

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Currently, no specific homestead tax exemption is authorized applicable solely to K-12 public classroom teachers.

This bill implements the discretionary ad valorem homestead exemption addressed in HJR 691 for public school K-12 classroom teachers. HJR 691 proposes an amendment to Article VII, section 6 of the Florida Constitution, authorizing the Legislature to enact general law allowing counties and municipalities to grant an additional homestead tax exemption not exceeding \$25,000 to K-12 public classroom teachers.

The bill provides that any board of county commissioners or governing board of a municipality may by ordinance allow such additional homestead exemption. However, the ordinance must:

- be adopted as a non emergency ordinance as provided in either ch. 125 or 166, F.S.;
- specify that the exemption applies only to taxes levied by the unit of government granting the exemption, which unless otherwise specified will apply to all the tax levies of the exempting unit of government including dependent special districts and municipal service taxing units;
- specify the amount of the exemption not exceeding \$25,000, however, the amount must be uniform among all dependent special districts or municipal taxing units within the exempting jurisdiction; and
- require that the claiming taxpayer submit a sworn statement and documentation to the property appraiser by August 1 of each year on a form and consistent with a rule to be promulgated by the Department of Revenue, and by a method specified in the homestead exemption ordinance.

DOR rulemaking: The bill requires the Department of Revenue (“DOR”) to promulgate a rule requiring that a school teacher’s sworn statement of eligibility be supported by copies of appropriate employment documentation.

Taxpayer’s sworn statement of eligibility: The bill requires that the taxpayer’s sworn statement attest to the accuracy of the required documents and grant permission for review of those documents if requested by the property appraiser. Submission of supporting documentation is required for the renewal of an exemption. All reviews of the documentation will be completed on or before June 1. Documents once inspected shall be returned to the taxpayer or destroyed. The exemption may not be granted or renewed if the required documentation is not provided.

Delivery of ordinance to property appraiser: The enacting governing authority must deliver a copy of the ordinance to the property appraiser by December 1 of the year prior to the year the exemption will take effect, a similar provision applies to repeal of the exemption.

Additional exemption: Persons entitled to the homestead exemption in s. 196.031, F.S., may also receive the exemption provided for in this bill. Receipt of this additional exemption is subject to ss. 196.131 and 196.161, F.S., if applicable.

Effect of joint ownership with right of survivorship: If the title to the homestead property is held jointly with right of survivorship, the otherwise eligible public school teacher taxpayer may receive the entire amount of the additional exemption.

Penalty for improper receipt of the additional exemption: The bill provides for the recordation of a tax lien if the property appraiser determines that for any year within the immediately previous 10 years a person who was not entitled to receive the additional exemption did receive the exemption. The tax lien may be recorded against any property owned by that taxpayer within the county, provided that the property be identified in the notice of tax lien. Additionally, any property owned by the taxpayer which is situated in the state is subject to the taxes exempted by the improper tax exemption, plus a penalty of 50% of the unpaid taxes for each year and interest at the rate of 15% per annum. However, if the exemption is granted as a result of a clerical error or omission by the property appraiser, then the penalty and interest may not be assessed. Prior to recording of the lien, the taxpayer must be given 30 days notice within which to pay the taxes, penalty, and interest.

C. SECTION DIRECTORY:

Section 1. amends s. 196.0751, F.S. to effect an ad valorem homestead exemption for public school K-12 classroom teachers.

Section 2. provides for an effective date of January 1, 2005, contingent upon the passage of HJR 691 (or similar legislation) during the 2004 Session or an extension thereof, and subsequent approval by the voters.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill could have some reduction on the revenues of a local government that elects, with voter support, to allow this homestead exemption.

2. Expenditures:

Unknown.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will benefit public K-12 classroom teachers who apply for and receive this additional homestead exemption.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Equal Protection

The Fourteenth Amendment to the Constitution of the United States provides, in pertinent part, that a state may not “deny to any person within its jurisdiction the equal protection of the laws.” The Equal Protection Clause is designed to prevent any person or class of persons from being singled out as a target for arbitrary and unjust discrimination.¹ It does not require that all persons be treated identically but rather that the law apply equally to all persons who are similarly situated.² In most cases, a governmental classification must merely be rationally related to a legitimate state purpose, i.e., reasonable classifications other than those involving suspect classes of persons or fundamental rights are generally permissible, so long as the classifications are not arbitrary and are based on some difference in the classes having a substantial relation to the purpose of the legislation.³ A litigant could argue that granting a tax exemption solely to teachers, or solely to teachers in public schools, does not create a difference in treatment for similarly-situated individuals that bears such a relationship.

B. RULE-MAKING AUTHORITY:

The bill requires the Department of Revenue (“DOR”) to promulgate a rule requiring that a school teacher’s sworn statement of eligibility be supported by copies of appropriate employment documentation, and possibly to create a form for such statements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

¹ See *Washington v. Davis*, 426 U.S. 229 (1976); *Haber v. State*, 396 So.2d 707 (Fla. 1981).

² See *Plyler v. Doe*, 457 U.S. 202, 216 (1982) (quoting *F. S. Royster Guano Co. v. Virginia*, 253 U.S. 412, 415 (1920) (“all persons similarly circumstanced shall be treated alike”)); *Duncan v. Moore*, 754 So.2d 708 (Fla. 2000).

³ See, e.g., *Vacco v. Quill*, 521 U.S. 793 (1997); *Gregory v. Ashcroft*, 501 U.S. 452 (1991); *Williams v. Pryor*, 229 F.3d 1331 (11th Cir. 2000); *State v. Muller*, 693 So.2d 976 (Fla. 1997); *Libertarian Party of Florida v. Smith*, 687 So.2d 1292 (Fla. 1996); *Lite v. State*, 617 So.2d 1058 (Fla. 1993).