

ECONOMIC AFFAIRS COMMITTEE

MEETING PACKET

Friday, February 17, 2012
8:00 a.m.
Reed Hall (102 HOB)

Dean Cannon
Speaker

Dorothy L. Hukill
Chair



The Florida House of Representatives

Economic Affairs Committee

Dorothy L. Hukill, Chair

AGENDA

Friday, February 17, 2012

Reed Hall (102 HOB)

8:00 am

- I. CALL TO ORDER AND WELCOME REMARKS
- II. CONSIDERATION OF THE FOLLOWING BILL(S):
 - CS/HJR 169 ADDITIONAL HOMESTEAD TAX EXEMPTION FOR SENIORS BY FINANCE & TAX COMMITTEE, OLIVA
 - CS/HB 249 PUBLIC LODGING ESTABLISHMENTS BY GOVERNMENT OPERATIONS APPROPRIATIONS SUBCOMMITTEE, BEMBRY
 - CS/HB 357 HOMESTEAD EXEMPTIONS FOR SENIORS BY FINANCE & TAX COMMITTEE, OLIVA
 - CS/HB 699 EAST LAKE TARPON COMMUNITY, PINELLAS COUNTY BY COMMUNITY & MILITARY AFFAIRS SUBCOMMITTEE, NEHR
 - HJR 1003 TANGIBLE PERSONAL PROPERTY TAX EXEMPTIONS BY EISNAUGLE
 - CS/HB 1005 TANGIBLE PERSONAL PROPERTY TAXATION BY FINANCE & TAX COMMITTEE, EISNAUGLE
 - CS/CS/HB 1009 LOW-SPEED VEHICLES BY TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS SUBCOMMITTEE, TRANSPORTATION & HIGHWAY SAFETY SUBCOMMITTEE, O'TOOLE
 - CS/HB 1119 NEW MARKETS DEVELOPMENT PROGRAM BY FINANCE & TAX COMMITTEE, CRISAFULLI
 - HB 1165 IDENTIFICATION CARDS AND DRIVER LICENSES BY MCBURNEY
- III. ADJOURNMENT

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HJR 169 Additional Homestead Tax Exemption for Seniors

SPONSOR(S): Finance & Tax Committee, Oliva and others

TIED BILLS: HB 357 **IDEN./SIM. BILLS:** SJR 1740

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	22 Y, 0 N, As CS	Aldridge	Langston
2) Economic Affairs Committee		Nelson <i>JPN</i>	Tinker <i>TBT</i>

SUMMARY ANALYSIS

The joint resolution proposes an amendment to the State Constitution that would allow the Legislature by general law to permit counties and municipalities to grant an additional homestead tax exemption equal to the assessed value of homestead property to certain low income seniors.

To be eligible for the additional homestead exemption, the following conditions must be met:

- the county or municipality must have granted the exemption by ordinance;
- the property must have a just (market) value of less than \$250,000;
- the owner must have title to the property and maintained his or her permanent residence thereon for at least 25 years;
- the owner must be age 65 years or older; and
- the owner's annual household income must be less than \$27,030.

The general law implementing the constitutional provision must require counties and municipalities choosing to provide the additional homestead exemption to do so by ordinance. The general law must also provide for the periodic adjustment of the income limitation for changes in the cost of living.

The Revenue Estimating Conference has not estimated the revenue impacts of the joint resolution; however, the revenue impact on local governments would be negative to an indeterminate degree. This is because the constitutional amendment proposed by the joint resolution must first:

- be approved by the voters,
- be implemented by general law, and
- be adopted by ordinance by counties or municipalities wishing to offer the additional exemption.

The joint resolution would have a nonrecurring expenditure impact on the state for the cost of advertising the proposed amendment.

To be placed on the ballot, the joint resolution must be approved by three-fifths of the membership of each house.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Property Taxation in Florida

Local governments, including counties, school districts and municipalities have the constitutional ability to levy ad valorem taxes. Special districts may also be given this ability by law.¹ Ad valorem taxes are collected on the fair market value of the property, adjusting for any exclusions, differentials or exemptions.

Ad valorem taxes are capped by the State Constitution as follows:²

- 10 mills for county purposes;
- 10 mills for municipal purposes;
- 10 mills for school purposes;
- a millage fixed by law for a county furnishing municipal services; and
- a millage authorized by law and approved by voters for special districts.

Taxes levied for the payment of bonds and taxes levied for periods not longer than two years, when authorized by a vote of the electors, are not subject to millage limitations. Millage rates vary among local governments and are fixed by ordinance or resolution of the taxing authority's governing body.³

Regardless of the body imposing the taxes, two county constitutional officers have primary responsibility for the administration and collection of ad valorem taxes. The county property appraiser calculates the fair market value, assessed value and the value of applicable exemptions of the property. The tax collector collects all ad valorem taxes levied by the county, school district, municipalities, and any special taxing districts within the county and distributes the taxes to each taxing authority.⁴

The Department of Revenue (DOR) supervises the assessment and valuation of property so that all property is placed on the tax rolls and valued according to its just valuation.⁵ Additionally, the DOR prescribes and furnishes all forms as well as prescribes rules and regulations to be used by property appraisers, tax collectors, clerks of circuit court, and value adjustment boards in administering and collecting ad valorem taxes.⁶

All ad valorem taxation must be at a uniform rate within each taxing unit, subject to certain exceptions with respect to intangible personal property.⁷ However, the Florida constitutional provision requiring that taxes be imposed at a uniform rate refers to the application of a common rate to all taxpayers within each taxing unit—not variations in rates between taxing units.⁸

The State Constitution grants property tax relief in the form of certain valuation differentials,⁹ assessment limitations,¹⁰ and exemptions,¹¹ including the homestead exemptions.

¹ Section 9, Art. VII of the State Constitution.

² A mill is defined as 1/1000 of a dollar, or \$1 per \$1000 of taxable value.

³ Section 200.001(7), F.S.

⁴ Section 197.383, F.S.

⁵ Section 195.002, F.S.

⁶ Chapter 195, F.S.

⁷ Section 2, Art. VII of the State Constitution.

⁸ See, for example, *Moore v. Palm Beach County*, 731 So. 2d 754 (Fla. Dist. Ct. App. 4th Dist. 1999) citing *W. J. Howey Co. v. Williams*, 142 Fla. 415, 195 So. 181, 182 (1940).

⁹ Section 4, Art. VII of the State Constitution, authorizes valuation differentials, which are based on character or use of property.

Homestead Exemption

The Homestead Exemption provides an exemption from all ad valorem taxes on the first \$25,000 of assessed value for owners of homestead property, provided that the tax roll in their county has been approved.¹² An additional \$25,000 exemption is provided for assessed values between \$50,000 and \$75,000; however, this exemption does not apply to school taxes.¹³

Save Our Homes

The "Save Our Homes" provision in s. 4, Art. VII of the State Constitution, limits the amount a homestead's assessed value can increase annually to the lesser of three percent or the inflation rate as measured by the Consumer Price Index (CPI).¹⁴ Homestead property owners who establish a new homestead may transfer up to \$500,000 of their accrued "Save Our Homes" benefit to that homestead.¹⁵

Section 193.155, Florida Statutes

In 1994, the Legislature implemented the "Save Our Homes" amendment in s. 193.155, F.S. The legislation required all homestead property to be assessed at just value by January 1, 1994. Starting on January 1, 1995, or the year after the property receives a homestead exemption (whichever is later), property receiving a homestead exemption must be reassessed annually on January 1 of each year. As provided in the constitution, s. 193.155, F.S., requires that any change resulting from the reassessment may not exceed the lesser of three percent or the growth in the CPI. Pursuant to s. 193.155(2), F.S., if the assessed value of the property exceeds its just value, the assessed value must be lowered to the just value of the property.

Low-Income Seniors

Counties and cities may allow an additional homestead exemption of up to \$50,000 for anyone 65 years or older whose household income does not exceed \$20,000, adjusted annually by the percentage change in the average cost-of-living index.¹⁶ The exemption only applies to taxes levied by the county or city enacting the exemption.¹⁷

Under the Homestead Property Tax Deferral Act, any homesteader 65 years or older who would qualify for the exemption would also qualify to defer all ad valorem taxes.¹⁸ All senior homesteaders may defer the portion of their tax levy exceeding three-percent of household income, so long as tax deferrals and other liens do not exceed 85-percent of assessed value and the primary mortgage does not exceed 70

¹⁰ Section 4 (c), Art. VII of the State Constitution, authorizes the "Save Our Homes" property assessment limitation, which limits the increase in assessment of homestead property to the lesser of three percent or the percentage change in the Consumer Price Index. Section 4(e) authorizes counties to provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. This provision is known as the "Granny Flats" assessment limitation.

¹¹ Section 3, Art. VII, of the State Constitution, provides authority for the various property tax exemptions. The statutes also clarify or provide property tax exemptions for certain licensed child care facilities operating in an enterprise zone, properties used to provide affordable housing, educational facilities, charter schools, property owned and used by any labor organizations, community centers, space laboratories, and not-for-profit sewer and water companies.

¹² Section 6, Art. VII of the State Constitution.

¹³ *Id.* See, also Am. C.S. for S.J.R. 2-D, 2007.

¹⁴ Section 4(d), Art. VII of the State Constitution.

¹⁵ *Id.*

¹⁶ Section 6, Art. VII of the State Constitution. See, also s. 196.075, F.S. For 2012, that indexed household income amount is \$27,030. See: <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited February 4, 2012)

¹⁷ Section 196.075(4), F.S.

¹⁸ Section 197.243, F.S.

percent. Deferred tax and interest up to seven percent are due when the property is sold, property insurance is not maintained, or the property ceases to qualify for homestead exemption.

Proposed Changes

This joint resolution proposes an amendment to the State Constitution that would allow the Legislature by general law to permit counties and municipalities to grant an additional homestead tax exemption equal to the assessed value of homestead property to certain low income seniors.

To be eligible for the additional homestead exemption, the following conditions must be met:

- the county or municipality must have granted the exemption by ordinance;
- the property must have a just (market) value of less than \$250,000;
- the owner must have title to the property and must have maintained his or her permanent residence thereon for at least 25 years;¹⁹
- the owner must be age 65 years or older; and
- the owner's annual household income must be less than \$27,030.²⁰

The general law implementing the constitutional provision must require counties and municipalities choosing to provide the additional homestead exemption to do so by ordinance. The general law must also provide for the periodic adjustment of the income limitation for changes in the cost of living.

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:

The Division of Elections is required to publish the proposed constitutional amendment twice in a newspaper of general circulation in each county.²¹ The Division estimates the cost of advertising the proposed constitutional amendment would be \$93,403.²²

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not estimated the revenue impacts of this joint resolution on local governments. However, the amendment, if passed, would only affect a county or municipality that chose to allow the additional low income senior homestead exemption.

¹⁹ See, the III. COMMENTS, A. CONSTITUTIONAL ISSUES, portion of this analysis regarding durational residency requirements.

²⁰ HJR 169 provides that the income limitation is the same as the limitation for the current additional homestead exemption for low income seniors authorized in s. 6, Art. VII of the State Constitution. The income limitation for that exemption is set by general law in s. 196.075(3), F.S. Under that provision the household income limitation is set at \$20,000 as of January 1, 2001, and adjusted annually by the percentage change in the average cost-of-living index issued by the United States Department of Labor. For 2012, that indexed household income amount is \$27,030. See: <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited February 4, 2012).

²¹ Section 5(d), Art. XI of the State Constitution.

²² Department of State, *House Joint Resolution 169 (2012) Fiscal Analysis* (October 11, 2011).

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The resolution could reduce property taxes for certain qualifying seniors. Such a reduction in the property tax base could result in a corresponding shift in property tax burden to other property tax owners.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision is not applicable to Joint Resolutions.

2. Other:

Joint Resolutions

Section 1, Art. XI of the State Constitution provides the Legislature with authority to propose amendments to the constitution by joint resolution approved by three-fifths of the membership of each house. A proposed amendment must be submitted to the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State's office, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house and limited to a single amendment, it is submitted at an earlier special election held more than 90 days after such filing.²³

Durational Residency Requirements

By limiting an additional homestead tax exemption to low income seniors who have maintained a residence for at least 25 years, the proposal contemplated by CS/HJR 169 establishes a classification that is determined by a durational residency requirement. When state governments create classifications in an attempt to grant privileges to particular groups, both the state and federal equal protection clauses can enter into an evaluation of the constitutionality of legislation.

Courts grant great deference to legislative goals and directives when reviewing classifications under an equal protection analysis, applying a rational basis test. A classification generally is upheld unless it bears no rational relationship to a legitimate government interest. Durational residency requirements may be subject to strict scrutiny during this review, and, accordingly, could be vulnerable when challenged.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

²³ Section 5, Art. XI of the State Constitution.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 7, 2012, the Finance & Tax Committee adopted an amendment that changes the additional homestead tax exemption that the Legislature may, by general law, allow counties or municipalities to grant by:

- specifying that the exemption is equal to the assessed value of the property;
- limiting eligibility to property with a market value less than \$250,000;
- requiring 25 years of residence in the homestead to be eligible;
- making the income limitation the same as the income limitation for the current low income senior exemption.

The amendment also makes conforming and technical changes to the title and ballot summary.

The analysis has been updated to reflect the Committee Substitute.

1 House Joint Resolution

2 A joint resolution proposing an amendment to Section 6
3 of Article VII of the State Constitution to authorize
4 the Legislature, by general law, to allow counties and
5 municipalities to grant an additional homestead tax
6 exemption equal to the assessed value of homestead
7 property, if the property has a just value lower than
8 a specified amount, to an owner who has maintained
9 permanent residency on the property for a specified
10 duration, who has attained age 65, and whose household
11 income does not exceed a specified amount.

