

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 and Space

BILL: SJR 886

INTRODUCER: Senator Brandes

SUBJECT: Homestead Tax Exemption/Surviving Spouse of a Veteran

DATE: March 13, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Caldwell	MS	Favorable
2.			FT	
3.			AP	

I. Summary:

SJR 886 proposes an amendment to Section 6, Article VII, and creates a new section in Article XII, of the State Constitution. The proposed amendment provides for the homestead property tax discount afforded to veterans with permanent, combat-related disabilities to carry over to a surviving spouse in certain circumstances, provided that the veteran had applied for and received the discount.

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

If approved by the voters, the joint resolution provides that the amendment would take effect January 1, 2021.

The Department of State estimates a total cost of approximately \$8,363.70 for two publications of the ballot title and summary in a newspaper of general circulation in each county before the election, as is required by the State Constitution.

The Revenue Estimating Conference (REC) has not yet adopted an impact for this bill. The REC has, however, reviewed similar legislation in 2019 House Bills HJR 717, and HB 719. The REC determined that the impact of the bill is indeterminate because it requires voter approval. If approved by the voters, the bill would reduce aggregate local property taxes by \$1 million, beginning in Fiscal Year 2021-2022, with a recurring reduction of \$5.4 million per fiscal year.

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 State 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

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the State 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, 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

Exemptions and Discounts on Homestead Property

Although all real and personal property in Florida is subject to taxation, a person may apply for an exemption in certain circumstances.¹¹

If a person is entitled to an exemption from taxation, he or she must file an application on or before March 1 requesting the exemption with the appropriate county property appraiser.¹² The Department of Revenue prescribes the forms upon which the application is made.¹³

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, 9 (Fla. 1973).

³ See s. 192.001(3) 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 196.001(1), F.S.

¹² Section 196.011(1)(a), F.S.

¹³ *Id.*

An exemption on homestead property applies to all homeowners in the state on one permanent residence¹⁴ per individual or family.¹⁵ Application of this provision exempts from taxation both up to the assessed value of \$25,000 on the residence and contiguous real property, and an additional exemption of up to \$25,000 on the assessed valuation greater than \$50,000 and up to \$75,000 for all levies other than school district levies.¹⁶

In addition to the exemption provided in s. 6, Article VII, of the State Constitution, and s. 196.031, F.S., which is available to all permanent resident homeowners in the state on a homestead property, other exemptions and discounts on taxation apply to certain homeowners of homestead property. Persons eligible for these exemptions include qualifying disabled persons, first responders, and veterans.¹⁷ Other than in instances in which the homestead property is totally exempt from taxation, the general exemption applies first, followed by the others in the order that results in the lowest taxable value.¹⁸

Exemptions on Homestead Property for Veterans

Florida law currently provides five discounts on, or exemptions from, ad valorem taxes on homestead property for the benefit of a qualifying veteran or his or her surviving spouse.

Specifically, an exemption or discount is available to a:

- Disabled veteran, age 65 or older, provided that the disability is combat-related, in an amount based on the percent of disability;¹⁹
- Veteran disabled 10 percent or more by misfortune or during wartime service, or a surviving spouse, in an amount of up to \$5,000;²⁰
- Veteran with a service-connected total disability that confines him or her to a wheelchair, or a surviving spouse, provided as a total exemption from all homestead property taxes;²¹
- Veteran with a totally and permanently service-connected disability, or a surviving spouse, provided as a total exemption from all homestead property taxes;²² and
- Surviving spouse of a veteran who died while on active duty, provided as a total exemption from all homestead property taxes.²³

Qualification Requirement on the Tax Discount on Homestead Property for a Combat-disabled Veteran

Of the exemptions listed above, only the tax discount on homestead property for disabled veterans, aged 65 or older does not carry over to a surviving spouse.²⁴ This discount, provided in

¹⁴ Section 196.012(17), F.S., defines a permanent residence as the place where a person makes his or her true, fixed, and permanent home and principal establishment to which, when he or she is absent, intends to return.

¹⁵ Section 6, Art. VII of the State Constitution; s. 196.031, F.S.

¹⁶ Section 196.031(1)(a) and (b), F.S.

¹⁷ Chapter 196, F.S.

¹⁸ Section 196.031(7), F.S.

¹⁹ Section 196.082, F.S.

