

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 Military and Veterans Affairs, Space, and Domestic Security

BILL: CS/SJR 778

INTRODUCER: Military and Veterans Affairs, Space, and Domestic Security Committee and Senator Altman

SUBJECT: Homestead Tax Exemption/Spouses of Combat-related Disabled Veterans

DATE: December 1, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanders	Hrdlicka	MS	Fav/CS
2.			FT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SJR 778 proposes an amendment to Article VII, section 6 of the Florida Constitution to allow the ad valorem tax exemption (discount) on homestead property for combat-disabled veterans age 65 or older to carry over to the spouse of the veteran if the veteran predeceases his or her spouse. The spouse is eligible for the tax relief while he or she remains unmarried and uses the residence as his or her primary residence. The discount applied to the residence is determined by the percentage of the veteran's disability.

This 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 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 carryover 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 was honorably discharged and is at least 10 percent disabled 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

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).

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.*

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 spouse.¹⁴

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

Homestead 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 remarries or disposes of the property.¹⁷

Combat-Related Partial Ad Valorem Tax Exemption (Discount) for Ex-Servicemembers

Homestead property of an ex-servicemember receives an ad valorem discount if the ex-servicemember was honorably discharged, 65 years or older, and disabled.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.

The Revenue Estimating Conference (REC) has not yet provided an analysis for CS/SJR 778; however, HJR 299 and SJR 910 are similar bills reviewed by the REC during the 2015 Regular Session. The REC determined that in 2014, 6,595 veterans received the discount, which amounted to a statewide property value discount of \$336,648,499.²⁰ There are currently 793,907 veterans over the age of 65 residing in Florida.²¹ The U.S. Department of Veterans Affairs

¹³ Section 196.091, F.S.

¹⁴ Id.

¹⁵ Section 196.081(4), F.S.

¹⁶ Section 196.081, F.S.

¹⁷ Id.

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 make a definitive determination if a disability is combat-related.

²⁰ Revenue Estimating Conference, *Spouses/Combat Disabled Vets Exemption: HJR 299 (companion to SJR 910)*, February 5, 2015.

²¹ United States Department of Veterans Affairs Office of the Actuary, Office of Policy and Planning, *Veteran Population* (Oct. 2014), available at http://www.va.gov/vetdata/Veteran_Population.asp (last visited Nov. 24, 2015).

indicates that there were 184,741 veterans over the age of 55 in Florida receiving compensation for service-related conditions at the end of Federal Fiscal Year 2014.²²

III. Effect of Proposed Changes:

CS/SJR 778 proposes an amendment to Article VII, section 6 of the Florida Constitution to allow the ad valorem tax exemption (discount) on homestead property for combat-disabled veterans age 65 or older to carry over to the spouse of the veteran if the veteran predeceases his or her spouse. To be eligible for the discount, the spouse must remain unmarried and use the residence as his or her primary residence. The discount is transferrable to another residence if the spouse remains unmarried and uses the residence as his or her primary residence.

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.

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

²² The USDVA provides data in 20 year increments. There was no data available that provided the number of veterans receiving disability compensation in a range that began at age 65. U.S. Department of Veterans Affairs, Veterans Benefits Administration, *Annual Benefits Report: Fiscal Year 2014*, available at <http://www.benefits.va.gov/REPORTS/abr/ABR-Combined-FY14-11052015.pdf> (last visited Nov. 24, 2015).

purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”²³

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 tenth 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 \$146,303.72.²⁴

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 after the next general election or at an earlier special election specifically authorized by law for that purpose.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) has not yet provided an analysis for CS/SJR 778; however, HJR 299 and SJR 910 are similar bills reviewed by the REC during the 2015 Regular Session. The REC determined that the resolution will reduce local governments’ revenues by \$200,000 in Fiscal Year 2018-2019, with a negative \$200,000 recurring impact on local governments.²⁵

B. Private Sector Impact:

If the proposed amendment is approved by the electorate and implemented by the Legislature, surviving spouses of certain veterans could receive property tax relief.

C. Government Sector Impact:

Article XI, section 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 tenth 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

²³ *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).

²⁴ Email correspondence with Florida Department of State staff (Nov. 24, 2015) (on file with Senate Military and Veterans Affairs, Space, and Domestic Security Committee).

²⁵ Revenue Estimating Conference, *Spouses/Combat Disabled Vets Exemption: HJR 299 (companion to SJR 910)*, February 5, 2015.

approximately \$135.97 per word, for a total publishing cost of approximately \$146,303.72.²⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

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

IX. Additional Information:

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

CS by Military and Veterans Affairs, Space, and Domestic Security Committee on December 1, 2015:

The CS makes the constitutional amendment effective January 1, 2017, which allows the discount to apply to the 2017 property tax rolls.

- B. Amendments:

None.

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

²⁶ Email correspondence with Florida Department of State staff (Nov. 24, 2015) (on file with Senate Military and Veterans Affairs, Space, and Domestic Security Committee).