

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 Rules

BILL: HJR 7105

INTRODUCER: Ways and Means Committee and Representatives La Rosa, Jacquet, and Metz

SUBJECT: Increased Homestead Property Tax Exemption

DATE: April 27, 2017

REVISED: 04/28/17

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Present	Phelps	RC	Fav/1 amendment

Please see Section IX. for Additional Information:

AMENDMENTS - Significant amendments were recommended

I. Summary:

HJR 7105 proposes an amendment to the Florida Constitution to increase the homestead exemption, for all levies other than school district levies, on the assessed value greater than \$50,000 and up to \$100,000.

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

The amendment will take effect January 1, 2019, if approved by the electors.

The Revenue Estimating Conference has determined that if the voters approve the constitutional amendment, non-school property tax revenues could be reduced by -\$794.9 million annually, assuming current tax rates. Revenue impacts would not begin until fiscal year 2019-20.

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 taxes⁴ and 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

Statewide Homestead Exemption

Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹¹ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. This exemption does not apply to ad valorem taxes levied by school districts.

III. Effect of Proposed Changes:

The joint resolution proposes an amendment to the Florida Constitution to increase the homestead exemption, for all levies other than school district levies, on the assessed value greater than \$50,000 and up to \$100,000.

¹ Both real property and tangible personal property are 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 FLA. CONST. art VII, s. 6(a).

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

The amendment will take effect January 1, 2019, if approved by the electors.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in Art. VII, s. 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.’”¹²

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.

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.

¹² *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).

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

The Revenue Estimating Conference determined that if the voters approve the constitutional amendment, non-school property tax revenues could be reduced by -\$794.9 million annually, assuming current tax rates.

B. Private Sector Impact:

Taxpayers will experience lower taxes if this joint resolution is approved, and the tax burden will be shifted among taxpayers.

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.

Local governments, excluding school districts, will receive less property tax revenue if this amendment is approved. Additionally, fiscally constrained counties as defined by s. 218.67, F.S., may be disproportionately impacted by the approval of the amendment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This joint resolution substantially amends the following articles of the Florida Constitution: Article VII, Section 6; Article XII.

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:

Barcode 507120 by Rules Committee on April 28, 2017:

Provides an additional homestead exemption, for all levies other than school district levies, on homes that have assessed values greater than \$100,000 and up to \$125,000. The amendment removes the increase to the additional homestead exemption on homes with assessed values greater than \$50,000 and up to \$100,000, restoring the exemption to current law which limits the exemption to homes with assessed values greater than \$50,000 and up to \$75,000.

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