12
13 Be It Resolved by the Legislature of the State of Florida:

14
15 That the following amendment to Section 6 of Article VII of
16 the State Constitution is agreed to and shall be submitted to
17 the electors of this state for approval or rejection at the next
18 general election or at an earlier special election specifically
19 authorized by law for that purpose:

20 ARTICLE VII

21 FINANCE AND TAXATION

22 SECTION 6. Homestead exemptions.—

23 (a) Every person who has the legal or equitable title to
24 real estate and maintains thereon the permanent residence of the
25 owner, or another legally or naturally dependent upon the owner,
26 shall be exempt from taxation thereon, except assessments for
27 special benefits, up to the assessed valuation of twenty-five
28 thousand dollars and, for all levies other than school district

29 levies, on the assessed valuation greater than fifty thousand
 30 dollars and up to seventy-five thousand dollars, upon
 31 establishment of right thereto in the manner prescribed by law.
 32 The real estate may be held by legal or equitable title, by the
 33 entires, jointly, in common, as a condominium, or indirectly
 34 by stock ownership or membership representing the owner's or
 35 member's proprietary interest in a corporation owning a fee or a
 36 leasehold initially in excess of ninety-eight years. The
 37 exemption shall not apply with respect to any assessment roll
 38 until such roll is first determined to be in compliance with the
 39 provisions of section 4 by a state agency designated by general
 40 law. This exemption is repealed on the effective date of any
 41 amendment to this Article which provides for the assessment of
 42 homestead property at less than just value.

43 (b) Not more than one exemption shall be allowed any
 44 individual or family unit or with respect to any residential
 45 unit. No exemption shall exceed the value of the real estate
 46 assessable to the owner or, in case of ownership through stock
 47 or membership in a corporation, the value of the proportion
 48 which the interest in the corporation bears to the assessed
 49 value of the property.

50 (c) By general law and subject to conditions specified
 51 therein, the Legislature may provide to renters, who are
 52 permanent residents, ad valorem tax relief on all ad valorem tax
 53 levies. Such ad valorem tax relief shall be in the form and
 54 amount established by general law.

55 (d) The legislature may, by general law, allow counties or
 56 municipalities, for the purpose of their respective tax levies

57 and subject to the provisions of general law, to grant either or
 58 both of the following ~~an~~ additional homestead tax exemptions:

59 (1) An exemption not exceeding fifty thousand dollars to
 60 any person who has the legal or equitable title to real estate
 61 and maintains thereon the permanent residence of the owner and
 62 who has attained age sixty-five and whose household income, as
 63 defined by general law, does not exceed twenty thousand dollars;
 64 or-

65 (2) An exemption equal to the assessed value of the
 66 property to any person who has the legal or equitable title to
 67 real estate with a just value less than two hundred and fifty
 68 thousand dollars and who has maintained thereon the permanent
 69 residence of the owner for not less than twenty-five years and
 70 who has attained age sixty-five and whose household income does
 71 not exceed the income limitation prescribed in paragraph (1).

72
 73 The general law must allow counties and municipalities to grant
 74 these ~~this~~ additional exemptions ~~exemption~~, within the limits
 75 prescribed in this subsection, by ordinance adopted in the
 76 manner prescribed by general law, and must provide for the
 77 periodic adjustment of the income limitation prescribed in this
 78 subsection for changes in the cost of living.

79 (e) Each veteran who is age 65 or older who is partially
 80 or totally permanently disabled shall receive a discount from
 81 the amount of the ad valorem tax otherwise owed on homestead
 82 property the veteran owns and resides in if the disability was
 83 combat related, the veteran was a resident of this state at the
 84 time of entering the military service of the United States, and

85 the veteran was honorably discharged upon separation from
 86 military service. The discount shall be in a percentage equal to
 87 the percentage of the veteran's permanent, service-connected
 88 disability as determined by the United States Department of
 89 Veterans Affairs. To qualify for the discount granted by this
 90 subsection, an applicant must submit to the county property
 91 appraiser, by March 1, proof of residency at the time of
 92 entering military service, an official letter from the United
 93 States Department of Veterans Affairs stating the percentage of
 94 the veteran's service-connected disability and such evidence
 95 that reasonably identifies the disability as combat related, and
 96 a copy of the veteran's honorable discharge. If the property
 97 appraiser denies the request for a discount, the appraiser must
 98 notify the applicant in writing of the reasons for the denial,
 99 and the veteran may reapply. The Legislature may, by general
 100 law, waive the annual application requirement in subsequent
 101 years. This subsection shall take effect December 7, 2006, is
 102 self-executing, and does not require implementing legislation.

103 BE IT FURTHER RESOLVED that the following statement be
 104 placed on the ballot:

105 CONSTITUTIONAL AMENDMENT

106 ARTICLE VII, SECTION 6

107 ADDITIONAL HOMESTEAD EXEMPTION; LOW-INCOME SENIORS WHO
 108 MAINTAIN LONG-TERM RESIDENCY ON PROPERTY; EQUAL TO ASSESSED
 109 VALUE.—Proposing an amendment to the State Constitution to
 110 authorize the Legislature, by general law and subject to
 111 conditions set forth in the general law, to allow counties and
 112 municipalities to grant an additional homestead tax exemption

CS/HJR 169

2012

113 | equal to the assessed value of homestead property if the
114 | property has a just value less than \$250,000 to an owner who has
115 | maintained permanent residency on the property for not less than
116 | 25 years, who has attained age 65, and who has a low household
117 | income as defined by general law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 249 Public Lodging Establishments

SPONSOR(S): Government Operations Appropriations Subcommittee, Bembry

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Consumer Affairs Subcommittee	14 Y, 0 N	Morton	Creamer
2) Government Operations Appropriations Subcommittee	12 Y, 0 N, As CS	Topp	Topp
3) Economic Affairs Committee		Morton <i>MM</i>	Tinker <i>TBT</i>

SUMMARY ANALYSIS

The bill would provide an exemption from regulation as public lodging establishments for apartment buildings that are inspected by the U.S. Department of Housing and Urban Development, or its agent, and are designated primarily as housing for persons age 62 or older.

The bill is expected to have an insignificant negative fiscal impact on the Department of Business and Professional Regulation's Hotels and Restaurants Trust Fund.

The bill has an effective date of October 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Public Lodging Establishments

The Division of Hotels and Restaurants (Division) within the Department of Business and Professional Regulation (DBPR) oversees the regulation of Public Lodging and Food Service Establishments. Chapter 509, F.S., divides public lodging establishments first by the length of time they are rented, and then by their use.

Occupancy is 'transient' if the parties intend it to be temporary. If the unit is not the guest's primary residence, there is a rebuttable presumption that occupancy is transient. Likewise, occupancy is nontransient if the operator intends the unit to be the guest's primary residence.

Public lodging establishments that are rented more than three times a year for periods of less than a month are deemed transient. Nontransient public lodging establishments are rented for periods of more than a month. If an establishment is advertised for rent, it is also considered a public lodging establishment and classified as transient or nontransient based on the advertised rental term.

Public lodging establishments are further classified based on use, as follows:

Hotel:	Accommodations for 25 or more guests and provides services generally provided by a hotel and recognized as such by the community or industry (i.e. Hilton).
Motel:	At least six rental units with an exit to outside, off-street parking, and a bathroom, onsite central office, which is recognized as a motel in the community or the industry (i.e. Motel 6).
Bed and breakfast inn:	Modified family home providing accommodation and meal services generally offered by a bed and breakfast inn, and recognized as such in the community or the hospitality industry.
Nontransient apartment or roominghouse:	Rental accommodations intended to be used as primary residences (75 percent or more nontransient).
Transient apartment or roominghouse:	Rental accommodations with a substantial portion of units held for transient guests (more than 25 percent transient).
Roominghouse:	Any public lodging establishment not otherwise classified.
Vacation rentals:	Any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family dwelling house or dwelling unit that is also a transient public lodging establishment.

All public lodging establishments are licensed, but the degree of inspections and the relevant fees differ based on the type of establishment. The Division inspects apartments annually.

Transient apartments pay a total in annual fees ranging from \$145 to \$325, which includes a base fee of \$125, an incremental unit-based fee ranging from \$10 for a single unit to \$190 for more than 500 units, and a \$10 Hospitality Education Program fee.

Non-transient apartments pay a total in annual fees ranging from \$125 to \$295, which includes a base fee of \$95, an incremental unit-based fee ranging from \$20 to \$95, and a \$10 Hospitality Education

Program fee.

As of October 3, 2011, DHR licenses 17,516 nontransient apartments and 1,005 transient apartments.

The following types of lodging are excluded from the definition of public lodging establishment, and, therefore, are not subject to the regulations:

- Dormitories or other facilities maintained by schools, colleges, or universities for housing students, faculty, or visitors.
- Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Family Services.
- Migrant labor camps or residential migrant housing permitted by the Department of Health.
- Mobile home and recreational vehicle parks inspected by the Department of Health.
- Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients.
- Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent.

U.S. Department of Housing and Urban Development

The U.S. Department of Housing and Urban Development (HUD) operates five programs that designate assisted housing developments for either low-income elderly residents alone, or low-income elderly residents and residents with disabilities. The primary HUD program that provides housing for low-income elderly households is the Section 202 Supportive Housing for the Elderly program. The Public Housing and project-based Section 8 housing programs have projects dedicated to elderly households. The Section 221(d)(3) Below Market Interest Rate and Section 236 programs are mortgage subsidy programs that provide housing for all age levels, but have properties specifically dedicated to elderly households.¹

HUD designates certain property as elderly housing. HUD programs define elderly housing as households where one or more persons are age 62 or older. If owners are unable to rent units to elderly families, they may give preference to near-elderly families (defined as age 50 or older) with an adult member who has a disability.²

HUD Rental Housing Programs for Low-Income Elderly Households		
Program	Income Eligibility	Units Designated for Elderly Households³
Section 202		262,704
1981 to present	50% of area median income.	
1974 to 1981	80% of area median income.	
1968 to 1974	Higher of 80% of area median income or 135% of Public Housing income limits.	
1962 to 1968	Income limits set on a community basis.	
1959 to 1962	No income limits.	
Section 8 Rental Assistance	50% of area median income.	200,455
Public Housing	80% of area median income.	76,638

¹ Congressional Research Service, Section 202 and Other HUD Rental Housing Programs for Low-Income Elderly Residents, RL33508 (Sept. 2010), available online at <http://aging.senate.gov/crs/aging13.pdf>.

² *Id.*

³ Data from 2005. *Id.*

Section 236	80% of area median income.	65,877
Section 221(d)(3) BMIR	95% of area median income.	1,154

Under Section 202, HUD provides capital advances to finance the construction, rehabilitation or acquisition of housing for very low-income elderly persons and provides rent subsidies for the projects to help make them affordable. Occupancy in Section 202 housing is open to any very low-income household comprised of at least one person who is at least 62 years old at the time of initial occupancy.

The Real Estate Assessment Center (REAC) conducts physical inspections of housing that is owned, insured or subsidized by HUD, including section 202 properties. REAC inspections cover all building exteriors, all building systems, all common areas and all units.⁴ The frequency of REAC inspections is based on the outcome of previous reviews, with the best performing properties (90 points or higher) inspected every 3 years, and the worst performing properties (79 points or less) inspected annually. Such housing is also subject to Management and Occupancy Reviews (MOR), which review compliance with relevant agreements and laws and include physical inspections of the buildings and grounds.⁵

The Housing Choice Voucher Program, also known as Section 8 Housing, provides certain populations, including the elderly, with financial assistance with rent costs.⁶ Applicants meeting eligibility criteria, including income limits, are given vouchers toward rental costs in approved rental units. The program regulations set forth basic housing quality standards (HQS) which all units must meet before assistance can be paid on behalf of a family and at least annually throughout the term of the assisted tenancy.⁷ Local public housing agencies inspect the units for health and safety.

The HQS covers 13 key aspects of housing quality, including sanitary facilities, food preparation and refuse disposal, space and security, thermal environment, illumination and electricity, structure and materials, interior air quality, water supply, lead-based paint, access, site and neighborhood, sanitary condition, and smoke detectors.

Certain housing is designated for use by elderly persons, including congregate housing, where tenants share dining spaces and are given food service, and group homes, and must meet additional quality standards.⁸

There are three different types of HQS inspections:

- Initial Inspections** Upon application to use voucher for specific housing unit, before lease is signed. Annual Inspections of units currently under lease. Annual inspections ensure that HCV housing units continue to meet HQS throughout the tenancy of the HCV participant family.
- Special Inspections** In response to complaints or quality control inspections.
- Quality control inspections** Sample of housing units within a local public housing association's jurisdiction made throughout the year.

⁴ See HUD Physical Inspection Library, available at

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/reac/library/lib_phyi.

⁵ See HUD, Occupancy Requirements of Subsidized Multifamily Housing Programs, 4350.3, available at

http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsg/4350.3.

⁶ See Housing Choice Vouchers Fact Sheet, U.S. Dept. of Housing and Urban Development, available at

http://portal.hud.gov/hudportal/HUD?src=/topics/housing_choice_voucher_program_section_8.

⁷ 24 CFR Part 982.

⁸ Housing Choice Voucher Program Guidebook, U.S. Dept. of Housing and Urban Development, Ch. 17, Special Housing Types, available at http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_11761.pdf.

Proposed Changes

The bill would provide an exemption from regulation as public lodging establishments for apartment buildings that are inspected by the U.S. Department of Housing and Urban Development, or its agent, and are designated primarily as housing for persons at least age 62. The DBPR indicates that a total of 298 nontransient apartment licenses would likely become exempt under the provisions of the bill.⁹

The Division of Hotels and Restaurants may adopt rules to implement the provisions of the bill.

The bill would become effective October 1, 2012.

B. SECTION DIRECTORY:

Section 1 amends s. 509.013, F.S., to provide an exemption from regulation as public lodging establishments for certain apartment buildings inspected by the U.S. Department of Housing and Urban Development.

Section 2 provides the bill is effective October 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill is expected to have an annual insignificant negative fiscal impact on revenues to the Hotels and Restaurants Trust Fund. DBPR estimates the provisions of the bill will result in an annual reduction in revenue of \$43,265.¹⁰

2. Expenditures:

The bill will have a minimal impact on expenses related to apartment inspections by an amount equivalent to the number of establishments meeting the exemption, approximately 298. The DBPR estimates the statewide workload decrease is equivalent to 0.1 FTE position.¹¹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would reduce costs on those apartment buildings meeting the exemption requirements. The DBPR estimates 298 nontransient apartment licenses would likely become exempt under the provisions of the bill.

D. FISCAL COMMENTS:

None.

⁹ Department of Business and Professional Regulation Bill Analysis dated January 24, 2012 and updated as of February 7, 2012.

