

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HJR 93 Homestead Property Tax Exemption for Surviving Spouse of Military Veteran or First Responder

**SPONSOR(S):** Harrison and others

**TIED BILLS:** HB 95 **IDEN./SIM. BILLS:** SJR 1056

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	23 Y, 0 N, As CS	Aldridge	Langston
2) Community & Military Affairs Subcommittee		Tait	Hoagland
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

CS/HJR 93 proposes an amendment to the Florida Constitution that would allow the Legislature to provide ad valorem tax relief to the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces and to the surviving spouse of a first responder who died in the line of duty. The amount of tax relief, to be defined by general law, can equal the total amount or a portion of the ad valorem tax otherwise owed on homestead property.

The proposed amendment defines "first responder" to mean a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic. "In the line of duty" is defined to mean arising out of and in the actual performance of duty required by employment as a first responder. The Legislature is authorized to further define these terms by general law.

The proposed amendment is effective January 1, 2013, if approved by the voters.

The Revenue Estimating Conference has estimated that, if the voters approve this constitutional amendment, and if it is implemented by the Legislature effective beginning with the January 2013 tax rolls and **assuming current millage rates**, the estimated statewide impact would be annual reductions in school tax revenues of \$0.3 million, beginning in fiscal year 2013-14. Annual reductions in local government non-school tax revenues under those circumstances are estimated to be \$0.3 million beginning in fiscal year 2013-14.

The Department of State estimates that the cost of publishing the proposed constitutional amendment, as required by law, is \$100,302.

**For the proposed amendment to be placed on the ballot at the general election in November 2012, the Legislature must approve the joint resolution by a three-fifths vote of the membership of each house of the Legislature.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### **Just Value**

Article VII, s. 4 of the Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. “Just value” is synonymous with “fair market value” and is defined as what a willing buyer would pay a willing seller for the property in an arm’s length transaction.<sup>1</sup>

##### **Assessed Value**

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.<sup>2</sup> Agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.<sup>3</sup> Land used for conservation purposes must be assessed solely on the basis of character or use.<sup>4</sup> Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or be totally exempted from taxation.<sup>5</sup> Counties and municipalities may authorize historic properties to be assessed solely on the basis of character or use.<sup>6</sup> Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents that are 62 years of age or older.<sup>7</sup> The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property’s wind resistance or the installation of renewable energy source devices in the assessment of the property.<sup>8</sup> Certain working waterfront property is assessed based upon the property’s current use.<sup>9</sup>

##### **Assessment Limitations**

##### ***Save Our Homes***

The “Save Our Homes” provision in art. VII, s. 4 of the Florida Constitution, limits the amount a homestead’s assessed value can increase annually to the lesser of 3 percent or the inflation rate as measured by the consumer price index (CPI).<sup>10</sup> Homestead property owners that establish a new homestead may transfer up to \$500,000 of their accrued “Save Our Homes” benefit to a new homestead.<sup>11</sup>

##### ***Additional Assessment Limitations***

Article VII, s. 4(g) and (h), of the Florida Constitution, provide an assessment limitation for non-homestead residential real property containing nine or fewer units, and for all real property not subject to other specified assessment limitations. For all levies, with the exception of school levies, the assessed value of property in each of these two categories may not be increased annually by more

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<sup>1</sup> See *Walter v. Shuler*, 176 So.2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla. 1976); and *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).

<sup>2</sup> The constitutional provisions in art. VII, s. 4, of the Florida Constitution, are implemented in Part II of ch. 193, F.S.

<sup>3</sup> Art. VII, s. 4(a) of the Florida Constitution.

<sup>4</sup> Art. VII, s. 4(b) of the Florida Constitution.

<sup>5</sup> Art. VII, s. 4(c) of the Florida Constitution.

<sup>6</sup> Art. VII, s. 4(e) of the Florida Constitution.

<sup>7</sup> Art. VII, s. 4(f) of the Florida Constitution.

<sup>8</sup> Art. VII, s. 4(i) of the Florida Constitution.

<sup>9</sup> Art. VII, s. 4(j) of the Florida Constitution.

<sup>10</sup> Art. VII, s. 4(d) of the Florida Constitution.

<sup>11</sup> Art. VII, s. 4(d) of the Florida Constitution.

than 10 percent of the assessment in the prior year. However, residential real property containing nine or fewer units must be assessed at just value whenever there is a change in ownership or control. For the other real property subject to the limitation, the Legislature may provide that such property shall be assessed at just value after a change of ownership or control and must provide for reassessment following a qualifying improvement, as defined by general law.

