

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1141 Ad Valorem Tax Exemption for Deployed Servicemembers

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

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1502

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee		Tait	Hoagland
2) Rulemaking & Regulation Subcommittee			
3) Finance & Tax Committee			
4) Economic Affairs Committee			

### SUMMARY ANALYSIS

In 2009, the Florida Legislature approved the placement of an amendment to Article VII, Section 3 of the Florida Constitution on the 2010 general election ballot (Amendment 2). The passage of Amendment 2 requires the Legislature to provide an additional homestead property tax exemption for members of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard who receive a homestead exemption and were deployed in the previous year on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. The exempt amount is based upon the number of days in the previous calendar year that the person was deployed on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. Amendment 2 also provided an effective date of January 1, 2011. On November 2, 2010, 77.82% of voters in Florida approved Amendment 2.

HB 1141 codifies Amendment 2, now Article VII, Section 3(g) of the Florida Constitution, providing a partial ad valorem tax exemption on homestead property for Florida military personnel who are deployed outside the United States.

In addition, the bill:

- Requires the Florida Department of Military Affairs to annually submit a report to the Legislature of all known and unclassified military operations outside the United States;
- Directs the Legislature to annually adopt concurrent resolutions that designate military operations that qualify a servicemember for the tax exemption and to immediately transmit the concurrent resolutions;
- Provides procedures for property appraisers to apply or deny the partial ad valorem tax exemption;
- Requires a servicemember applying for the tax exemption to provide proof of eligibility; and
- Authorizes the Department of Revenue to adopt emergency rules to administer the provisions of this act.

The Revenue Estimating Conference met March 25, 2011, and estimated an indeterminate negative impact for 2011-12 of -\$0.7 million in school taxes and -\$0.8 million in non-school taxes. The estimate is indeterminate, as it is dependent on future actions of the Legislature.

The bill takes effect upon becoming a law and first applies to ad valorem tax rolls for 2011.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **CURRENT SITUATION**

##### **Property Taxes in Florida**

The ad valorem tax or “property 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.<sup>1</sup> The “taxable value” of real and tangible personal property is the fair market value, or “just value,” of the real and tangible personal property adjusted for any exclusions, differentials, or exemptions allowed by the constitution or the statutes.<sup>2</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by the following March 31.

Property taxes are the largest single tax revenue source for local governments in Florida, with approximately \$25.1 billion levied in fiscal year 2010-11.<sup>3</sup>

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.<sup>4</sup> In addition, the Florida Constitution strictly limits the Legislature’s authority to provide exemptions or adjustments to fair market value.<sup>5</sup> However, the Florida Constitution provides for property tax relief in the form of valuation differentials, assessment limitations, and exemptions.<sup>6</sup>

##### **Property Tax Benefits Available to Veterans**

Chapter 196, F.S., provides the following homestead exemptions that may apply to military service veterans:

- for certain permanently and totally disabled veterans and for surviving spouses of veterans;<sup>7</sup>
- for disabled veterans confined to wheelchairs;<sup>8</sup>
- for totally and permanently disabled persons;<sup>9</sup> and
- for certain disabled ex-servicemembers or surviving spouses.<sup>10</sup>

In addition, current law provides an ad valorem tax discount for veterans who are age 65 or older who are partially or totally permanently disabled. This discount applies if the disability was combat related, the veteran was a Florida resident at the time of entering the military service of the United States, and the veteran was honorably discharged upon separation from military service.<sup>11</sup>

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<sup>1</sup> 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 s. 1(b), Art. VII of the State Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>2</sup> Sections 192.001(2) and (16), F.S., define the terms “assessed value” and “taxable value.” “Assessed value” is generally synonymous with “just value” unless a constitutional exception such as Save Our Homes applies to reduce the assessed value of the property. “Taxable value” is the assessed value minus any applicable exemptions such as the \$25,000 homestead exemption. “Just value” is the estimated fair market value of the property.

<sup>3</sup> 2011 Florida Tax Handbook. Available at: <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2011.pdf>

<sup>4</sup> Section 1(a), Article VII, Florida Constitution.

<sup>5</sup> Section 4, Article VII, Florida Constitution.

<sup>6</sup> Valuation differentials, assessment limitations, and exemptions are authorized in Article VII, Florida Constitution.

<sup>7</sup> Section 196.081, F.S.

<sup>8</sup> Section 196.091, F.S.

<sup>9</sup> Section 196.101, F.S.

<sup>10</sup> Section 196.24, F.S.

<sup>11</sup> Section 196.082, F.S.

No special tax relief is provided to military personnel deployed on active duty for military operations outside the United States.

### **Deployed Military Personnel**

The number of deployed military personnel is in constant flux. According to data provided by the Florida Department of Military Affairs, approximately 5,082 military personnel who claim Florida as their home of record<sup>12</sup> were deployed overseas on active duty in support of Operation New Dawn, Operation Enduring Freedom, or Operation Noble Eagle as of January 31, 2011. It is indeterminate how many of these deployed servicemembers own homesteaded property in Florida.