¹⁰ *Id.*

¹¹ *Id.*

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill provides that the Division of Hotels and Restaurants may adopt rules to implement this act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 13, 2012, the Government Operations Appropriations Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. Amendment one provided that the exemption from inspection by the DBPR' Division of Hotels and Restaurants would apply to apartment buildings designated primarily as housing for persons at least 62 years old that are inspected by the U.S. Department of Housing and Urban Development. Amendment two provided an effective date of October 1, 2012. This analysis is written to the committee substitute as adopted by the Government Operations Appropriations Subcommittee.

1 A bill to be entitled

2 An act relating to public lodging establishments;
3 amending s. 509.013, F.S.; revising the definition of
4 the term "public lodging establishment" to exclude
5 certain apartment buildings designated primarily as
6 housing for persons at least 62 years of age;
7 authorizing the Division of Hotels and Restaurants to
8 require written documentation from an apartment
9 building operator that such building is in compliance
10 with certain criteria; authorizing the division to
11 adopt certain rules; providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Subsection (4) of section 509.013, Florida
16 Statutes, is amended to read:

17 509.013 Definitions.—As used in this chapter, the term:

18 (4) (a) "Public lodging establishment" includes a transient
19 public lodging establishment as defined in subparagraph 1. and a
20 nontransient public lodging establishment as defined in
21 subparagraph 2.

22 1. "Transient public lodging establishment" means any
23 unit, group of units, dwelling, building, or group of buildings
24 within a single complex of buildings which is rented to guests
25 more than three times in a calendar year for periods of less
26 than 30 days or 1 calendar month, whichever is less, or which is
27 advertised or held out to the public as a place regularly rented
28 to guests.

29 2. "Nontransient public lodging establishment" means any
 30 unit, group of units, dwelling, building, or group of buildings
 31 within a single complex of buildings which is rented to guests
 32 for periods of at least 30 days or 1 calendar month, whichever
 33 is less, or which is advertised or held out to the public as a
 34 place regularly rented to guests for periods of at least 30 days
 35 or 1 calendar month.

36
 37 License classifications of public lodging establishments, and
 38 the definitions therefor, are set out in s. 509.242. For the
 39 purpose of licensure, the term does not include condominium
 40 common elements as defined in s. 718.103.

41 (b) The following are excluded from the definitions in
 42 paragraph (a):

43 1. Any dormitory or other living or sleeping facility
 44 maintained by a public or private school, college, or university
 45 for the use of students, faculty, or visitors.+

46 2. Any facility certified or licensed and regulated by the
 47 Agency for Health Care Administration or the Department of
 48 Children and Family Services or other similar place regulated
 49 under s. 381.0072.+

50 3. Any place renting four rental units or less, unless the
 51 rental units are advertised or held out to the public to be
 52 places that are regularly rented to transients.+

53 4. Any unit or group of units in a condominium,
 54 cooperative, or timeshare plan and any individually or
 55 collectively owned one-family, two-family, three-family, or
 56 four-family dwelling house or dwelling unit that is rented for

57 | periods of at least 30 days or 1 calendar month, whichever is
 58 | less, and that is not advertised or held out to the public as a
 59 | place regularly rented for periods of less than 1 calendar
 60 | month, provided that no more than four rental units within a
 61 | single complex of buildings are available for rent.~~†~~

62 | 5. Any migrant labor camp or residential migrant housing
 63 | permitted by the Department of Health under ss. 381.008-
 64 | 381.00895.~~†~~

65 | 6. Any establishment inspected by the Department of Health
 66 | and regulated by chapter 513.~~†~~~~and~~

67 | 7. Any nonprofit organization that operates a facility
 68 | providing housing only to patients, patients' families, and
 69 | patients' caregivers and not to the general public.

70 | 8. Any apartment building inspected by the United States
 71 | Department of Housing and Urban Development or other entity
 72 | acting on the department's behalf that is designated primarily
 73 | as housing for persons at least 62 years of age. The division
 74 | may require the operator of the apartment building to attest in
 75 | writing that such building meets the criteria provided in this
 76 | subparagraph. The division may adopt rules to implement this
 77 | requirement.

78 | Section 2. This act shall take effect October 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 357 Homestead Exemptions for Seniors
SPONSOR(S): Finance & Tax Committee, Oliva
TIED BILLS: HJR 169 **IDEN./SIM. BILLS:** SB 1738

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	23 Y, 0 N, As CS	Aldridge	Langston
2) Economic Affairs Committee		Nelson	Tinker

SUMMARY ANALYSIS

The bill implements the amendment to the State Constitution proposed by HJR 169, if approved by the voters. The bill authorizes counties and municipalities by general law to grant an additional homestead tax exemption to certain low income seniors equal to the assessed value of homestead property.

To be eligible for the additional homestead exemption, the following conditions must be met:

- the county or municipality must have granted the exemption by ordinance that is authorized by a super majority (a majority plus one) vote of the members of the governing body of the county or municipality granting such exemption;
- the property must have a just (market) value of less than \$250,000;
- the owner must have title to the property and must have maintained his or her permanent residence thereon for at least 25 years;
- the owner must be aged 65 years or older; and
- the owner's annual household income must be less than \$27,030.

The bill provides a General Revenue appropriation of \$93,403 to the Department of State to publish the proposed constitutional amendment contained in HJR 169 in newspapers in each county as required by s. 5(d), Art. XI of the State Constitution.

The bill takes effect upon approval by the voters of the amendment proposed by HJR 169 at the general election to be held in November 2012 or at an earlier special election specifically authorized by law for that purpose, and first applies to the 2013 tax roll.

The Revenue Estimating Conference has not estimated the revenue impacts of the bill; however, the revenue impact on local governments would be negative to an indeterminate degree. This is because, for the bill to take effect, the constitutional amendment proposed by HJR 169 must first be approved by the voters, and the additional exemption must be adopted by ordinance authorized by a super majority vote of the members of the governing body of the counties or municipalities wishing to offer the additional exemption.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Property Taxation in Florida

Local governments, including counties, school districts and municipalities have the constitutional ability to levy ad valorem taxes. Special districts may also be given this ability by law.¹ Ad valorem taxes are collected on the fair market value of the property, adjusting for any exclusions, differentials or exemptions.

Ad valorem taxes are capped by the State Constitution as follows:²

- 10 mills for county purposes;
- 10 mills for municipal purposes;
- 10 mills for school purposes;
- a millage fixed by law for a county furnishing municipal services; and
- a millage authorized by law and approved by voters for special districts.

Taxes levied for the payment of bonds and taxes levied for periods not longer than two years, when authorized by a vote of the electors, are not subject to millage limitations. Millage rates vary among local governments and are fixed by ordinance or resolution of the taxing authority's governing body.³

Regardless of the body imposing the taxes, two county constitutional officers have primary responsibility for the administration and collection of ad valorem taxes. The county property appraiser calculates the fair market value, assessed value and the value of applicable exemptions of the property. The tax collector collects all ad valorem taxes levied by the county, school district, municipalities, and any special taxing districts within the county, and distributes the taxes to each taxing authority.⁴

The Department of Revenue (DOR) supervises the assessment and valuation of property so that all property is placed on the tax rolls and valued according to its just valuation.⁵ Additionally, the DOR prescribes and furnishes all forms as well as prescribes rules and regulations to be used by property appraisers, tax collectors, clerks of circuit court, and value adjustment boards in administering and collecting ad valorem taxes.⁶

All ad valorem taxation must be at a uniform rate within each taxing unit, subject to certain exceptions with respect to intangible personal property.⁷ However, the Florida constitutional provision requiring that taxes be imposed at a uniform rate refers to the application of a common rate to all taxpayers within each taxing unit—not variations in rates between taxing units.⁸

The State Constitution grants property tax relief in the form of certain valuation differentials,⁹ assessment limitations,¹⁰ and exemptions,¹¹ including the homestead exemptions.

¹ Section 9, Art. VII of the State Constitution.

² A mill is defined as 1/1000 of a dollar, or \$1 per \$1000 of taxable value.

³ Section 200.001(7), F.S.

⁴ Section 197.383, F.S.

⁵ Section 195.002, F.S.

⁶ Chapter 195, F.S.

⁷ Section 2, Art. VII of the State Constitution.

⁸ See, for example, *Moore v. Palm Beach County*, 731 So. 2d 754 (Fla. Dist. Ct. App. 4th Dist. 1999) citing *W. J. Howey Co. v. Williams*, 142 Fla. 415, 195 So. 181, 182 (1940).

⁹ Section 4, Art. VII of the State Constitution, authorizes valuation differentials, which are based on character or use of property.

Homestead Exemption

The Homestead Exemption provides an exemption from all ad valorem taxes on the first \$25,000 of assessed value for owners of homestead property, provided that the tax roll in their county has been approved.¹² An additional \$25,000 exemption is provided for assessed values between \$50,000 and \$75,000; however, this exemption does not apply to school taxes.¹³

Save Our Homes

The "Save Our Homes" provision in s. 4, Art. VII of the State Constitution, limits the amount a homestead's assessed value can increase annually to the lesser of three percent or the inflation rate as measured by the Consumer Price Index (CPI).¹⁴ Homestead property owners who establish a new homestead may transfer up to \$500,000 of their accrued "Save Our Homes" benefit to that homestead.¹⁵

Section 193.155, Florida Statutes

In 1994, the Legislature implemented the "Save Our Homes" amendment in s. 193.155, F.S. The legislation required all homestead property to be assessed at just value by January 1, 1994. Starting on January 1, 1995, or the year after the property receives a homestead exemption (whichever is later), property receiving a homestead exemption must be reassessed annually on January 1 of each year. As provided in the constitution, s. 193.155, F.S., requires that any change resulting from the reassessment may not exceed the lesser of three percent or the growth in the CPI. Pursuant to s. 193.155(2), F.S., if the assessed value of the property exceeds its just value, the assessed value must be lowered to the just value of the property.

Low-Income Seniors

Counties and cities may allow an additional homestead exemption of up to \$50,000 for anyone 65 years or older whose household income does not exceed \$20,000, adjusted annually by the percentage change in the average cost-of-living index.¹⁶ The exemption only applies to taxes levied by the county or city enacting the exemption.¹⁷

Under the Homestead Property Tax Deferral Act, any homesteader 65 years or older who would qualify for the exemption would also qualify to defer all ad valorem taxes.¹⁸ All senior homesteaders may defer the portion of their tax levy exceeding three-percent of household income, so long as tax deferrals and other liens do not exceed 85-percent of assessed value and the primary mortgage does not exceed 70

¹⁰ Section 4 (c), Art. VII of the State Constitution, authorizes the "Save Our Homes" property assessment limitation, which limits the increase in assessment of homestead property to the lesser of three percent or the percentage change in the Consumer Price Index. Section 4(e) authorizes counties to provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. This provision is known as the "Granny Flats" assessment limitation.

¹¹ Section 3, Art. VII of the State Constitution, provides authority for the various property tax exemptions. The statutes also clarify or provide property tax exemptions for certain licensed child care facilities operating in an enterprise zone, properties used to provide affordable housing, educational facilities, charter schools, property owned and used by any labor organizations, community centers, space laboratories, and not-for-profit sewer and water companies.

¹² Section 6, Art. VII of the State Constitution.

¹³ *Id.* See, also Am. C.S. for S.J.R. 2-D, 2007.

¹⁴ Section 4(d), Art. VII of the State Constitution.

¹⁵ *Id.*

¹⁶ Section 6, Art. VII of the State Constitutions. See, also s. 196.075, F.S. For 2012, that indexed household income amount is \$27,030. See: <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited February 4, 2012).

¹⁷ Section 196.075(4), F.S.

¹⁸ Section 197.243, F.S.

percent. Deferred tax and interest up to seven percent are due when the property is sold, property insurance is not maintained, or the property ceases to qualify for homestead exemption.

Proposed Changes

The bill implements the amendment to the State Constitution proposed by HJR 169, if approved by the voters. The bill authorizes counties and municipalities by general law to grant an additional homestead tax exemption to certain low income seniors equal to the assessed value of homestead property.

To be eligible for the additional homestead exemption, the following conditions must be met:

- the county or municipality must have granted the exemption by ordinance that is authorized by a super majority (a majority plus one) vote of the members of the governing body of the county or municipality granting such exemption;
- the property must have a just (market) value of less than \$250,000;
- the owner must have title to the property and must have maintained his or her permanent residence thereon for at least 25 years;¹⁹
- the owner must be aged 65 years or older; and
- the owner's annual household income must be less than \$27,030.²⁰

The bill takes effect upon approval by the voters of the amendment proposed by HJR 169 at the general election to be held in November 2012 or at an earlier special election specifically authorized by law for that purpose and first applies to the 2013 tax roll.

B. SECTION DIRECTORY:

Section 1: Amends s. 196.075, F.S., provides an additional homestead tax exemption up to the assessed value of the property to certain low income seniors.

Section 2: Amends s. 196.031(7), F.S., to conform to changes made in section 1.

Section 3: Amends s. 197.252(2), F.S., to conform to changes made in section 1.

Section 4: Provides an appropriation.

Section 5: Provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

¹⁹ See, the III. COMMENTS, A. CONSTITUTIONAL ISSUES, portion of this analysis regarding durational residency requirements.

²⁰ HJR 169 provides that the income limitation is the same as the limitation for the current additional homestead exemption for low income seniors authorized in s. 6, Art. VII of the State Constitution. The income limitation for that exemption is set by general law in s. 196.075(3), F.S. Under that provision the household income limitation is set at \$20,000 as of January 1, 2001, and adjusted annually by the percentage change in the average cost-of-living index issued by the United States Department of Labor. For 2012, that indexed household income amount is \$27,030. See: <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited February 4, 2012).

The bill provides a General Revenue appropriation of \$93,403 to the Department of State to publish the proposed constitutional amendment in HJR 1289.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not estimated the revenue impacts of this joint resolution on local governments. However, the amendment, if passed, would only affect a county or municipality that chose to allow the additional low income senior homestead exemption.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill could reduce property taxes for certain qualifying seniors. Such a reduction in the property tax base could result in a corresponding shift in property tax burden to other property tax owners.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill implements a constitutional amendment to which the mandates provision of s. 18, Art. VII of the State Constitution does not apply.