## **Exemptions**

The Legislature may only grant property tax exemptions that are authorized in the constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.<sup>12</sup>

### *Homestead Exemption*

Article VII, s. 6 of the Florida Constitution, provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

### *Other Exemptions*

Article VII, s. 3 of the Florida Constitution, provides for other specific exemptions from property taxes. Property owned by a municipality and used exclusively for municipal or public purposes is exempt, and portions of property used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law.<sup>13</sup> Additional exemptions are provided for household goods and personal effects, widows and widowers, blind persons and persons who are totally and permanently disabled.<sup>14</sup> A county or municipality is authorized to provide a property tax exemption for new and expanded businesses, but only against its own millage and upon voter approval.<sup>15</sup> A county or municipality may also grant an historic preservation property tax exemption against its own millage to owners of historic property.<sup>16</sup> Tangible personal property is exempt up to \$25,000 of its assessed value.<sup>17</sup> There is an exemption for real property dedicated in perpetuity for conservation purposes.<sup>18</sup> There is an exemption for military personnel deployed on active duty outside of the United States in support of military operations designated by the Legislature.<sup>19</sup>

## **Taxable Value**

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes.

## **Effect of Proposed Changes**

### **Additional Homestead Exemption for the Surviving Spouse of a Military Veteran or First Responder**

The joint resolution proposes an amendment to the Florida Constitution that would allow the Legislature to provide ad valorem tax relief to the surviving spouse of a veteran who died from service-connected

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<sup>12</sup>See *Sebring Airport Authority v. McIntyre*, 783 So. 2d 238 (Fla. 2001). See also, *Archer v. Marshall*, 355 So. 2d 781, 784 (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

<sup>13</sup> Art. VII, s. 3(a) of the Florida Constitution.

<sup>14</sup> Art. VII, s. 3(b) of the Florida Constitution.

<sup>15</sup> Art. VII, s. 3(c) of the Florida Constitution.

<sup>16</sup> Art. VII, s. 3(d) of the Florida Constitution.

<sup>17</sup> Art. VII, s. 3(e) of the Florida Constitution.

<sup>18</sup> Art. VII, s. 3(f) of the Florida Constitution.

<sup>19</sup> Art. VII, s. 3(g) of the Florida Constitution.

causes while on active duty as a member of the United States Armed Forces and to the surviving spouse of a first responder who died in the line of duty. The amount of tax relief, to be defined by general law, can equal the total amount or a portion of the ad valorem tax otherwise owed on homestead property.

The proposed amendment defines "first responder" to mean a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic. "In the line of duty" is defined to mean arising out of and in the actual performance of duty required by employment as a first responder. The Legislature is authorized to further define these terms by general law.

The proposed amendment is effective January 1, 2013, if approved by the voters.

B. S. 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, s. 5(d) of the State 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 Division of Elections within the Department of State estimated that the full publication costs for advertising the proposed amendment to be \$100,302.<sup>20</sup>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has estimated that, if the voters approve this constitutional amendment, and if it is implemented by the Legislature effective beginning with the January 2013 tax rolls and **assuming current millage rates**, the estimated statewide impact would be annual reductions in school tax revenues of \$0.3 million, beginning in fiscal year 2013-14. Annual reductions in local government non-school tax revenues under those circumstances are estimated to be \$0.3 million beginning in fiscal year 2013-14.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the proposed amendment is approved by the electorate and implemented by the Legislature, surviving spouses of certain veterans and first responders could receive property tax relief.

D. FISCAL COMMENTS:

None.

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<sup>20</sup> Department of State, *House Joint Resolution 93 (2012) Fiscal Analysis* (October 3, 2011).

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not applicable to joint resolutions.

##### **2. Other:**

The Legislature may propose amendments to the state constitution by joint resolution approved by three-fifths of the membership of each house.<sup>21</sup> 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 the 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 ninety days after such filing.<sup>22</sup>

#### **B. RULE-MAKING AUTHORITY:**

None.

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

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 17, 2012, the Finance and Tax Committee adopted an amendment that clarifies that the constitutional amendment proposed by the joint resolution takes effect January 1, 2013, if approved by the voters.

This analysis has been updated to reflect these changes.

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<sup>21</sup> Art. XI, s. 1 of the Florida Constitution.

<sup>22</sup> Art. XI, s. 5 of the Florida Constitution.