, and has been disabled to a degree of 10 percent or more by misfortune or while serving during a period of wartime service.¹¹ This exemption carries over to the un-remarried surviving spouse if he or she had been married to the disabled ex-servicemember for at least 5 years on the date of the ex-servicemember's death.¹²

Disabled Veterans Confined to Wheelchairs and Surviving Spouses

Homestead property of an ex-servicemember is totally exempt if the ex-servicemember was honorably discharged with a service-connected total disability, is receiving or has received special pecuniary assistance due to a disability requiring specially adapted housing, and is required to use a wheelchair for his or her transportation.¹³ The exemption carries over to the benefit of the surviving spouse in the event the ex-servicemember predeceases his or her

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 Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ Section 196.24, F.S.

¹² *Id.*

¹³ Section 196.091, F.S.

spouse, until the spouse no longer resides on the property, remarries, or otherwise disposes of the property.¹⁴

Ad Valorem Tax Exemption for Surviving Spouses of Veterans Who Died from Service-Connected Causes

Homestead property of a surviving spouse of an ex-servicemember is exempt if the ex-servicemember died from service-connected causes while on active duty.¹⁵

Total Homestead Exemption for Ex-Servicemembers and Surviving Spouses

Homestead property of an ex-servicemember is exempt if the ex-servicemember was honorably discharged with a service-connected total and permanent disability.¹⁶ If the totally and permanently disabled ex-servicemember predeceases his or her spouse, the exemption carries over to the benefit of the surviving spouse until the spouse no longer resides on the property, remarries, or disposes of the property.¹⁷

Combat-Related Partial Ad Valorem Tax Discount for Ex-Servicemembers

Homestead property of an ex-servicemember receives an ad valorem discount if the ex-servicemember was honorably discharged, is 65 years or older, is disabled, and the disability is combat-related.¹⁸ The discount percentage is equal to the veteran's percentage of disability, as determined by the U.S. Department of Veterans Affairs.¹⁹ The discount is not currently provided to the surviving spouse upon the death of the disabled veteran.

III. Effect of Proposed Changes:

The bill proposes an amendment to Article VII, section 6 of the Florida Constitution to allow the parent or parents of an unmarried veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces to receive ad valorem tax relief on a homestead property.

If approved by the voters in the general election held November 2016, or at an earlier special election specifically authorized by law for that purpose, the joint resolution will become effective on January 1, 2017, and will first apply to the 2017 property tax roll.

¹⁴ *Id.*

¹⁵ Section 196.081(4), F.S.

¹⁶ Section 196.081(1), F.S.

¹⁷ Section 196.081(3), F.S.

¹⁸ Section 196.082, F.S.

¹⁹ The U.S. Department of Veterans Affairs (USDVA) assigns a percentage evaluation from 0 percent to 100 percent (in 10 percent increments) for the amount of disability that the USDVA determines the veteran has sustained. The resulting disability percentage rating determines the level of a veteran's monthly disability compensation. The USDVA does not determine whether a disability is combat-related.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article XI, section 1 of the Florida Constitution, authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

Article XI, section 5(a) of the Florida Constitution, and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”²⁰

Article XI, section 5(e) of the Florida Constitution, requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the first Tuesday after the first Monday in January following the election, or on such other date specified in the amendment.

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

None.

B. Private Sector Impact:

If the proposed amendment is approved by the electorate, parents of certain deceased veterans may receive property tax relief.

²⁰ *Roberts v. Doyle*, 43 So.3d 654, 659 (Fla. 2010), citing *Florida Dep’t of State v. Slough*, 992 So.2d 142, 147 (Fla. 2008).

C. Government Sector Impact:

Article XI, section 5(d) of the Florida 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 6th week immediately preceding the week the election is held. The Division of Elections 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 minimum publishing cost of approximately \$139,913.²¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The joint resolution amends Article VII, section 6 of the Florida Constitution.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

²¹ Florida Dep't of State, *Legislative Bill Analysis for SJR 1624*, (Jan. 27, 2015)