2. Other:

By limiting an additional homestead tax exemption to low income seniors who have maintained a residence for at least 25 years, CS/HB 357 establishes a classification that is determined by a durational residency requirement. When state governments create classifications in an attempt to grant privileges to particular groups, both the state and federal equal protection clauses can enter into an evaluation of the constitutionality of legislation.

Courts grant great deference to legislative goals and directives when reviewing classifications under an equal protection analysis, applying a rational basis test. A classification generally is upheld unless it bears no rational relationship to a legitimate government interest. Durational residency requirements may be subject to strict scrutiny during this review, and, accordingly, could be vulnerable when challenged.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 7, 2012, the Finance & Tax Committee adopted an amendment that changes the additional homestead tax exemption authorized by the bill to be granted by counties or municipalities:

- specifying that the exemption is equal to the assessed value of the property;
- requiring the ordinance authorizing the additional exemption to be adopted by a super majority vote of the members of the governing body of the county or municipality granting such exemption;
- limiting eligibility to property with a market value less than \$250,000;
- requiring 25 years of residence in the homestead to be eligible; and
- making the income limitation the same as the income limitation for the current low income senior exemption.

The amendment also makes conforming and technical changes to the title and ballot summary.

The analysis has been updated to reflect the Committee Substitute.

1 A bill to be entitled
 2 An act relating to homestead exemptions for seniors;
 3 amending s. 196.075, F.S.; authorizing the board of
 4 county commissioners of any county or the governing
 5 authority of any municipality to adopt an ordinance
 6 granting an additional homestead tax exemption equal
 7 to a specified amount, or an additional homestead tax
 8 exemption equal to the assessed value of property with
 9 a just value lower than a specified amount, or both
 10 such exemptions, to an owner who has maintained
 11 permanent residency on the property or permanent
 12 residency on the property for a specified duration,
 13 who has attained age 65, and whose household income
 14 does not exceed a specified amount; providing
 15 definitions applicable to such additional exemption;
 16 providing applicability of requirements relating to
 17 the adoption of a local ordinance granting such
 18 exemption; amending s. 196.031, F.S.; conforming
 19 provisions to changes made by the act; reenacting s.
 20 197.252(2)(a), F.S., relating to homestead tax
 21 deferral, to incorporate the amendments made to s.
 22 196.075, F.S., in reference thereto; providing an
 23 appropriation; providing application; providing
 24 effective dates.

25
 26 Be It Enacted by the Legislature of the State of Florida:
 27

28 Section 1. Section 196.075, Florida Statutes, is amended
 29 to read:

30 196.075 Additional homestead exemption for persons 65 and
 31 older.—

32 (1) As used in this section, the term:

33 (a) "Household" means a person or group of persons living
 34 together in a room or group of rooms as a housing unit, but the
 35 term does not include persons boarding in or renting a portion
 36 of the dwelling.

37 (b) "Household income" means the adjusted gross income, as
 38 defined in s. 62 of the United States Internal Revenue Code, of
 39 all members of a household.

40 (2) In accordance with s. 6(d), Art. VII of the State
 41 Constitution, the board of county commissioners of any county or
 42 the governing authority of any municipality may adopt an
 43 ordinance to allow either or both of the following ~~an~~ additional
 44 homestead exemptions: ~~exemption of up to~~

45 (a) Fifty-thousand dollars ~~\$50,000~~ for any person who has
 46 the legal or equitable title to real estate and maintains
 47 thereon the permanent residence of the owner, who has attained
 48 age 65, and whose household income does not exceed \$20,000; ~~or—~~

49 (b) The amount of the assessed value of the property for
 50 any person who has the legal or equitable title to real estate
 51 with a just value less than \$250,000 and has maintained thereon
 52 the permanent residence of the owner for at least 25 years, who
 53 has attained age 65, and whose household income does not exceed
 54 the income limitation prescribed in paragraph (a), as calculated
 55 in subsection (3).

56 (3) Beginning January 1, 2001, the \$20,000 income
 57 limitation shall be adjusted annually, on January 1, by the
 58 percentage change in the average cost-of-living index in the
 59 period January 1 through December 31 of the immediate prior year
 60 compared with the same period for the year prior to that. The
 61 index is the average of the monthly consumer-price-index figures
 62 for the stated 12-month period, relative to the United States as
 63 a whole, issued by the United States Department of Labor.

64 (4) An ordinance granting an additional homestead
 65 exemption as authorized by this section must meet the following
 66 requirements:

67 (a) It must be adopted under the procedures for adoption
 68 of a nonemergency ordinance specified in chapter 125 by a board
 69 of county commissioners~~7~~ or chapter 166 by a municipal governing
 70 authority, except that the exemption authorized by paragraph
 71 (2)(b) must be authorized by a super majority (a majority plus
 72 one) vote of the members of the governing body of the county or
 73 municipality granting such exemption.

74 (b) It must specify that the exemption applies only to
 75 taxes levied by the unit of government granting the exemption.
 76 Unless otherwise specified by the county or municipality, this
 77 exemption will apply to all tax levies of the county or
 78 municipality granting the exemption, including dependent special
 79 districts and municipal service taxing units.

80 (c) It must specify the amount of the exemption, which may
 81 not exceed the applicable amount specified in subsection (2)
 82 ~~\$50,000~~. If the county or municipality specifies a different
 83 exemption amount for dependent special districts or municipal

84 service taxing units, the exemption amount must be uniform in
 85 all dependent special districts or municipal service taxing
 86 units within the county or municipality.

87 (d) It must require that a taxpayer claiming the exemption
 88 annually submit to the property appraiser, not later than March
 89 1, a sworn statement of household income on a form prescribed by
 90 the Department of Revenue.

91 (5) The department must require by rule that the filing of
 92 the statement be supported by copies of any federal income tax
 93 returns for the prior year, any wage and earnings statements (W-
 94 2 forms), any request for an extension of time to file returns,
 95 and any other documents it finds necessary, for each member of
 96 the household, to be submitted for inspection by the property
 97 appraiser. The taxpayer's sworn statement shall attest to the
 98 accuracy of the documents and grant permission to allow review
 99 of the documents if requested by the property appraiser.

100 Submission of supporting documentation is not required for the
 101 renewal of an exemption under this section unless the property
 102 appraiser requests such documentation. Once the documents have
 103 been inspected by the property appraiser, they shall be returned
 104 to the taxpayer or otherwise destroyed. The property appraiser
 105 is authorized to generate random audits of the taxpayers' sworn
 106 statements to ensure the accuracy of the household income
 107 reported. If so selected for audit, a taxpayer shall execute
 108 Internal Revenue Service Form 8821 or 4506, which authorizes the
 109 Internal Revenue Service to release tax information to the
 110 property appraiser's office. All reviews conducted in accordance
 111 with this section shall be completed on or before June 1. The

112 | property appraiser may not grant or renew the exemption if the
 113 | required documentation requested is not provided.

114 | (6) The board of county commissioners or municipal
 115 | governing authority must deliver a copy of any ordinance adopted
 116 | under this section to the property appraiser no later than
 117 | December 1 of the year prior to the year the exemption will take
 118 | effect. If the ordinance is repealed, the board of county
 119 | commissioners or municipal governing authority shall notify the
 120 | property appraiser no later than December 1 of the year prior to
 121 | the year the exemption expires.

122 | (7) Those persons entitled to the homestead exemption in
 123 | s. 196.031 may apply for and receive an additional homestead
 124 | exemption as provided in this section. Receipt of the additional
 125 | homestead exemption provided for in this section shall be
 126 | subject to the provisions of ss. 196.131 and 196.161, if
 127 | applicable.

128 | (8) If title is held jointly with right of survivorship,
 129 | the person residing on the property and otherwise qualifying may
 130 | receive the entire amount of the additional homestead exemption.

131 | (9) If the property appraiser determines that for any year
 132 | within the immediately previous 10 years a person who was not
 133 | entitled to the additional homestead exemption under this
 134 | section was granted such an exemption, the property appraiser
 135 | shall serve upon the owner a notice of intent to record in the
 136 | public records of the county a notice of tax lien against any
 137 | property owned by that person in the county, and that property
 138 | must be identified in the notice of tax lien. Any property that
 139 | is owned by the taxpayer and is situated in this state is

140 subject to the taxes exempted by the improper homestead
 141 exemption, plus a penalty of 50 percent of the unpaid taxes for
 142 each year and interest at a rate of 15 percent per annum.
 143 However, if such an exemption is improperly granted as a result
 144 of a clerical mistake or omission by the property appraiser, the
 145 person who improperly received the exemption may not be assessed
 146 a penalty and interest. Before any such lien may be filed, the
 147 owner must be given 30 days within which to pay the taxes,
 148 penalties, and interest. Such a lien is subject to the
 149 procedures and provisions set forth in s. 196.161(3).

150 Section 2. Paragraph (d) of subsection (7) of section
 151 196.031, Florida Statutes, is amended to read:

152 196.031 Exemption of homesteads.—

153 (7) The exemptions provided in paragraphs (1)(a) and (b)
 154 and other homestead exemptions shall be applied as follows:

155 (d) Other exemptions include and shall be applied in the
 156 following order: widows, widowers, blind persons, and disabled
 157 persons, as provided in s. 196.202; disabled ex-servicemembers
 158 and surviving spouses, as provided in s. 196.24, applicable to
 159 all levies; the local option low-income senior exemption ~~up to~~
 160 ~~\$50,000~~, applicable to county levies or municipal levies, as
 161 provided in s. 196.075; and the veterans percentage discount, as
 162 provided in s. 196.082.

163 Section 3. For the purpose of incorporating the amendment
 164 made by this act to section 196.075, Florida Statutes, in a
 165 reference thereto, paragraph (a) of subsection (2) of section
 166 197.252, Florida Statutes, is reenacted to read:

167 197.252 Homestead tax deferral.—

168 (2)(a) Approval of an application for homestead tax
 169 deferral shall defer the combined total of ad valorem taxes and
 170 non-ad valorem assessments:

171 1. Which exceeds 5 percent of the applicant's household
 172 income for the prior calendar year if the applicant is younger
 173 than 65 years old;

174 2. Which exceeds 3 percent of the applicant's household
 175 income for the prior calendar year if the applicant is 65 years
 176 old or older; or

177 3. In its entirety if the applicant's household income:

178 a. For the previous calendar year is less than \$10,000; or

179 b. Is less than the designated amount for the additional
 180 homestead exemption under s. 196.075 and the applicant is 65
 181 years old or older.

182 Section 4. Effective July 1, 2012, the sum of \$93,403 in
 183 nonrecurring funds is appropriated from the General Revenue Fund
 184 to the Department of State for purposes of publishing, as
 185 required under s. 5(d), Art. XI of the State Constitution, the
 186 proposed constitutional amendment contained in House Joint
 187 Resolution 169, or a similar joint resolution having
 188 substantially the same specific intent and purpose.

189 Section 5. Except as otherwise expressly provided in this
 190 act, this act shall take effect upon the approval of House Joint
 191 Resolution 169, or a similar joint resolution having
 192 substantially the same specific intent and purpose, at the
 193 general election to be held in November 2012 or at an earlier
 194 special election specifically authorized by law for that
 195 purpose, and shall first apply to the 2013 tax roll.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 699 East Lake Tarpon Community, Pinellas County
SPONSOR(S): Community & Military Affairs Subcommittee, Nehr
TIED BILLS: IDEN./SIM. **BILLS:** SB 1892

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	11 Y, 0 N, As CS	Nelson	Hoagland
2) Economic Affairs Committee		Nelson <i>PN</i>	Tinker <i>TBT</i>

SUMMARY ANALYSIS

CS/HB 699 creates a special act relating to the East Lake Tarpon Community in Pinellas County. This bill provides that a municipality may not annex unincorporated territory situated within the defined boundaries of the community after the effective date of the act unless it annexes the entire area, and such is approved by a majority vote of the resident electors. The bill allows a property owner to seek voluntary annexation pursuant to general law procedures.

The bill also describes the boundaries of the community, and provides an effective date of upon becoming law. If passed by the Florida Legislature, the act expires on September 30, 2022.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Constitutional/Statutory Provisions Relating to Annexation¹

Section 2 (c), of Art. VIII of the State Constitution provides that “[m]unicipal annexation of unincorporated territory, merger of municipalities, and exercise of extra-territorial powers by municipalities shall be as provided by general or special law.” This provision authorizes the Legislature to annex unincorporated property into a municipality by special act.² It also authorizes the Legislature to establish procedures in general law for the annexation of property.

The Legislature established annexation procedures by general law in 1974, with the enactment of ch. 171, F. S., the “Municipal Annexation or Contraction Act.” Chapter 171, F. S., describes the ways that property can be annexed or deannexed by cities without passage of an act by the Legislature. In 2006, this chapter was expanded to provide an alternative process for annexation that allows counties and municipalities to jointly determine how services are provided to residents and property.³

The purpose of the act is to set forth procedures for adjusting the boundaries of municipalities, and to set forth criteria for determining when annexations or contractions may take place so as to:

- ensure sound urban development and accommodation to growth;
- establish uniform legislative standards throughout the state for the adjustment of municipal boundaries;
- ensure the efficient provision of urban services to areas that become urban in character; and
- ensure that areas are not annexed unless municipal services can be provided to those areas.

Types of Annexations

Voluntary Annexation

If the property owners of a reasonably compact, unincorporated area desire annexation into a contiguous municipality, they can initiate voluntary annexation proceedings. Section 171.044 (4), F. S., provides that the procedures for voluntary annexation are “supplemental to any other procedure provided by general law or special law.” The following process governs voluntary annexations in every county, except for those counties with charters providing an exclusive method for municipal annexation:

- submission of a petition—signed by all property owners in the area proposed to be annexed—to the municipal governing body; and
- adoption of an ordinance by the governing body of the municipality to annex the property after publication of a notice—which sets forth the proposed ordinance in full—at least once a week for two consecutive weeks.

The governing body of the municipality also must provide a copy of the notice to the board of county commissioners of the county where the municipality is located.

¹ The term “annexation” is defined in the Florida Statutes to mean “the adding of real property to the boundaries of an incorporated municipality, such addition making such real property in every way a part of the municipality.” *See*, s. 171.031(1), F.S.

