

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HJR 313

Disabled Veterans' Property Tax Discount

**SPONSOR(S):** Holder

**TIED BILLS:**

**IDEN./SIM. BILLS:**

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|    | <b>REFERENCE</b>  | <b>ACTION</b> | <b>ANALYST</b> | <b>STAFF DIRECTOR</b> |
|----|---|---------------|----------------|-----------------------|
| 1) | Finance & Tax Council                                   | 15 Y, 0 N     | Diez-Arguelles | Langston              |
| 2) | Economic Development & Community Affairs Policy Council |               |                |                       |
| 3) | Rules & Calendar Council                                |               |                |                       |
| 4) |   |               |                |                       |
| 5) |   |               |                |                       |

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**SUMMARY ANALYSIS**

The Florida Constitution provides a homestead property tax discount to veterans who have a combat related disability and were Florida residents at the time of entering military service.

House Joint Resolution 313 proposes an amendment to the Florida Constitution to allow disabled veterans who were not Florida residents at the time of entering military service to qualify for the disabled veterans property tax discount on homestead property.

The Revenue Estimating Conference has estimated that, if the joint resolution is approved by the voters, the statewide impact would be reductions in property tax revenues of \$2.3 million 2011-12, \$4.8 million in 2012-13, and \$7.7 million in 2013-14, assuming current millage rates.

If approved by the voters, the proposed constitutional amendment will take effect January 1, 2011.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **CURRENT SITUATION**

###### Just Valuation

Article VII, s. 4 of the State Constitution generally requires that all property be assessed at its just value for ad valorem tax purposes. Just value has been interpreted to mean fair market value.<sup>1</sup>

###### Exceptions to Just Valuation

Article VII, section 4 of the Florida Constitution also authorizes exceptions from the requirement that property be assessed at just value. Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes are exceptions that may be assessed solely on the basis of their character or use.<sup>2</sup> Tangible personal property held for sale as stock in trade and livestock may be assessed at a specified percentage of its value or totally exempted.<sup>3</sup> In addition, the "Save Our Homes" assessment limitation provides a limitation on the amount by which assessments for homesteads may be changed on January 1 of each year.<sup>4</sup> Annual increases in assessments of certain non-homestead properties are also limited.<sup>5</sup> Land used for conservation purposes must be assessed solely on the basis of character or use.<sup>6</sup> Counties and municipalities may also authorize historic properties to be assessed solely on the basis of character

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<sup>1</sup> *Walter v. Schuler*, 176 So.2d 4 (Fla. 1965)

<sup>2</sup> Art. VII, section 4(a) of the State Constitution.

<sup>3</sup> Art. VII, section 4(c) of the State Constitution.

<sup>4</sup> Art. VII, section 4(d) of the State Constitution provides that changes in the prior year assessment may not exceed the lesser of three percent or the percent change in the Consumer Price Index.

<sup>5</sup> Art. VII, section 4(g) and (h) of the State Constitution provides that annual assessment changes may not exceed 10% of the prior year's assessment.

<sup>6</sup> Art. VII, section 4(b) of the State Constitution.

and use.<sup>7</sup> Counties may provide for a reduction in the assessed value of homestead property improvements made to accommodate parents or grandparents in an existing homestead.<sup>8</sup>

### Exemptions

The Legislature may only grant property tax exemptions that are authorized in the constitution, and modifications to property tax exemptions must be consistent with the constitutional provision authorizing the exemption.<sup>9</sup> Article VII, sections 3 and 6 of the State Constitution authorize a number of property tax exemptions.

In particular, Article VII, section 3(b) of the State Constitution requires that not less than \$500 of property, as established in general law, of widows and widowers and persons who are blind or totally and permanently disabled be exempt from taxation. This constitutional provision provides authority for the first three of the four exemptions described below. The fourth exemption is set forth in Article VII, section 6(e).

#### *Total Ad Valorem Exemptions for Ex-Service Members*

Section, 196.081, F.S., provides that any property used and owned as a homestead by a veteran who was honorably discharged with a service-connected permanent and total disability and for whom a letter from the United States Government or United States Department of Veterans Administration has been issued certifying that the veteran is totally and permanently disabled is exempt from taxation, provided the veteran is a permanent resident of the state on January 1 of the tax year for which exemption is being claimed or on January 1 of the year the veteran died.