<b><u>Branch of Service</u></b>	<b><u>Number of Military Personnel</u></b>
Army	211
Navy	1,343
Air Force	1,712
Marine Corps	79
Army Reserve	521
Florida National Guard	656
Marine Corps Reserve	320
Navy Reserve	67
Air Force Reserve	98
Coast Guard	55
Coast Guard Reserve	20
<b><u>TOTAL:</u></b>	<b>5,082</b>

### **Amendment 2 (2010)**

In 2009, the Florida Legislature approved the placement of an amendment to Article VII, Section 3 of the Florida Constitution on the 2010 general election ballot (Amendment 2). The passage of Amendment 2 requires the Legislature to provide an additional homestead property tax exemption for members of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard who receive a homestead exemption and were deployed in the previous year on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. The exempt amount is based upon the number of days in the previous calendar year that the person was deployed on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. Amendment 2 also provided an effective date of January 1, 2011.

On November 2, 2010, 77.82% of voters in Florida approved Amendment 2.<sup>13</sup>

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<sup>12</sup> Claiming Florida as a home of record is not an indicator of the number of servicemembers who actually own homestead property in Florida.

<sup>13</sup> Data from the Division of Elections within the Florida Department of State. Available at <http://election.dos.state.fl.us/initiatives/initdetail.asp?account=10&seqnum=72> (last accessed March 26, 2011).

## **Concurrent Resolutions**

Concurrent resolutions serve several purposes. They are used to extend legislative sessions and to address legislative organization and procedures. They are also used to express the opinions of both houses. Additionally, concurrent resolutions may be used to express Florida's ratification or rejection of an amendment to the United States Constitution.

Pursuant to Rule 5.2(a) of the Florida House of Representatives, concurrent resolutions must be approved for filing with the Clerk of the House no later than noon of the first day of the regular session.

## **PROPOSED CHANGES**

HB 1141 codifies Amendment 2 (now Article VII, Section 3(g) of the Florida Constitution), and creates s. 196.173, F.S. This new section of statute provides direction for the implementation of the additional homestead property tax exemption by law for members of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard who receive a homestead exemption and were deployed in the previous year on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature.

The amount of the exemption is equal to the taxable value of the homestead of the servicemember on January 1 of the year in which the exemption is sought multiplied by the number of days that the servicemember was on a qualifying deployment in the preceding calendar year and divided by the number of days in that year.

## **Designation of Approved Military Operations**

By January 15 of each year, the Department of Military Affairs is required to submit to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature a report of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year. For the purposes of the report, the term "servicemember" means a member or former member of any branch of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard.

The report is to include:

- The official and common names of the military operations;
- The general location and purpose of each military operation;
- The number of servicemembers deployed to each military operation;
- The number of servicemembers deployed to each military operation who were based in this state at the time of deployment, including the number by county of residence or military base, if known;
- The date each military operation commenced;
- The date each military operation terminated, unless the operation is ongoing; and
- Any other relevant information.

Once the Legislature designates an approved military operation that may qualify a servicemember for the tax exemption through the issuance of a concurrent resolution, the Secretary of the Senate and the Clerk of the House of Representatives are required to immediately transmit a copy of the concurrent resolution to the Department of Revenue. Upon receipt of the concurrent resolution, the Department of Revenue must notify all property appraisers and tax collectors of the designated military operations.

## **Procedures to Claim the Exemption**

A servicemember who seeks to claim the additional tax exemption must file an application for exemption with the property appraiser on or before March 1 of the year following the year of the qualifying deployment. The application must be prescribed by the Department of Revenue and furnished by the property appraiser.

The servicemember must provide:

- Proof that the servicemember participated in a qualifying deployment;
- The dates of the qualifying deployment; and
- Other information necessary to verify eligibility for and the amount of the exemption.

The property appraiser must approve or deny a servicemember's application for the exemption within 30 days after receipt of the application. If a servicemember's application for the exemption is denied, the property appraiser must send a notice of disapproval no later than July 1, citing the reason for disapproval and advising the servicemember of the right to appeal the decision.

### **Additional Changes**

The bill amends s. 194.011, F.S., requiring a person appealing the denial of a deployed servicemember exemption to the value adjustment board to file the appeal on or before the 30<sup>th</sup> day following the mailing of the denial notice by the property appraiser.

The bill also amends s. 196.011, F.S., requiring the application form for the deployed servicemember tax exemption to meet certain conditions in order to be considered a complete application. These conditions include a requirement that a servicemember must include his or her social security number, as well as his or her spouse's social security number, on the application form for the exemption.

### **Rulemaking Authority**

The bill grants the Department of Revenue the authority to adopt emergency rules pursuant to ss. 120.536(1) and 120.54, F.S., to administer the provisions of the act. The emergency rules are to remain in effect for 6 months after the rules are adopted, and the rules may be renewed during the pendency of procedures to adopt permanent rules.

### **Special Provisions Relating to Deployment that Occurred During the 2010 Year**

Sections 5 and 6 of the bill relate to implementing the tax exemption for the 2010 calendar year. The exemption will be applied to the ad valorem tax rolls for 2011.