² Miami-Dade County, however, has exclusive jurisdiction over its municipal annexations under ss. 11(1)(c), (5) and (6), Art. VIII of the 1885 State Constitution, as adopted by reference in s. 6(e), Art. VIII of the State Constitution.

³ *See*, part II of ch. 171, F.S., the “Interlocal Service Boundary Agreement Act.”

Land cannot be annexed through voluntary annexation when the process results in the creation of an enclave.⁴

Involuntary Annexation

Section 171.0413, F.S., provides a process whereby a municipality may annex contiguous,⁵ compact⁶ property where the property owner or owners have not petitioned for annexation. This process is referred to as "involuntary" annexation. In general, the requirements for an involuntary annexation are:

- the adoption of an annexation ordinance by the annexing municipality's governing body;
- at least two advertised public hearings held by the governing body of the municipality prior to the adoption of the ordinance, with the first hearing on a weekday at least seven days after the first advertisement and the second hearing held on a weekday at least five days after the first advertisement; and
- submission of the ordinance to a vote of the registered electors of the area proposed for annexation once the governing body has adopted the ordinance.⁷

Any parcel of land which is owned by one individual, corporation or legal entity, or owned collectively by one or more individuals, corporations or legal entities, proposed to be annexed cannot be severed, separated, divided or partitioned by the provisions of the ordinance, unless the owner of such property waives this requirement.

If there is a majority vote in favor of annexation (in the area proposed to be annexed), the area becomes part of the city. If there is no majority vote, the area cannot be made the subject of another annexation proposal for two years from the date of the referendum.

If more than 70 percent of the land in an area proposed to be annexed is owned by individuals, corporations or legal entities which are not registered electors, the area cannot be annexed unless the owners of more than 50 percent of the land in such area consent to the annexation. This consent must be obtained by the parties proposing the annexation prior to the referendum.

If the area proposed to be annexed does not have any registered electors on the date the ordinance is finally adopted, a vote of electors of the area proposed to be annexed is not required. The area may not be annexed unless the owners of more than 50 percent of the parcels of land in the area proposed to be annexed consent to the annexation. If the governing body does not choose to hold a referendum of the annexing municipality, then the property owner consents must be obtained by the parties proposing the annexation prior to the final adoption of the ordinance.

The East Lake Tarpon Community

The East Lake Tarpon Community is situated in the northeastern area of Pinellas County, and bordered on two sides by the Pasco and Hillsborough county lines. It is a recognized unincorporated community, and one of the largest unincorporated areas in the county, encompassing 18,100 acres. The community boundaries are coterminous with those of the East Lake Tarpon Fire Control District. Community residents are assessed a total real estate millage of 20.1175 mills, which is

⁴ An enclave is: (a) any unincorporated, improved or developed area that is enclosed within and bounded on all sides by a single municipality; or (b) any unincorporated, improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality. Section 171.031(13), F.S.

⁵ "Contiguous" means that a substantial part of a boundary of the territory sought to be annexed by a municipality is coterminous with a part of the boundary of the municipality. *See*, s. 171.031(11), F.S.

⁶ "Compactness" means concentration of a piece of property in a single area and precludes any action which would create enclaves, pockets, or finger areas in serpentine patterns. Section 171.031 (12), F.S.

⁷ In 1999, the Florida Legislature removed the requirement of a dual referendum in specific circumstances. Previously, in addition to a vote by the electors in the proposed annexed area, the annexation ordinance was submitted to a separate vote of the registered electors of the annexing municipality if the total area annexed by a municipality during any one calendar year period cumulatively exceeded more than five percent of the total land area of the municipality or cumulatively exceeded more than five percent of the municipal population. The holding of a dual referendum is now at the discretion of the governing body of the annexing municipality.

slightly less than the assessments levied in the neighboring cities of Oldsmar (20.1281 mills) and Tarpon Springs (20.9820 mills).⁸

This area has experienced rapid growth, and currently consists of 100-plus unique communities, with three postal addresses: Oldsmar, Palm Harbor and Tarpon Springs. Most residents reside within deed-restricted communities. In 2007, an American Community Survey determined that the area included a population of 32,683 and 17,985 housing units. There are few businesses and numerous preservation and park areas.

In March 2009, East Lake Tarpon voters overwhelmingly defeated a referendum that would have annexed portions of the area into the City of Oldsmar. That area contains several commercial sites, including the East Lake Woodlands Shopping Center and the Lockheed Martin Tactical Defense Systems complex. Officials of the East Lake Tarpon Special Fire control district were concerned with the potential loss of East Lake Woodlands from the district's property tax base.⁹

Effect of Proposed Changes

CS/HB 699 provides that, notwithstanding s. 171.0413, F.S., a municipality within Pinellas County cannot annex unincorporated territory situated within the defined boundaries of the East Lake Tarpon Community after the effective date of the act unless it annexes the entire area and such is approved by a majority vote of the electors of the East Lake Tarpon Community. The bill allows a property owner to seek voluntary annexation pursuant to s. 171.044, F.S.

The Municipal Annexation or Contraction Act, ch. 171, F.S., reflects a legislative determination that municipal annexation should ensure sound urban development and accommodation to growth, and be made pursuant to uniform legislative statewide standards. This bill would prevent municipalities from annexing contiguous, compact, unincorporated land into their boundaries pursuant to the involuntary annexation procedures contained in s. 171.0413, F.S. Accordingly, if the instant proposal were to be legislated on a state-wide basis with regard to similar large unincorporated areas, urban growth in Florida could be significantly restricted. Also, the proposal could prevent residents of particular areas from having the right to vote as to their inclusion in a municipality as voluntary annexation measures generally are employed with regard to a very limited number of properties.

While charter counties have the ability to preempt some annexation through the designation of "urban preservation districts" which protect the status of property within the district as unincorporated, Pinellas County currently does not have such a measure.¹⁰ In November 2000, Pinellas County voters adopted Ordinance 00-66, which amended the county charter to provide the following:

Nothing in this Charter shall prevent a municipality from annexing an unincorporated area into its municipal boundaries, except that all annexations shall be in accordance with the exclusive method and criteria for voluntary municipal annexation, including the delineation of areas eligible for annexation, adopted by ordinance under the authority elsewhere provided for in this Charter.¹¹

⁸ Pinellas County Tax Collector; millage rates levied for 2011.

⁹ In 2000, the Legislature created s. 171.093, F.S., to address municipal annexation of property within the boundaries of an independent special district that levies ad valorem taxes. As an independent special district's tax base erodes due to annexations, the district may become economically inefficient and unstable. This law was an effort to provide independent special districts with certain limited protections from the effects of annexation activity, while not restricting a municipality's ability to annex. The East Lake Tarpon Fire Control District has been the subject of a special act pertaining to annexation within its boundaries. Chapter 2003-336, L.O.F., provided that if any municipality or other fire control district annexed land within the district, the district would continue as the sole taxing, enforcing and service-providing authority for district purposes in the annexed land. This measure expired on December 31, 2007. Currently, the East Lake Tarpon Fire Control District levies the lowest millage rate in the county (1.51 mills). In comparison, Lealman Fire Control District levies 4.48 mills.

¹⁰ Approximately 280,000 people reside in unincorporated Pinellas County, which represents 36 percent of the county not located within one of the 24 municipalities.

¹¹ Article II, Sec. 2.07, of the Pinellas County Home Rule Charter.

Concurrently, the county commission adopted Ordinance Number 00-63, providing an exclusive method of voluntary annexation and delineating areas eligible for municipal annexation. This ordinance was ruled invalid by the Second District Court of Appeal in *Pinellas County v. City of Largo*, 964 So.2d 847 (Fla.App. 2 Dist. Sep 19, 2007), which held that while county could provide an exclusive method of voluntary municipal annexation in its charter under s. 171.044(4), F.S., the county's exclusive method of voluntary municipal annexation was ineffective because it was not set forth in the county charter and approved by the voters.

In 2009, the Legislature passed HB 1375 which prohibited a municipality within Pinellas County from annexing unincorporated territory situated within the defined boundaries of the Tierra Verde Community unless the action was approved by a majority vote of the electors. Nonetheless, that legislation is distinguished from the current set of circumstances by the fact that Tierra Verde consists of a group of small barrier islands. It is noted that s. 171.031(11), F.S., contemplates a special law that prohibits the annexation of territory separated from an annexing municipality by a body of water.

HB 699 has an effective date of upon becoming a law, and the act expires on September 30, 2022. The expiration date was agreed upon by the Pinellas County Legislative Delegation "so the community, in the future, could continue or discontinue this act."¹²

B. SECTION DIRECTORY:

Section 1: Provides special act standards for annexation within the East Lake Tarpon Community in Pinellas County.

Section 2: Provides a legal description.

Section 3: Provides an expiration date.

Section 4: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? August 26, 2011

WHERE? The *Gulf Coast Business Review*, a weekly newspaper published in Clearwater, Florida. See, III. COMMENTS, A. CONSTITUTIONAL ISSUES, below.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

¹² February 10, 2012, e-mail from Sharon Nehring, legislative aide to Representative Peter Nehr.
STORAGE NAME: h0699b.EAC.DOCX
DATE: 2/15/2012

Section 10 of Art. III of the State Constitution, provides:

Special laws.—No special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law.... Such notice shall not be necessary when the law, except the provision for referendum, is conditioned to become effective only upon approval by vote of the electors of the area affected.¹³

Section 11.02, F.S. implements the constitutional notice requirement found in s. 10, Art. III of the State Constitution. By law, a notice advertising intent to seek enactment of local legislation and describing the substance of the contemplated law must be published one time, at least 30 days prior to the bill's introduction into the Legislature.

Publication can be either by advertisement in a newspaper of general circulation in each affected county or, if no such newspaper is published in or circulated throughout an affected county, by posting the notice for 30 days in three public places in that county, including the courthouse.

Under ss. 50.011 and 50.031, F.S., in order to qualify as a newspaper of general circulation, a publication must:

- be printed and published at least once a week;
- contain at least 25 percent of its words in the English language;
- be entered or qualified to be admitted and entered as periodicals matter at a post office in the county where it is published;
- be for sale and available to the public generally for publication of official or other notices;
- customarily contain information of a public character, or of interest or value to the residents or owners of property in the county where published, or of interest or of value to the general public; and
- have been in existence for one year or longer (certain exceptions may apply).

While the *Gulf Coast Business Review* appears to satisfy most of these requirements, it may not be the type of publication contemplated by the language describing newspapers that: *customarily contain information of a public character, or of interest or value to the residents or owners of property in the county where published, or of interest or of value to the general public.*

This publication is self-described as...“the leading provider and most authoritative source of business and economic information affecting the Gulf Coast from Tampa Bay south to Naples. It specializes in reporting on the region’s industry and economic trends; emerging companies; corporate strategies; identifying and profiling the region’s up-and-coming entrepreneurs and top business leaders; and keeping its readers abreast of state, regional and local government actions affecting business and the economy,” and, thus, may be intended for a limited audience.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

¹³ The function of this requirement is to provide reasonable notice to a person whose interests may be directly affected by the proposed legislation so that he or she may inquire further into the details of the local bill and, if he or she so desires, seek to prevent enactment or to persuade the Legislature to change the substance of the proposed bill. See, Local Bill Policies and Procedures Manual, Community & Military Affairs Subcommittee, page 6.

Drafting Issues

None.

Other Comments

Council of North County Neighborhoods

The proponent of this bill is the Council of North County Neighborhoods, a Florida not for profit 501(c)(4) organization founded in 2007. The mission of the council is "to bring together the Northern Pinellas County's neighborhoods to promote communication and cooperation between member organizations, to foster a sense of community, to provide a forum for member organizations, and most important is to act as a neighborhood advocate for the benefit of our member organizations and to bring a common voice to government including and not limited to the Pinellas County Board of County Commissioners and the State Legislature."

From the council's website, it appears that less than 25 of the East Lake Tarpon Community neighborhoods are members.¹⁴

City of Oldsmar City Council Resolution

On September 14, 2011, the City of Oldsmar City Council passed a resolution opposing this local bill, noting that:

- the measure takes away the right to vote currently provided by ch. 171, F.S. and
- the adopting of the local bill is not necessary because annexations are already governed by the Municipal Annexation and Contraction Act.

Exemption from General Law

House Rule 5.5(b) states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to provide an exemption to s. 171.043, F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 13, 2012, the Community & Military Affairs Subcommittee adopted an amendment that removed a supremacy clause, and replaced it with a specific exemption from s. 171.043, F.S. The amendment also corrected a drafting error.

This analysis is drafted to the Committee Substitute.

¹⁴ <http://www.cncnpc.org/>, last visited February 9, 2012.

1 A bill to be entitled
 2 An act relating to the East Lake Tarpon Community,
 3 Pinellas County; providing requirements for the
 4 municipal annexation of the East Lake Tarpon
 5 Community; requiring a referendum of the electors
 6 within the community before such annexation; providing
 7 exceptions; describing the community boundaries;
 8 providing for expiration; providing an effective date.

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 10 WHEREAS, East Lake Tarpon is an area surrounded on three
 11 sides by a lake and the county lines of Pasco and Hillsborough
 12 Counties and is situated in the northeastern area of
 13 unincorporated Pinellas County, and

14 WHEREAS, East Lake Tarpon was developed as a predominantly
 15 residential community, with most of the residents residing
 16 within the deed-restricted communities of the East Lake Tarpon
 17 area, and

18 WHEREAS, the residents of East Lake Tarpon are developing a
 19 common vision of East Lake Tarpon's future as a family-oriented,
 20 residential scenic community where small businesses and
 21 commercial uses serve to complement and support area residents,
 22 and the community is working with Pinellas County to adopt an
 23 East Lake Tarpon Community Overlay within the Pinellas County
 24 Comprehensive Plan that reflects the community's vision, and

25 WHEREAS, the residents of the East Lake Tarpon Community
 26 pay ad valorem taxes to support and receive fire control
 27 services from the East Lake Tarpon Fire Control District, NOW,
 28 THEREFORE,

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Annexation of territory by municipalities; communitywide referendum required.-

(1) Notwithstanding section 171.0413, Florida Statutes, a municipality within Pinellas County may not annex any unincorporated territory that is situated within the defined boundaries of the East Lake Tarpon Community after the effective date of this act unless the annexation of all of the territory within the boundaries of the East Lake Tarpon Community is approved by a majority vote of the electors of the East Lake Tarpon Community voting in a referendum called for that purpose.