²⁰ Section 196.24, F.S.

²¹ Section 196.091, F.S.

²² Section 196.081(1)-(3), F.S.

²³ Section 196.081(4), F.S.

²⁴ Chapter 2007-36, L.O.F.

s. 196.082, F.S., authorizes a tax discount on homestead property for a veteran who is partially or totally permanently disabled.

To qualify for the tax discount, the veteran must:

- Have become disabled through military combat;
- Have been a resident of Florida at the time of entering United States military service; and
- Have received an honorable discharge.²⁵

In addition to filing an application with the county tax appraiser for the discount, an eligible veteran must also provide to the tax appraiser by March 1:

- An official letter from the United States Department of Veterans Affairs which includes the percentage of the veteran's service-connected disability and evidence that reasonably identifies the disability as combat-related;
- A copy of the veteran's honorable discharge; and
- Proof of age as of January 1 of the year to which the discount will apply.²⁶

The applied discount is calculated as a percentage equal to the percentage of the veteran's permanent, service-connected disability.²⁷

III. Effect of Proposed Changes:

SJR 886 proposes an amendment to Section 6, Article VII, of the State Constitution and creates a new section in Article XII, of the State Constitution. The proposed amendment provides for the homestead property tax discount afforded to a veteran with a permanent, combat-related disability to carry over to a surviving spouse, provided that the veteran applied for and received the discount.

To receive the property tax discount, the surviving spouse must permanently reside at, and hold legal or beneficial title to the homestead property. The surviving spouse is eligible for the discount until he or she:

- Remarries;
- Sells the property; or
- Otherwise disposes of the property.

After selling the property, however, a surviving spouse may carry over the discount to a new, permanent residence as long as he or she remains unmarried. The amount of the discount is the dollar amount granted from the most recent ad valorem tax roll of the original property.

If approved by the voters in the general election held November 2020 or at an earlier special election specifically authorized by law for that purpose, the amendment would take effect January 1, 2021.

²⁵ Section 196.082(1), F.S.

²⁶ Section 196.082(3), F.S.

²⁷ Section 196.082(2), F.S.

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

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article XI, section 1, of the State Constitution, authorizes the Legislature to propose amendments to the State 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 State 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.’”²⁸

Article XI, section 5(e), of the State 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:**

The Revenue Estimating Conference (REC) has not yet adopted an impact for this bill. The REC has, however, reviewed similar legislation in 2019 House Bills HJR 717, and HB 719. The REC determined that the impact of the bill is indeterminate because it requires voter approval. If approved by the voters, the bill would reduce local property

²⁸ *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).

taxes by \$1 million, beginning in Fiscal Year 2021-2022, with a recurring reduction of \$5.4 million per fiscal year.

B. Private Sector Impact:

A qualifying surviving spouse of a veteran who had received the tax discount on homestead property would be eligible for the same discount on either that homestead property or a new homestead property, thereby financially benefitting from the bill.

C. Government Sector Impact:

Section 5(d), Art. XI, of the State Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county in which a newspaper is published.

The Division of Elections is required to twice advertise the full text of proposed constitutional amendments in English and Spanish in the newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with English and Spanish booklets or posters displaying the full text of proposed amendments, for each polling room or early voting area in each county, and to translate the amendments into Spanish. The average cost for Spanish translation, booklet printing and distribution, and newspaper advertising of constitutional amendments for the 2018 election cycle was \$92.93 per English word of the originating document.

Accurate cost estimates cannot be determined until the total number and length of amendments to be translated, printed, distributed, and advertised is known. At this time, no amendments have achieved ballot position for the 2020 election by either joint resolution of the Florida Legislature or by the initiative petition process.

However, the Division of Elections within the Department of State estimates the full publication costs for advertising the proposed amendment based on a rate of \$92.93 per word to be a total publishing cost of approximately \$115,697.85.²⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²⁹ Email correspondence with Florida Department of State staff (Mar. 6, 2019) (on file with the Senate Committee on Military and Veterans Affairs and Space). Total publishing cost is determined as follows: the number of words estimated in the amendment to be published, 1,245 words, multiplied by the cost per word of \$92.93, is \$115,697.85.

VIII. Statutes Affected:

The joint resolution amends Article VII, section 6, and creates a new section in Article XII, of the State 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.