Section 196.091, F.S., provides that any property used and owned as a homestead by an ex-service member who has been honorably discharged with a service-connected total disability and who has a certificate from the United States Government or United States Department of Veterans Affairs or its predecessor, or its successors, certifying that the ex-service member is receiving or has received special pecuniary assistance due to disability requiring specially adapted housing and is required to use a wheelchair for his or her transportation is exempt from taxation.

#### *\$5,000 Ad Valorem Tax Exemption for Ex-Service Members*

Section 196.24, F.S., provides any "ex-service member" with a service-connected disability of 10% or more a \$5,000 property tax exemption. To qualify for the exemption an ex-service member must be a bona fide resident of the state.

#### *Combat Related Partial Ad Valorem Tax Exemption (Discount) for Ex-Service Members*

Article VII, s. 6(e) of the State Constitution grants a discount on ad valorem taxes owed on homestead property to partially or totally disabled veterans who are 65 or older and were Florida residents when they entered military service. The ad valorem tax discount percentage is equal to the veteran's percentage of disability, as determined by the United States Department of Veterans Affairs.

In order to qualify for the discount the veteran must submit proof of the veteran's disability percentage to the county property appraiser. The veteran must also prove that the:

- Disability is combat related;
- Veteran was a Florida resident at the time of entering the military; and
- Veteran was honorably discharged.

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<sup>7</sup> Art. VII, section 4(e) of the State Constitution.

<sup>8</sup> Art. VII, section 4(f) of the State Constitution.

<sup>9</sup> *Sebring Airport Authority v. McIntyre*, 783 So.2d 238 (Fla. 2001).

Section 196.082, F.S., sets forth the implementation provisions for the disabled veterans discount.

### Constitutional Amendment Process

Article XI of the State Constitution sets forth various methods for proposing amendments to the constitution along with the methods for approval or rejection of proposals. One method by which constitutional amendments may be proposed is by joint resolution agreed to by three-fifths of the membership of each house of the Legislature.<sup>10</sup> Any such proposal must be submitted to the electors, either at the next general election held more than 90 days after the joint resolution is filed with the Secretary of State, or, if pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment or revision, at an earlier special election held more than 90 days after such filing.<sup>11</sup> If the proposed amendment is approved by a vote of at least 60 percent of the electors voting on the measure it becomes effective as an amendment to the Florida Constitution on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.<sup>12</sup>

Each proposed constitutional amendment is required to be published in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week preceding the general election.<sup>13</sup> Costs for advertising vary depending upon the length of the amendment. According to the Department of State, the average cost per word of publishing a constitutional amendment is \$94.68.

### EFFECT OF PROPOSED CHANGES

House Joint Resolution 313 proposes an amendment to Article VII, Section 6 (e) of the Florida Constitution to allow disabled veterans who were not Florida residents prior to entering military service to qualify for the combat-related, disabled veteran's ad valorem tax discount on homestead property.

HJR 313 also deletes an effective date reference in the section that would become outdated upon passage of the amendment.

The joint resolution creates Article XII, section 31, Florida Constitution, providing an effective date for the constitutional amendment of January 1, 2011.

#### B. SECTION DIRECTORY:

Not Applicable

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None

##### 2. Expenditures:

The Department of State estimates that the cost of advertising this joint resolution is \$76,690.80.

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<sup>10</sup> Article XI, section 1 of the State Constitution.

<sup>11</sup> Article XI, section 5(a) of the State Constitution.

<sup>12</sup> Article XI, section 5(e) of the State Constitution.

<sup>13</sup> FLA. CONST. art. XI, s. 5(d).

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The Revenue Estimating Conference has estimated that, if the joint resolution is approved by the voters, the statewide impact would be reductions in property tax revenues of \$2.3 million in 2011-12, \$4.8 million in 2012-13, and \$7.7 million in 2013-14, assuming current millage rates.

2. Expenditures:

None

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None

**D. FISCAL COMMENTS:**

None

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable

2. Other:

None

**B. RULE-MAKING AUTHORITY:**

Not Applicable

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**