(2) Notwithstanding subsection (1), and pursuant to section 171.044, Florida Statutes, a property owner may apply for and be granted voluntarily annexation into a municipality after approval of such application.

Section 2. Legal description; East Lake Tarpon Community.- All those lands situate, lying, and being within the herein described parcel:

The East Lake Tarpon Community is described by the following:

Begin at the Northeast Corner of Section 1, Township 27 South, Range 16 East, Pinellas County, Florida; thence run south along the said East Section Line (Hillsborough/Pinellas County Line) to the East-West Half Section Line of Section 1, Township 28 South,

57 | Range 16 East; thence West along said Half Section
 58 | Line to the Easterly right-of-way Line of Florida
 59 | Power Corporation; thence South along said right-of-
 60 | way Line to the East-West Half Section Line of Section
 61 | 12, Township 28 South, Range 16 East; thence East
 62 | along said Half Section Line to the Northeast Corner
 63 | of Florida Power Corporation Substation; thence South
 64 | along the East Line of said Substation to the South
 65 | Section Line of said Section 12; thence West along
 66 | said South Section Line to the North-South Center
 67 | Section Line of said Section 12; thence North along
 68 | said Center Section Line to the South Right-of-way
 69 | line of Florida Power Corporation; thence West along
 70 | said right-of-way Line to the West Line of Section 11,
 71 | Township 28 South, Range 16 East; thence North along
 72 | said West Line to the North right-of-way Line of said
 73 | Florida Power Corporation; thence East along said
 74 | right-of-way Line to the East Line of the Northwest
 75 | 1/4 of the Southwest 1/4 of said Section 12; thence
 76 | North along said Easterly Line to the East-West
 77 | Centerline of said Section 12, thence East along said
 78 | Centerline to the West Line of the East 1/2 of the
 79 | East 1/2 of the Northwest 1/4 of said Section 12;
 80 | thence North along said line to the North Section Line
 81 | of said Section 12; thence East along said line to the
 82 | North-South Centerline of Section 1, Township 28
 83 | South, Range 16 East; thence North along said line a
 84 | distance of 491.97 feet; thence North 75 00'00" east

85 to the West right-of-way Line of Florida Power
 86 Corporation; thence North along said right-of-way Line
 87 to the East-West Centerline of said Section 1; thence
 88 West along said line a distance of 1,837.78 feet;
 89 thence North to the South Line of the Northeast 1/4 of
 90 the Northwest 1/4 of said Section 1; thence West along
 91 said line to the West Line of the Northeast 1/4 of the
 92 Northwest 1/4 of said Section 1; thence North along
 93 said line to the North Line of the Southwest 1/4 of
 94 the Southwest 1/4 of Section 36, Township 27 South,
 95 Range 16 East; thence West along said line to the
 96 North-South Centerline of Section 35, Township 27
 97 South, Range 16 East; thence South along said line to
 98 the South Section Line of said Section 35; thence West
 99 along said Section Line to the Southwest corner of
 100 said Section 35; thence South along the West Section
 101 Line of Sections 2 and Section 11, Township 28 South,
 102 Range 16 East to the North Section Line of Section 15,
 103 Township 28 South, Range 16 East; thence West along
 104 the North Line of said Section 15 to the North-South
 105 Centerline of said Section; thence South along said
 106 Section 15 North-South Centerline to the Northwest
 107 corner of that parcel described in Official Records
 108 Book 8989, Page 918 of the Public Records of Pinellas
 109 County, Florida; thence along the Northerly boundary
 110 line of said parcel to the Northeast property corner
 111 thereof; thence along the Easterly boundary line of
 112 said parcel to the Northerly right-of-way line of

113 Tampa Road (S.R. 584); thence in a Northwesterly
 114 direction along said right-of-way line to the
 115 Southerly Line of Florida Power Corporation; thence
 116 Southwesterly along said Southerly Line to the
 117 centerline of the Lake Tarpon Outfall Canal; thence
 118 Northerly along the centerline of the Lake Tarpon
 119 Outfall Canal into Lake Tarpon to its North-South
 120 Centerline; thence Northerly along the North-South
 121 Centerline of Lake Tarpon to the City Limit Line of
 122 the City of Tarpon Springs on the Northern shoreline
 123 of Lake Tarpon; thence along the City Limit Line of
 124 Tarpon Springs around its Easterly point above Lake
 125 Tarpon and then Westerly to the North-South Centerline
 126 of Salt Lake; thence northerly along the North-South
 127 Centerline of Salt Lake to the Centerline of the
 128 Anclote River; thence Northeasterly along the
 129 Centerline of the Anclote River to the Pasco-Pinellas
 130 County Line; thence East along the Pasco/Pinellas
 131 County Line to the Point of Beginning.
 132 LESS any areas annexed into the corporate municipal
 133 limits of Oldsmar or Tarpon Springs.
 134 Section 3. This act expires September 30, 2022.
 135 Section 4. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 1003 Tangible Personal Property Tax Exemptions

SPONSOR(S): Eisnaugle

TIED BILLS: HB 1005 IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	18 Y, 5 N	Aldridge	Langston
2) Economic Affairs Committee		Fennell	DA Tinker TBT

SUMMARY ANALYSIS

The joint resolution proposes an amendment to the Florida Constitution that would allow the Legislature to provide by general law that:

- Taxes on tangible personal property are not due unless the assessed value of the property exceeds a specified amount greater than twenty-five thousand dollars;
- Tangible personal property is subject to taxation at a specified percentage of its assessed value; or
- Tangible personal property is totally exempt from taxation.

The Revenue Estimating Conference adopted a negative indeterminate revenue impact for the joint resolution because the amendment it proposes must be approved by the voters and the legislature must implement the amendment.

The Department of State estimates that the cost of publishing the proposed constitutional amendment, as required by law, is \$108,475.

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.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Tangible Personal Property

Article VII, section 1, of the Florida Constitution grants exclusive authority to local governments to levy ad valorem taxes, including ad valorem taxes on tangible personal property, and establishes requirements that the state legislature and local governments must follow when levying and administering ad valorem property taxes. It requires that all ad valorem taxation be at a uniform rate within each taxing district and that property must be assessed at just value unless the Constitution provides for a different assessment standard.

Tangible personal property is singled out for special treatment in the Constitution. Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes are excluded from ad valorem taxation.¹ Household goods up to \$1,000 in value are exempt.² Tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, classified for tax purposes, or exempted by general law.³ Tangible personal property not specifically exempt from taxation is subject to ad valorem taxation.

Article VII, section 3(e), Florida Constitution, provides for a \$25,000 exemption from the assessed value of tangible personal property subject to ad valorem taxation.

Based on the statewide aggregate average 2011 millage rate of 17.67, ad valorem taxes on the tangible personal property included on the 2011 tax roll are expected to amount to \$1.72 billion.

Proposed Changes

The joint resolution proposes an amendment to the Florida Constitution that would allow the Legislature to provide by general law that:

- Taxes on tangible personal property are not due unless the assessed value of the property exceeds a specified amount greater than twenty-five thousand dollars;
- Tangible personal property is subject to taxation at a specified percentage of its assessed value; or
- Tangible personal property is totally exempt from taxation.

B. SECTION DIRECTORY:

Not applicable to joint resolutions.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹ Article VII, section 1(b), Florida Constitution

² Article VII, section 3(b), Florida Constitution

³ Article VII, section 4(b), Florida Constitution

2. Expenditures:

Article XI, section 5(d) of the Florida 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 \$108,475.⁴

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference adopted a negative indeterminate revenue impact from the joint resolution because the amendment it proposes must be approved by the voters and the legislature must implement the amendment.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the amendment proposed by the joint resolution is approved by the voters, and the legislature implements the provisions contained in the amendment, certain persons owing ad valorem tax on tangible personal property could see a reduction in their taxes.

D. FISCAL COMMENTS:

None.

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.⁵ 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.⁶

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

V. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁴ Department of State, *House Joint Resolution 1003 (2012) Fiscal Analysis* (December 21, 2011).

⁵ Art. XI, section 1 of the Florida Constitution.

⁶ Art. XI, section 5 of the Florida Constitution.

House Joint Resolution

A joint resolution proposing an amendment to Section 3 of Article VII and the creation of Section 32 of Article XII of the State Constitution to remove the \$25,000 cap on the amount of the ad valorem tax exemption authorized for tangible personal property and allow the Legislature by general law to specify the amount of the exemption, apply the amendment to assessments for tax years beginning January 1, 2013; and provide effective dates.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 3 of Article VII and the creation of Section 32 of Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 3. Taxes; exemptions.-

(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational,

29 literary, scientific, religious or charitable purposes may be
 30 exempted by general law from taxation.

31 (b) There shall be exempt from taxation, cumulatively, to
 32 every head of a family residing in this state, household goods
 33 and personal effects to the value fixed by general law, not less
 34 than one thousand dollars, and to every widow or widower or
 35 person who is blind or totally and permanently disabled,
 36 property to the value fixed by general law not less than five
 37 hundred dollars.

38 (c) Any county or municipality may, for the purpose of its
 39 respective tax levy and subject to the provisions of this
 40 subsection and general law, grant community and economic
 41 development ad valorem tax exemptions to new businesses and
 42 expansions of existing businesses, as defined by general law.
 43 Such an exemption may be granted only by ordinance of the county
 44 or municipality, and only after the electors of the county or
 45 municipality voting on such question in a referendum authorize
 46 the county or municipality to adopt such ordinances. An
 47 exemption so granted shall apply to improvements to real
 48 property made by or for the use of a new business and
 49 improvements to real property related to the expansion of an
 50 existing business and shall also apply to tangible personal
 51 property of such new business and tangible personal property
 52 related to the expansion of an existing business. The amount or
 53 limits of the amount of such exemption shall be specified by
 54 general law. The period of time for which such exemption may be
 55 granted to a new business or expansion of an existing business
 56 shall be determined by general law. The authority to grant such

57 | exemption shall expire ten years from the date of approval by
 58 | the electors of the county or municipality, and may be renewable
 59 | by referendum as provided by general law.

60 | (d) Any county or municipality may, for the purpose of its
 61 | respective tax levy and subject to the provisions of this
 62 | subsection and general law, grant historic preservation ad
 63 | valorem tax exemptions to owners of historic properties. This
 64 | exemption may be granted only by ordinance of the county or
 65 | municipality. The amount or limits of the amount of this
 66 | exemption and the requirements for eligible properties must be
 67 | specified by general law. The period of time for which this
 68 | exemption may be granted to a property owner shall be determined
 69 | by general law.

70 | (e) By general law and subject to conditions specified
 71 | therein, not less than twenty-five thousand dollars of the
 72 | assessed value of property subject to tangible personal property
 73 | tax shall be exempt from ad valorem taxation. The legislature
 74 | may also provide by general law that:

75 | (1) Taxes on tangible personal property are not due unless
 76 | the assessed value of the property exceeds a specified amount
 77 | greater than twenty-five thousand dollars;

78 | (2) Tangible personal property is subject to taxation at a
 79 | specified percentage of its assessed value; or

80 | (3) Tangible personal property is totally exempt from
 81 | taxation.

82 | (f) There shall be granted an ad valorem tax exemption for
 83 | real property dedicated in perpetuity for conservation purposes,
 84 | including real property encumbered by perpetual conservation

85 easements or by other perpetual conservation protections, as
 86 defined by general law.

87 (g) By general law and subject to the conditions specified
 88 therein, each person who receives a homestead exemption as
 89 provided in section 6 of this article; who was a member of the
 90 United States military or military reserves, the United States
 91 Coast Guard or its reserves, or the Florida National Guard; and
 92 who was deployed during the preceding calendar year on active
 93 duty outside the continental United States, Alaska, or Hawaii in
 94 support of military operations designated by the legislature
 95 shall receive an additional exemption equal to a percentage of
 96 the taxable value of his or her homestead property. The
 97 applicable percentage shall be calculated as the number of days
 98 during the preceding calendar year the person was deployed on
 99 active duty outside the continental United States, Alaska, or
 100 Hawaii in support of military operations designated by the
 101 legislature divided by the number of days in that year.

102 ARTICLE XII

103 SCHEDULE

104 SECTION 32. Tangible personal property; ad valorem tax
 105 exemption.—The amendment to Section 3 of Article VII removing
 106 the cap on the amount of the ad valorem tax exemption authorized
 107 for tangible personal property and allowing the legislature to
 108 exempt certain amounts of the assessed value of tangible
 109 personal property from ad valorem taxation shall take effect
 110 upon approval by the electors and shall apply to assessments for
 111 tax years beginning January 1, 2013. This section shall take
 112 effect upon approval of the electors.

HJR 1003

2012

113 BE IT FURTHER RESOLVED that the following statement be
 114 placed on the ballot:

115 CONSTITUTIONAL AMENDMENT

116 ARTICLE VII, SECTION 3

117 ARTICLE XII, SECTION 32

118 TANGIBLE PERSONAL PROPERTY; AD VALOREM TAX EXEMPTIONS;
 119 REMOVAL OF THE \$25,000 CAP.—

120 Currently the State Constitution specifies that \$25,000 of
 121 the assessed value of tangible personal property is exempt from
 122 ad valorem taxation. The amendment requires the Legislature by
 123 general law to provide that at least \$25,000 of the assessed
 124 value of tangible personal property is exempt from ad valorem
 125 taxation. In addition, the amendment authorizes the Legislature
 126 to provide that tangible personal property subject to ad valorem
 127 taxation:

128 (1) Is any amount greater than \$25,000 of the assessed
 129 value of the property that the legislature specifies in general
 130 law and taxes are not due on any amount less than that specified
 131 amount;

132 (2) Is any percentage amount of the assessed value of the
 133 property that the legislature specifies in general law; or

134 (3) Is the total amount of the assessed value of the
 135 property as specified by the legislature in general law.