Eligible servicemembers will have until June 1, 2011, to file a claim for an additional tax exemption for a qualifying deployment during the 2010 calendar year. If a servicemember fails to meet the June 1 deadline and subsequently submits an application to the property appraiser, the property appraiser may grant the tax exemption if the property appraiser determines the failure to meet the application deadline occurred due to extenuating circumstances. If the property appraiser determines that extenuating circumstances did not prevent an applicant from meeting the deadline and denies the application, the applicant may file a petition with the value adjustment board.

The Department of Military Affairs is directed to submit the report of military operations for the 2010 calendar year within 15 days after the act becomes a law.

The bill takes effect upon becoming law, and first applies to ad valorem tax rolls for 2011.

### **B. SECTION DIRECTORY:**

**Section 1:** Creates s. 196.173, F.S., to codify an amendment to Article VII, Section 3 of the Florida Constitution, relating to an additional ad valorem tax exemption for homestead property owned by a servicemember deployed overseas in support of a military operation designated by the Legislature in the previous year.

**Section 2:** Amends s. 194.011, F.S., requiring a person appealing the denial of a deployed servicemember exemption to the value adjustment board to file the appeal on or before the 30<sup>th</sup> day following the mailing of the denial notice by the property appraiser.

- Section 3:** Amends s. 196.011, F.S., requiring the application form for the deployed servicemember tax exemption to meet certain conditions in order to be considered a complete application.
- Section 4:** Authorizes the Department of Revenue to adopt emergency rules to administer the provisions of this act.
- Section 5:** Establishes June 1, 2011, as the deadline for an eligible servicemember to file a claim for an additional tax exemption for a qualifying deployment during the 2010 calendar year, provides for extenuating circumstances and appeal process.
- Section 6:** Directs the Department of Military Affairs to submit the report of military operations for the 2010 calendar year of the bill within 15 days after the act becomes a law.
- Section 7:** Provides an effective date of upon becoming a law, and first applies to ad valorem tax rolls for 2011.

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

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

1. Revenues:  
See FISCAL COMMENTS.
2. Expenditures:  
See FISCAL COMMENTS.

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

1. Revenues:  
See FISCAL COMMENTS.
2. Expenditures:  
See FISCAL COMMENTS.

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

Military personnel eligible for the exemption will see a reduction in property taxes.

The bill does not appear to have a fiscal impact on private businesses in Florida.

### **D. FISCAL COMMENTS:**

The Revenue Estimating Conference met March 25, 2011, and adopted a consensus estimate on the bill. They adopted an indeterminate negative estimate, as the impact is dependent on future actions of the Legislature. They assumed if 10.5% of active duty personnel and reserves were deployed in designated operations, the expected impact for 2011-12 would be -\$0.7 million in school taxes and -\$0.8 million in non-school taxes.

Both the Department of Revenue and the Department of Military Affairs will have to assign personnel to fulfill the requirements of this bill; however, they did not specify if they will be able to meet the requirements within existing resources or if they will need additional funding for personnel expenses.

In addition, the bill creates additional duties for county property appraisers. They must approve or deny a servicemember's application for the exemption within 30 days after receipt of the application, and if a servicemember's application for the exemption is denied, the property appraiser must send a notice of disapproval no later than July 1, citing the reason for disapproval and advising the servicemember of the right to appeal the decision.

### **III. COMMENTS**

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

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

Section 18(b), Article VII, of the Florida Constitution requires any general law that reduces a local government's authority to raise revenues in the aggregate, to be passed by a two-thirds vote of the membership of each house of the Legislature. Although the bill reduces the tax base and revenue-raising authority of counties and municipalities, the mandates provision does not apply to bills implementing constitutional provisions.

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

The bill implements the provisions of Amendment 2 on the 2010 general election ballot, which provides a homestead ad valorem tax credit for military personnel deployed overseas in support of a military operation designated by the Legislature in the previous year.

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

The bill grants the Department of Revenue the authority to adopt emergency rules pursuant to ss. 120.536(1) and 120.54, F.S., to administer the provisions of the act. The emergency rules are to remain in effect for 6 months after the rules are adopted, and the rules may be renewed during the pendency of procedures to adopt permanent rules.

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

The bill is to take effect upon becoming law, and first apply to ad valorem tax rolls for 2011. In order to meet that provision, the Department of Military Affairs is directed to submit the report of military operations for the 2010 calendar year within 15 days after the act becomes a law, and eligible servicemembers have until June 1, 2011, to file a claim for an additional tax exemption for a qualifying deployment during the 2010 calendar year. The bill does not provide for legislative determination of qualifying military operations for the 2010 calendar year. The procedure for determining qualifying military operations in subsequent years requires for the Legislature to issue a concurrent resolution designating such operations; however, pursuant to the Rule 5.2(a) of the Florida House of Representatives, concurrent resolutions must be approved for filing with the Clerk of the House no later than noon of the first day of the regular session. As this deadline has passed for the 2011 regular session, it is recommended that the bill be amended to provide for legislative designation of approved military operations for the 2010 calendar year.

In addition, it appears that concurrent resolutions are not traditionally used in the manner described in this bill.

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