

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HJR 717 Ad Valorem Tax Discount for Spouses of Certain Deceased Veterans Who Had Permanent, Combat-Related Disabilities

SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee, Killebrew

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	12 Y, 0 N, As CS	Renner	Miller
2) Ways & Means Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Constitution provides a discount from the amount of ad valorem tax otherwise owed on the homestead property of an honorably discharged veteran who is age 65 or older and is partially or totally permanently disabled as a result of combat. The discount is equal to the percentage of the veteran's disability as determined by the United States Department of Veterans Affairs.

HJR 717 proposes an amendment to the Florida Constitution to allow the same ad valorem tax discount on homestead property for combat-disabled veterans age 65 or older to carry over to the surviving spouse of a veteran receiving the discount if the surviving spouse holds legal or beneficial title to the homestead and permanently resides thereon. The discount would apply to the property until the surviving spouse remarries, sells, or otherwise disposes of the property. If the surviving spouse sells the property, the discount may be transferred to the surviving spouse's new residence, not to exceed the dollar amount granted from the most recent ad valorem tax roll, as long as the residence is used as the surviving spouse's permanent residence and he or she does not remarry.

The Revenue Estimating Conference (REC) estimated the proposed constitutional amendment to have a zero or negative indeterminate impact on local government revenue due to the need for approval by the voters. If approved by the voters, and assuming current millage rates, the REC estimated the proposed constitutional amendment to have a negative impact on school tax revenues of \$0.4 million in FY 2021-22 with a recurring negative impact of \$2.2 million. The negative impact on non-school property tax revenues is estimated to be \$0.6 million in FY 2021-22 with a recurring negative impact of \$3.1 million.

Based on 2018 advertising costs, the estimated publication cost for advertising the proposed constitutional is approximately \$146,167.75.

The joint resolution provides an effective date of January 1, 2021.

A joint resolution proposing an amendment to the Florida Constitution must be passed by three-fifths of the membership of each house of the Legislature.

The Constitution requires 60 percent voter approval for passage of a proposed constitutional amendment.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED 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

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

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

Article VII, section 3 of the Florida Constitution provides for other specific exemptions from property taxes, including, but not limited to, exemptions for widows and widowers, blind persons, and persons who are totally and permanently disabled.

Veteran Exemptions

Article VII, section 6(e) of the Florida Constitution provides a discount on the amount of ad valorem tax otherwise owed on the homestead property of an honorably discharged veteran who is age 65 or older and is partially or totally permanently disabled as a result of combat. Section 196.082, F.S., implements this provision. The discount is equal to the percentage of the veteran's permanent, service-connected disability as determined by the U.S. Department of Veterans Affairs.⁷ The discount is limited to veterans

¹ Art. VII, s. 1(a), Fla. Const.

² S. 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 Art. VII, s. 4, Fla. Const.

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

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 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. *See United States Department of Veterans Affairs, Office*

with a combat related disability, and not all service-connected disabilities are combat related. Furthermore, current law does not allow the spouse of a veteran receiving this discount to claim the benefit if he or she survives the veteran.

Effect of Proposed Changes

HJR 717 proposes an amendment to Article VII, section 6(e) of the Florida Constitution to expand the discount to also include surviving spouses. Specifically, the HJR would allow the same ad valorem tax discount on homestead property for combat-disabled veterans age 65 or older to carry over to the surviving spouse of a veteran receiving the discount if the surviving spouse holds the legal or beneficial title to the homestead, permanently resides thereon, and does not remarry.

The discount would apply to the property until the surviving spouse remarries, sells or otherwise disposes of the property. If the spouse sells the property, a discount not to exceed the amount granted from the most recent ad valorem tax roll may be transferred to his or her new residence, as long as the residence is used as the surviving spouse's permanent residence and he or she does not remarry.

B. SECTION DIRECTORY:

Not applicable to joint resolutions.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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 has not estimated the publication costs for advertising the proposed amendment. However, based on 2018 advertising costs of \$135.97 per word, staff estimates full publication costs for advertising the proposed constitutional amendment to be approximately \$146,167.75 This would likely be paid from non-recurring General Revenue funds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference (REC) estimated the proposed constitutional amendment to have a zero or negative indeterminate impact on local government revenue due to the need for approval by the voters. If approved by the voters, and assuming current millage rates, the REC estimated the proposed constitutional amendment to have a negative impact on school tax revenues of \$0.4 million in FY 2021-22 with a recurring negative impact of \$2.2 million. The negative impact on non-school property tax revenues is estimated to be \$0.6 million in FY 2021-22 with a recurring negative impact of \$3.1 million.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the proposed amendment is approved by the electorate and implemented by the Legislature, certain surviving spouses of certain deceased veterans would be eligible to receive property tax relief.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable to joint resolutions.

2. Other:

The Legislature may propose amendments to the state constitution by joint resolution approved by three-fifths of the membership of each house.⁸ The amendment must be submitted to the electors at the next general election more than 90 days after the proposal has been filed with the Secretary of State's office, unless pursuant to law enacted by a three-fourths vote of the membership of each house, and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.⁹

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. Without an effective date, the amendment becomes effective on the first Tuesday after the first Monday in the January following the election, which will be January 5, 2021. However, the joint resolution provides an effective date of January 1, 2021.

B. RULE-MAKING AUTHORITY:

The HJR neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The ballot summary is 83 words in length. Section 101.161, F.S., requires that the ballot summary not exceed 75 words. The Florida Supreme Court has found such a requirement implicit in Article XI, s. 5 of the Florida Constitution. See *Armstrong v. Harris*, 773 So.2d 7 (Fla. 2000).

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 12, 2019, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment replaces the word "paragraph" with the word "subsection" on line 102 of the HJR to ensure the new paragraph (2) is self-executing.

⁸ Art. XI, s. 1, Fla. Const.

⁹ Art. XI, s. 5, Fla. Const.

This analysis is drafted to the committee substitute as approved by the Local, Federal & Veterans Affairs Subcommittee.