136 This amendment takes effect upon approval of the voters and
 137 applies to assessments for tax years beginning January 1, 2013.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HJR 1003 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Economic Affairs Committee
2 Representative Eisnagle offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the resolving clause and insert:
6 Be It Resolved by the Legislature of the State of Florida:

7
8 That the following amendment to Section 3 of Article VII
9 and the creation of Section 32 of Article XII of the State
10 Constitution are agreed to and shall be submitted to the
11 electors of this state for approval or rejections at the next
12 general election:

13
14 ARTICLE VII
15 FINANCE AND TAXATION

16
17 SECTION 3. Taxes; exemptions.--

18 (a) All property owned by a municipality and used exclusively by
19 it for municipal or public purposes shall be exempt from
20 taxation. A municipality, owning property outside the

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HJR 1003 (2012)

Amendment No. 1

21 municipality, may be required by general law to make payment to
22 the taxing unit in which the property is located. Such portions
23 of property as are used predominantly for educational, literary,
24 scientific, religious or charitable purposes may be exempted by
25 general law from taxation.

26 (b) There shall be exempt from taxation, cumulatively, to every
27 head of a family residing in this state, household goods and
28 personal effects to the value fixed by general law, not less
29 than one thousand dollars, and to every widow or widower or
30 person who is blind or totally and permanently disabled,
31 property to the value fixed by general law not less than five
32 hundred dollars.

33 (c) Any county or municipality may, for the purpose of its
34 respective tax levy and subject to the provisions of this
35 subsection and general law, grant community and economic
36 development ad valorem tax exemptions to new businesses and
37 expansions of existing businesses, as defined by general law.
38 Such an exemption may be granted only by ordinance of the county
39 or municipality, and only after the electors of the county or
40 municipality voting on such question in a referendum authorize
41 the county or municipality to adopt such ordinances. An
42 exemption so granted shall apply to improvements to real
43 property made by or for the use of a new business and
44 improvements to real property related to the expansion of an
45 existing business and shall also apply to tangible personal
46 property of such new business and tangible personal property
47 related to the expansion of an existing business. The amount or
48 limits of the amount of such exemption shall be specified by

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HJR 1003 (2012)

Amendment No. 1

49 general law. The period of time for which such exemption may be
50 granted to a new business or expansion of an existing business
51 shall be determined by general law. The authority to grant such
52 exemption shall expire ten years from the date of approval by
53 the electors of the county or municipality, and may be renewable
54 by referendum as provided by general law.

55 (d) Any county or municipality may, for the purpose of its
56 respective tax levy and subject to the provisions of this
57 subsection and general law, grant historic preservation ad
58 valorem tax exemptions to owners of historic properties. This
59 exemption may be granted only by ordinance of the county or
60 municipality. The amount or limits of the amount of this
61 exemption and the requirements for eligible properties must be
62 specified by general law. The period of time for which this
63 exemption may be granted to a property owner shall be determined
64 by general law.

65 (e) (1) By general law and subject to conditions specified
66 therein, twenty-five thousand dollars of the assessed value of
67 property subject to tangible personal property tax shall be
68 exempt from ad valorem taxation. In addition, property shall be
69 exempt from tangible personal property tax when the assessed
70 value of such property is in excess of twenty-five thousand
71 dollars but less than fifty-thousand dollars.

72 (2) Any county or municipality may provide any additional
73 tangible personal property tax exemption, or other ad valorem
74 tax relief for such property, as provided in general law, not in
75 conflict with the exemptions provided in paragraph (e) (1).

76 This additional exemption or relief may be granted only by

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Amendment No. 1

77 ordinance of the county or municipality for purpose of its
78 respective levies.

79 (f) There shall be granted an ad valorem tax exemption for real
80 property dedicated in perpetuity for conservation purposes,
81 including real property encumbered by perpetual conservation
82 easements or by other perpetual conservation protections, as
83 defined by general law.

84 (g) By general law and subject to the conditions specified
85 therein, each person who receives a homestead exemption as
86 provided in section 6 of this article; who was a member of the
87 United States military or military reserves, the United States
88 Coast Guard or its reserves, or the Florida National Guard; and
89 who was deployed during the preceding calendar year on active
90 duty outside the continental United States, Alaska, or Hawaii in
91 support of military operations designated by the legislature
92 shall receive an additional exemption equal to a percentage of
93 the taxable value of his or her homestead property. The
94 applicable percentage shall be calculated as the number of days
95 during the preceding calendar year the person was deployed on
96 active duty outside the continental United States, Alaska, or
97 Hawaii in support of military operations designated by the
98 legislature divided by the number of days in that year.

100 ARTICLE XII

101 SCHEDULE

102 Section 32. Tangible personal property; ad valorem tax
103 exemption.-The amendment to Section 3 of Article VII providing
104 that property shall be exempt from tangible personal property

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Published On: 2/16/2012 6:44:39 PM

Amendment No. 1

105 tax when the assessed value of such property is in excess of
106 twenty-five thousand dollars but less than fifty-thousand
107 dollars shall take effect upon approval by the electors and
108 shall apply to assessments for tax years beginning January 1,
109 2013.

110
111 BE IT FURTHER RESOLVED that the following statement be placed on
112 the ballot:

113
114 CONSTITUTIONAL AMENDMENT

115 ARTICLE VII, SECTION 3

116
117 PROPERTY TAX EXEMPTION; proposing an amendment to the State
118 Constitution to:

119 (1) provide an exemption from ad valorem taxes on tangible
120 personal property, if the assessed value of the tangible
121 personal property is more than twenty-five thousand dollars, but
122 less than fifty-thousand dollars.

123 (2) authorize any county or municipality, by ordinance, for
124 their respective levies and subject to general law, to provide
125 by ordinance for any additional tangible personal property tax
126 exemption, or other ad valorem relief for such property, and not
127 in conflict with other tangible personal property exemptions.

128
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132 -----

Amendment No. 1

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T I T L E A M E N D M E N T


Remove the entire title and insert:

A bill to be entitled

A joint resolution proposing an amendment to Section 3 of Article VII and the creation of Section 32 of Article XII of the State Constitution, to provide an additional exemption from ad valorem taxes on tangible personal under certain circumstances, to authorize any county or municipality, by ordinance and subject to general law, to provide any exemption from ad valorem tax or other ad valorem tax relief for tangible personal property, and to provide an effective date for certain provisions, if such amendment is adopted.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1005 Tangible Personal Property Taxation
SPONSOR(S): Eisnaugle
TIED BILLS: HJR 1003 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	17 Y, 5 N, As CS	Aldridge	Langston
2) Economic Affairs Committee		Fennell 	Tinker <i>TIST</i>

SUMMARY ANALYSIS

The bill implements the proposed constitutional amendment contained in HJR 1003. Specifically, it creates an additional exemption from ad valorem taxation of tangible personal property of up to \$25,000 of taxable value. The result, as described below is an additional exemption above the current \$25,000 exemption for assessed values between \$25,001 and \$50,000. Taxpayers with tangible personal property subject to ad valorem taxation with an assessed value above \$50,000 will not qualify for the additional exemption provided in the bill.

The bill takes effect upon the approval of the amendment proposed by HJR 1003 by the voters. The bill operates prospectively to the 2013 tax roll and does not provide a basis for relief from an assessment of taxes not paid or create a right to a refund of taxes paid before January 1, 2013.

The bill provides a General Revenue appropriation of \$108,475 to the Department of State to publish the proposed constitutional amendment contained in CS/HJR 1003 in newspapers in each county as required by Article XI, section 5(d) of the Florida Constitution.

The Revenue Estimating Conference has estimated that, if the amendment proposed by HJR 1003 is approved by the voters, **assuming current millage rates**, the estimated statewide impact of the bill would be annual reductions in local government revenues of \$20.1 million beginning in fiscal year 2013-14, increasing to \$20.3 million in fiscal year 2014-15, and \$20.6 million in fiscal year 2015-16.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Tangible Personal Property

Article VII, section 1, of the Florida Constitution grants exclusive authority to local governments to levy ad valorem taxes, including ad valorem taxes on tangible personal property, and establishes requirements that the state legislature and local governments must follow when levying and administering ad valorem property taxes. It requires that all ad valorem taxation be at a uniform rate within each taxing district and that property must be assessed at just value unless the Constitution provides for a different assessment standard.

Tangible personal property is singled out for special treatment in the Constitution. Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes are excluded from ad valorem taxation.¹ Household goods up to \$1,000 in value are exempt.² Tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, classified for tax purposes, or exempted by general law.³ Tangible personal property not specifically exempt from taxation is subject to ad valorem taxation.

Article VII, section 3(e), Florida Constitution, provides for a \$25,000 exemption from the assessed value of tangible personal property subject to ad valorem taxation. This exemption is implemented in s. 196.183, F.S.

Section 196.183(1), F.S., provides that a single return must be filed for each site in the county where the owner of tangible personal property transacts business. Owners of freestanding property placed at multiple sites, other than sites where the owner transacts business, must file a single return, including all such property located in the county. Freestanding property placed at multiple sites includes vending and amusement machines, LP/propane tanks, utility and cable company property, billboards, leased equipment, and similar property that is not customarily located in the offices, stores, or plants of the owner, but is placed throughout the county.

Section 196.183(3), F.S., waives the return filing requirement under s. 193.052, F.S., for taxpayers owning taxable property the value of which, as listed on the return, does not exceed the \$25,000 exemption. In order to qualify for this waiver, a taxpayer must file an initial return on which the exemption is taken. If, in subsequent years, the taxpayer owns taxable property the value of which, as listed on the return, exceeds the exemption, the taxpayer is obligated to file a return. The taxpayer may again qualify for the waiver only after filing a return on which the value as listed on the return does not exceed the exemption. A return filed or required to be filed shall be considered an application filed or required to be filed for the exemption under this section.

Proposed Changes

The bill implements the proposed constitutional amendment contained in HJR 1003. Specifically, it creates an additional exemption from ad valorem taxation of tangible personal property of \$25,000 of taxable value. The bill then provides another waiver process beyond the one described above, where in order to qualify for this additional exemption, a taxpayer must file an initial return disclosing the taxable value of their property. The filing of this initial return does not result in the taxpayer incurring any tax liability. If, in subsequent years, the taxpayer owns taxable property the value of which, as listed on the

¹ Article VII, section 1(b), Florida Constitution

² Article VII, section 3(b), Florida Constitution

³ Article VII, section 4(b), Florida Constitution

return, exceeds \$25,000, the taxpayer is obligated to file a return. The taxpayer may again qualify for the waiver only after filing a return on which the value as listed on the return does not exceed \$25,000.

The effect of this approach to implementing the constitutional amendment contained in HJR 1003 is that it provides an additional \$25,000 exemption from ad valorem taxation of tangible personal property, but only to persons who would report on their returns property valued at \$50,000 or less. If the total value required to be reported on the taxpayer's return exceeds \$50,000, the additional exemption created by this bill is unavailable.

The bill provides a General Revenue appropriation of \$108,475 to the Department of State to publish the proposed constitutional amendment contained in CS/HJR 1003 in newspapers in each county as required by Article XI, section 5(d) of the Florida Constitution.

The bill takes effect upon the approval of the amendment proposed by HJR 1003 by the voters. The bill operates prospectively to the 2013 tax roll and does not provide a basis for relief from an assessment of taxes not paid or create a right to a refund of taxes paid before January 1, 2013.

B. SECTION DIRECTORY:

Section 1: Provides an exemption from ad valorem taxation of tangible personal property.

Section 2: Provides that the act shall operate prospectively as specified.

Section 3: Provides an appropriation.

Section 4: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill provides a General Revenue appropriation of \$108,475 to the Department of State.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has estimated that, if the amendment proposed by HJR 1003 is approved by the voters, **assuming current millage rates**, the estimated statewide impact of the bill would be annual reductions in local government revenues of \$20.1 million beginning in fiscal year 2013-14, increasing to \$20.3 million in fiscal year 2014-15, and \$20.6 million in fiscal year 2015-16.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If this bill had been in effect for the 2011 tax rolls, approximately 156,000 additional taxpayer accounts would have been exempt from the tax (just under 50% of all accounts with a positive taxable value).

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill implements a constitutional amendment to which the mandates provision of s. 18, Art. VII of the State Constitution, does not apply.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 1, 2012, the Finance & Tax Committee adopted an amendment that:

- Clarifies that the exemption begins with the 2013 tax roll.
- Provides an appropriation to publish the proposed constitutional amendment in newspapers in each county as required by the constitution [\$108,475].

The analysis has been updated to reflect the committee substitute.

1 A bill to be entitled
 2 An act relating to tangible personal property
 3 taxation; amending s. 196.183, F.S.; waiving the
 4 requirement to file an annual tangible personal
 5 property tax return for certain taxpayers who own
 6 taxable property the taxable value of which does not
 7 exceed a specified amount; providing conditions and
 8 requirements for qualifying for such waiver; providing
 9 application; providing an appropriation; providing
 10 effective dates.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Section 196.183, Florida Statutes, is amended
 15 to read:

16 196.183 Exemption for tangible personal property.-
 17 (1) Each tangible personal property tax return is eligible
 18 for an exemption from ad valorem taxation of up to \$25,000 of
 19 assessed value. A single return must be filed for each site in
 20 the county where the owner of tangible personal property
 21 transacts business. Owners of freestanding property placed at
 22 multiple sites, other than sites where the owner transacts
 23 business, must file a single return, including all such property
 24 located in the county. Freestanding property placed at multiple
 25 sites includes vending and amusement machines, LP/propane tanks,
 26 utility and cable company property, billboards, leased
 27 equipment, and similar property that is not customarily located
 28 in the offices, stores, or plants of the owner, but is placed

29 throughout the county. Railroads, private carriers, and other
 30 companies assessed pursuant to s. 193.085 shall be allowed one
 31 \$25,000 exemption for each county to which the value of their
 32 property is allocated. The \$25,000 exemption for freestanding
 33 property placed at multiple locations and for centrally assessed
 34 property shall be allocated to each taxing authority based on
 35 the proportion of just value of such property located in the
 36 taxing authority; however, the amount of the exemption allocated
 37 to each taxing authority may not change following the extension
 38 of the tax roll pursuant to s. 193.122.

39 (2) For purposes of this section, a "site where the owner
 40 of tangible personal property transacts business" includes
 41 facilities where the business ships or receives goods, employees
 42 of the business are located, goods or equipment of the business
 43 are stored, or goods or services of the business are produced,
 44 manufactured, or developed, or similar facilities located in
 45 offices, stores, warehouses, plants, or other locations of the
 46 business. Sites where only the freestanding property of the
 47 owner is located shall not be considered sites where the owner
 48 of tangible personal property transacts business.

