

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 1377 Limitation on Assessment of Real Property Used for Residential Purposes

SPONSOR(S): Chaney and others

TIED BILLS: CS/HB 1379 **IDEN./SIM. BILLS:** SJR 1182

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Environment, Agriculture & Flooding Subcommittee	17 Y, 0 N	Melkun	Moore
2) Ways & Means Committee	14 Y, 0 N	Curry	Aldridge
3) State Affairs Committee	19 Y, 0 N	Melkun	Williamson

SUMMARY ANALYSIS

Local governments impose and collect ad valorem taxes on real and tangible personal property within Florida. All property in Florida is subject to taxation and must be assessed at just value unless the Florida Constitution authorizes an exemption or exception.

The Florida Constitution authorizes the Legislature to prohibit the consideration of certain changes to real property for purposes of determining the property's assessed value. Specifically, the Legislature may prohibit the consideration of:

- Any change or improvement to residential real property made to improve the property's resistance to wind damage; or
- The installation of a solar or renewable energy device.

The joint resolution proposes an amendment to the Florida Constitution to authorize the Legislature to prohibit the consideration of any change or improvement to real property used for residential purposes made to improve the property's resistance to flood damage.

The joint resolution, if passed by the Legislature, would be considered by the electorate at the next general election in November 2022. If adopted at the 2022 general election, the resolution would take effect January 1, 2023.

The Revenue Estimating Conference estimated that the joint resolution will not have an impact on state or local government revenue as the amendment it proposes is subject to voter approval and is not self-executing.

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. If placed on the ballot, the Constitution requires at least 60 percent voter approval for passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Property Taxes

The Florida Constitution reserves ad valorem taxation on real and tangible personal property to local governments and prohibits the state from levying ad valorem taxes on such 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 all property to be assessed at just value for ad valorem tax purposes³ and 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

Unless expressly exempted from taxation, all real and personal property and leasehold interests in the state are subject to taxation.⁶ The Florida Constitution limits the Legislature's authority to grant an exemption from taxes,⁷ and any modifications to existing ad valorem tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁸

Article VII, section 4 of the Florida Constitution authorizes the Legislature to prohibit the consideration of certain changes to real property for purposes of determining the property's assessed value. Specifically, the Legislature may prohibit the consideration of:

- Any change or improvement to residential real property made to improve the property's resistance to wind damage; or
- The installation of a solar or renewable energy device.

Flood Damage

Hurricanes and other storms that result in flooding have caused billions of dollars in damage across all parts of Florida. Local jurisdictions throughout the state recognize, plan for, and manage development in flood hazard areas. An area's resistance to flood damage can be increased through mitigation strategies such as large structural public works projects, including dams, seawalls, and levees, as well as improvements made to individual properties, such as elevating structures, filling basements, and waterproofing.⁹ Mitigation can also include non-structural improvements, such as the maintenance of land to allow for stormwater runoff, waterproofing basements, installing check valves capable of preventing water backup, and elevating furnaces, heaters, and electrical panels.¹⁰

¹ Art. VII, s. 1(a), Fla. Const.

² Section 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 Section 196.031, F.S.

⁶ Section 196.001, F.S.; *see also Sebring Airport Authority v. McIntyre*, 642 So. 2d 1072, 1073 (Fla. 1994), noting exemptions are strictly construed against the party claiming them.

⁷ *Archer v. Marshall*, 355 So. 2d 781, 784 (Fla. 1978).

⁸ *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).

⁹ Beverly Cigler, *U.S. Floods: The Necessity of Mitigation*, State and Local Government Review, Vol. 49 Issue 2 (Sept. 2017), available at https://www.napawash.org/uploads/Standing_Panel_Blogs/cigler-floods-and-mitigation-Sept.-20172.pdf (last visited Mar. 9, 2021).

¹⁰ *Id.*

Effect of the Bill

The joint resolution proposes an amendment to Article VII, section 4(i) of the Florida Constitution to authorize the Legislature to prohibit the consideration of any change or improvement to real property used for residential purposes made to improve the property's resistance to flood damage.

The joint resolution, if passed by the Legislature, would be considered by the electorate at the next general election in November 2022. If adopted at the 2022 general election, the resolution would take effect January 1, 2023.

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, 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 sixth week immediately preceding the week the election is held. The statewide average cost for the Division of Elections (division) within the Department of State to advertise constitutional amendments, in English and Spanish,¹¹ in newspapers for the 2020 election cycle was \$86.85 per English word of the originating document. The division stated that the publication costs for advertising the constitutional amendments in 2020 was \$351,834.45; however, accurate cost estimates for the next constitutional amendment advertising cannot be determined until the total number of amendments to be advertised is known and updated quotes are obtained from the newspapers.¹²

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimated that the joint resolution will not have an impact on local government revenue as the amendment it proposes is subject to voter approval and is not self-executing.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

¹¹ Section 203 of the Federal Voting Rights Act requires the Department of State (DOS) to publish a Spanish version of the amendment in addition to an English version.

¹² See Email from Brittany N. Dover, Legislative Affairs Director, DOS, "RE: HJR 1377 Cost to Advertise" (Mar. 9, 2021) (on file with the Environment, Agriculture & Flooding Subcommittee).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The mandates provision applies only to general laws, not a joint resolution to amend the Constitution.

2. Other:

The Legislature may propose amendments to the state constitution by joint resolution approved by three-fifths of the membership of each house.¹³ 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 90 days after such filing.¹⁴

Article XI, section 5(e) of the Florida Constitution requires approval by at least 60 percent of the electors voting on the measure 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 as specified in the amendment. The joint resolution provides an effective date of January 1, 2023.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

¹³ Art. XI, s. 1, Fla. Const.

¹⁴ Art. XI, s. 5, Fla. Const.