

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 313

Disabled Veterans' Property Tax Discount

SPONSOR(S): Holder

TIED BILLS:

IDEN./SIM. BILLS: SJR 196

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Finance & Tax Council	15 Y, 0 N	Diez-Arguelles	Langston
2)	Economic Development & Community Affairs Policy Council	14 Y, 0 N	Noriega	Tinker
3)	Rules & Calendar Council			
4)				
5)				

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 combat-related, disabled veterans' homestead property tax discount.

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 fiscal year 2011-12, \$4.8 million in fiscal year 2012-13, and \$7.7 million in fiscal year 2013-14, assuming current millage rates.

Based upon the costs involved in the 2008 election for advertising a proposed constitutional amendment, the total cost for advertising this proposed constitutional amendment is estimated to be \$74,528. The cost is determined by multiplying the total number of words in the proposed amendment by the average per word cost of \$92.01.

The proposed amendment will be submitted to the electors at the general election in November 2010 or at an earlier special election if specifically authorized by law enacted by the Legislature for that purpose. If approved by 60 percent of the voters, the proposed constitutional amendment will take effect on January 1, 2011.

This joint resolution must be approved by a three-fifths vote of the membership of each house of the Legislature.

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 Florida 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."¹

Exceptions to Just Valuation

Article VII, s. 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.² 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.³ 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.⁴ Annual increases in assessments of certain non-homestead properties are also limited.⁵ Land used for conservation purposes must be assessed solely on the basis of character or use.⁶ Counties and municipalities may also authorize historic properties to be assessed solely on the basis of character

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

² Article VII, section 4(a), Florida Constitution.

³ Article VII, section 4(c), Florida Constitution.

⁴ Article VII, section 4(d) of the Florida 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.

⁵ Article VII, sections 4(g) and (h) of the Florida Constitution provide that annual assessment changes may not exceed 10 percent of the prior year's assessment.

⁶ Article VII, section 4(b), Florida Constitution.

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

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.⁹ Article VII, sections 3 and 6 of the Florida Constitution authorize a number of property tax exemptions.

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

Total Ad Valorem Exemptions for Ex-Service Members

Section 196.081, F.S., provides an exemption for 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, provided the veteran is a permanent resident of the state on January 1 of the tax year for which the exemption is being claimed or on January 1 of the year the veteran died.

Section 196.091, F.S., provides an exemption for 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.

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

Section 196.24, F.S., provides a \$5,000 property tax exemption for any "ex-service member" with a service-connected disability of 10 percent or more. In order 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 Florida 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 his or her disability percentage to the county property appraiser. The veteran must also prove that:

- the disability is combat related;
- he or she was a Florida resident at the time of entering the military; and
- he or she was honorably discharged.

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

⁷ Article VII, section 4(e), Florida Constitution.

⁸ Article VII, section 4(f), Florida Constitution.

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

Constitutional Amendment Process

Article XI of the Florida 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.¹⁰ 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.¹¹ 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.¹²

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.¹³ Costs for advertising vary depending upon the length of the amendment.

EFFECT OF PROPOSED CHANGES

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

House Joint Resolution 313 also deletes an effective date reference in the section that would become outdated upon passage of the amendment, and creates Article XII, s. 31, Florida Constitution.

The proposed amendment will be submitted to the electors at the general election in November 2010 or at an earlier special election if specifically authorized by law enacted by the Legislature for that purpose. If approved by 60 percent of the voters, the proposed constitutional amendment will take effect on January 1, 2011.

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:

Based upon the costs involved in the 2008 election for advertising a proposed constitutional amendment, the total cost for advertising this proposed constitutional amendment is estimated to be

¹⁰ Article XI, section 1, Florida Constitution.

¹¹ Article XI, section 5(a), Florida Constitution.

¹² Article XI, section 5(e), Florida Constitution.

¹³ Article XI, section 5(d), Florida Constitution.

\$74,528. The cost is determined by multiplying the total number of words in the proposed amendment (approximately 810) by the average per word cost of \$92.01.¹⁴

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 fiscal year 2011-12, \$4.8 million in fiscal year 2012-13, and \$7.7 million in fiscal year 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 to joint resolutions.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.

¹⁴ Based on information and methodology received from staff of the Department of State.