49 (3) The requirement that an annual tangible personal
 50 property tax return pursuant to s. 193.052 be filed is waived
 51 for taxpayers who own ~~owning~~ taxable personal property:

52 (a) The value of which, as listed on the return, does not
 53 exceed the exemption provided in this section ~~is waived~~. In
 54 order to qualify for the this waiver under this paragraph, a
 55 taxpayer must file an initial return on which the exemption is
 56 taken. If, in subsequent years, the taxpayer owns taxable

57 | property the value of which, as listed on the return, exceeds
 58 | the exemption, the taxpayer is obligated to file a return. The
 59 | taxpayer may again qualify for the waiver only after filing a
 60 | return on which the value as listed on the return does not
 61 | exceed the exemption. A return filed or required to be filed
 62 | shall be considered an application filed or required to be filed
 63 | for the exemption under this section; or

64 | (b) The taxable value of which does not exceed \$25,000. In
 65 | order to qualify for the waiver under this paragraph, a taxpayer
 66 | must file an initial return disclosing the taxable value of the
 67 | property. The filing of an initial return does not result in the
 68 | taxpayer incurring any tax liability. If, in subsequent years,
 69 | the taxpayer owns taxable property the value of which, as listed
 70 | on the return, exceeds \$25,000, the taxpayer is obligated to
 71 | file a return. The taxpayer may again qualify for the waiver
 72 | only after filing a return on which the value as listed on the
 73 | return does not exceed \$25,000.

74 | (4) Owners of property previously assessed by the property
 75 | appraiser without a return being filed may, at the option of the
 76 | property appraiser, qualify for the exemption under this section
 77 | without filing an initial return.

78 | (5) The exemption provided in this section does not apply
 79 | in any year a taxpayer fails to timely file a return that is not
 80 | waived pursuant to subsection (3) or subsection (4). Any
 81 | taxpayer who received a waiver pursuant to subsection (3) or
 82 | subsection (4) and who owns taxable property the value of which,
 83 | as listed on the return, exceeds the exemption in a subsequent
 84 | year and who fails to file a return with the property appraiser

85 is subject to the penalty contained in s. 193.072(1)(a)
 86 calculated without the benefit of the exemption pursuant to this
 87 section. Any taxpayer claiming more exemptions than allowed
 88 pursuant to subsection (1) is subject to the taxes exempted as a
 89 result of wrongfully claiming the additional exemptions plus 15
 90 percent interest per annum and a penalty of 50 percent of the
 91 taxes exempted. By February 1 of each year, the property
 92 appraiser shall notify by mail all taxpayers whose requirement
 93 for filing an annual tangible personal property tax return was
 94 waived in the previous year. The notification shall state that a
 95 return must be filed if the value of the taxpayer's tangible
 96 personal property exceeds the exemption and include the
 97 penalties for failure to file such a return.

98 (6) The exemption provided in this section does not apply
 99 to a mobile home that is presumed to be tangible personal
 100 property pursuant to s. 193.075(2).

101 Section 2. The revisions to s. 196.183, Florida Statutes,
 102 by this act operate prospectively to the 2013 tax roll and do
 103 not provide a basis for relief from an assessment of taxes not
 104 paid or create a right to a refund of taxes paid before January
 105 1, 2013.

106 Section 3. Effective July 1, 2012, the sum of \$108,475 in
 107 nonrecurring funds is appropriated from the General Revenue Fund
 108 to the Department of State for purposes of publishing, as
 109 required under s. 5(d), Art. XI of the State Constitution, the
 110 proposed constitutional amendment contained in House Joint
 111 Resolution 1003, or a similar joint resolution having
 112 substantially the same specific intent and purpose.

CS/HB 1005

2012

113 | Section 4. Except as otherwise expressly provided in this
114 | act, this act shall take effect upon the approval of House Joint
115 | Resolution 1003, or a similar joint resolution having
116 | substantially the same specific intent and purpose, at the
117 | general election to be held in November 2012 or at an earlier
118 | special election specifically authorized by law for that
119 | purpose.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1009 Low-speed Vehicles

SPONSOR(S): Transportation & Economic Development Appropriations Subcommittee, Transportation & Highway Safety Subcommittee and O'Toole

TIED BILLS: **IDEN./SIM. BILLS:** SB 1238

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	15 Y, 0 N, As CS	Johnson	Kruse
2) Transportation & Economic Development Appropriations Subcommittee	15 Y, 0 N, As CS	Rayman	Davis
3) Economic Affairs Committee		Johnson <i>AS</i>	Tinker <i>TBT</i>

SUMMARY ANALYSIS

CS/CS/HB 1009 authorizes the conversion of a vehicle titled or branded and registered as a low speed vehicle to a golf cart. Following the conversion, the vehicle must be inspected by the Department of Highway Safety and Motor Vehicles. The practical effect is that the vehicle will no longer need to be registered or insured. The bill also defines "low speed vehicle" as any four wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles.

There is a \$40 administrative fee for vehicle owners associated with verifying a vehicle's conversion. Vehicle registrations vary widely depending on the vehicle, its weight, and any additional add-ons, but a typical registration could cost between \$40 and \$45 annually, compared to a one-time conversion fee. However, since the number of conversions is unknown, the fiscal impact is indeterminate.

The bill has an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 320.01(42), F.S., defines "low-speed vehicle" as "any four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 and s. 316.2122."

Section 320.01(22), F.S., defines "golf cart" as "a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour."

Current law requires low speed vehicles to be registered and insured in accordance with ch. 320, F.S., and titled pursuant to ch. 319.F.S.¹ These vehicles may be operated on certain roads (generally, streets with a posted speed limit of 35 MPH or lower). One must hold a valid driver license to operate a low speed vehicle.

Golf carts are exempt from registration² and do not require a driver license to operate.³ With exceptions, the operation of golf carts on public roads and streets is prohibited.⁴

Proposed Changes

The bill creates s. 319.14(10), F.S., providing that a vehicle titled or branded and registered as a low-speed vehicle may be converted to a golf cart pursuant to the following;

- The owner of the converted vehicle is required to contact the regional office of the DHSMV to verify the conversion, surrender the registration license plate and the current certificate of title, and pay the appropriate fee.
- Upon verification of the conversion, DHSMV shall note in the vehicle record that the low-speed vehicle has been converted to a golf cart and cancel the certificate of title and registration of the vehicle.

The practical effect is that the owner would no longer be required to register and insure the vehicle.

The bill requires DHSMV to establish a \$40 fee to cover the cost of verification and associated administrative costs.

The bill amends s. 320.01(42), F.S., defining "low-speed vehicle" as "any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 and s. 316.2122."

The bill has an effective date of July 1, 2012.

¹ Section 316.2122(3), F.S.

² Section 320.105, F.S.

³ Section 322.04(1)(e), F.S.

⁴ Section 316.212, F.S.

B. SECTION DIRECTORY:

- Section 1. Amends s. 319.14, F.S., relating to the sale of motor vehicles registered or used as taxicabs, police vehicles, lease vehicles, or rebuilt and nonconforming vehicles; conversion of low-speed vehicles.
- Section 2. Amends s. 320.01(42), F.S., defining "low-speed vehicle" as any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles.
- Section 3. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. The bill requires DHSMV to charge a \$40 fee to pay for the verification of the conversion to a golf cart. The number of low speed vehicles which will be converted to golf carts is unknown at this time.

2. Expenditures:

According to DHSMV, programming costs required to implement this bill will be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons wishing to convert a low-speed vehicle into a golf cart will incur the \$40 fee to do so. Owners of low speed vehicles converted to golf carts will no longer need to register and insure these vehicles.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 24, 2012, the Transportation & Highway Safety Subcommittee adopted one amendment, creating a committee substitute. This amendment changed the word "inspection" to "verification" since that is the duty DHSMV is charged with in the bill. This analysis is written to the committee substitute.

On February 14, 2012, the Transportation & Economic Development Appropriations Subcommittee adopted one amendment and the bill was reported favorably as a committee substitute. The amendment revised the definition of the term "low-speed vehicle." The analysis is written to the committee substitute.

1 A bill to be entitled
 2 An act relating to low-speed vehicles; amending s.
 3 319.14, F.S.; authorizing the conversion of a vehicle
 4 titled or branded and registered as a low-speed
 5 vehicle to a golf cart; providing procedures;
 6 providing for a fee; amending s. 320.01, F.S.;
 7 revising the definition of the term "low-speed
 8 vehicle" to include vehicles that are not electric
 9 powered; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Subsection (10) is added to section 319.14,
 14 Florida Statutes, to read:

15 319.14 Sale of motor vehicles registered or used as
 16 taxicabs, police vehicles, lease vehicles, or rebuilt vehicles
 17 and nonconforming vehicles; conversion of low-speed vehicles.-

18 (10) (a) A vehicle titled or branded and registered as a
 19 low-speed vehicle may be converted to a golf cart pursuant to
 20 the following:

21 1. The owner of the converted vehicle must contact the
 22 regional office of the department to verify the conversion,
 23 surrender the registration license plate and the current
 24 certificate of title, and pay the appropriate fee established
 25 under paragraph (b).

26 2. Upon verification of the conversion, the department
 27 shall note in the vehicle record that the low-speed vehicle has
 28 been converted to a golf cart and cancel the certificate of

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29 | title and registration of the vehicle.

30 | (b) The department shall establish a fee of \$40 to cover
 31 | the cost of verification and associated administrative costs for
 32 | carrying out its responsibilities under this subsection.

33 | Section 2. Subsection (42) of section 320.01, Florida
 34 | Statutes, is amended to read:

35 | 320.01 Definitions, general.—As used in the Florida
 36 | Statutes, except as otherwise provided, the term:

37 | (42) "Low-speed vehicle" means any four-wheeled ~~electric~~
 38 | vehicle whose top speed is greater than 20 miles per hour but
 39 | not greater than 25 miles per hour, including, but not limited
 40 | to, neighborhood electric vehicles. Low-speed vehicles must
 41 | comply with the safety standards in 49 C.F.R. s. 571.500 and s.
 42 | 316.2122.


43 | Section 3. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1119 New Markets Development Program

SPONSOR(S): Crisafulli

TIED BILLS: IDEN./SIM. **BILLS:** SB 1150

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Consumer Affairs Subcommittee	14 Y, 0 N	Fennell	Creamer
2) Finance & Tax Committee	21 Y, 0 N, As CS	Wilson	Langston
3) Economic Affairs Committee		Fennell 	Tinker <i>JBT</i>

SUMMARY ANALYSIS

HB 1119 increases the total amount of tax credits available to be allocated for the New Markets Development Program from \$97.5 million to \$195 million.

In addition, the legislation increases from six to seven the number of years that a qualified community development entity is prohibited from making cash interest payments in excess of their operating income on long term debt securities issued as qualified investments. The bill also clarifies how interest expenses are to be treated for purposes of certain operating income calculations.

On January 6, 2011, the Revenue Estimating Conference determined the provisions of this bill have no impact to General Revenue in the 2012-13 or the 2013-14 fiscal years. The first revenue impacts will be in Fiscal Year 2014-15 at -\$18 million, then -\$20 million in each of the next four years.

The bill becomes effective on July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

How the Program Works

Under this program, federally-certified Community Development Entities (CDE), which have entered into allocation agreements with the U.S. Treasury, have the ability to apply to the Department of Economic Opportunity for a certification of Florida tax credits. The CDE must show that it is prepared to invest capital into qualified businesses in Florida's low-income communities. The certification process includes proof of the CDE's eligibility, identification of its investors, description of the investments to be raised by the CDE, information regarding how the investments will be used, and a description of the CDE's efforts to partner with local community-based groups. The Department is also able to request additional information needed to verify continued certification. The Department certifies qualified applications on a first-come, first-served basis. Once the Department certifies a CDE's qualified equity investment, the CDE has 30 days to raise its investment capital (the qualified equity investment) and then 12 months to invest a minimum of 85 percent of the purchase price in qualified low-income investments. Thereafter, the CDE must annually report to the Department information including:

- Audited financial statements;
- the industries for the investments;
- the counties investments were made in;
- the number of jobs created; and
- verification that the average wages paid are at least equal to 115 percent of the federal poverty income guidelines for a family of four.

Any failure by a CDE to follow either Florida or federal law may result in the state recapturing tax credits claimed, together with interest and penalties.

Current law prohibits a CDE from making cash payments on long-term debt securities that are qualified investments in excess of the CDE's operating income for six years following the issuance of the security. Current administration of the program requires interest payments to be deducted from operating income for purposes of the above determination, which creates an artificial limitation on the ability of CDEs to make interest payments.

Tax Credits

The New Markets Tax Credit Program (NMTC) allows a tax credit to be taken against the corporate income tax found in section 220.11, Florida Statutes, or the insurance premium tax found in section 624.509, Florida Statutes. This credit may be claimed after the investment has been made and held for a minimum of two years. Therefore, no credit can be claimed in the first two years. In year three, the credit is worth seven percent of the investment, and from the fourth year through the seventh year, the credit is worth 8 percent each year. Over seven years this credit totals 39 percent of the total investment. Any unused portion of the tax credit may be carried forward for future tax years; however, all tax credits expire on December 31, 2022. The program has a cap of \$97.5 million on the total of tax credits allowed to be allocated to all investments. Therefore, no more than \$17.5 million in tax credits may be claimed in the third fiscal year and no more than \$20 million in tax credits may be claimed in any of the subsequent four fiscal years. The program does not allow the transfer or sale of tax credits, but does allow a tax credit to travel with the purchase of an investment to a new owner.

Federal New Markets Tax Credit¹

The State New Markets Development Program was mirrored after the federal program. The Federal New Markets Tax Credit (NMTC) Program permits taxpayers to receive a credit against federal income taxes for making qualified equity investments in designated Community Development Entities (CDEs). The CDE must in turn invest the qualified equity investments in low-income communities. The credit provided to the investor totals 39 percent of the cost of the investment and is claimed over a seven-year period. In each of the first three years, the investor receives a credit equal to five percent of the total amount paid for the stock or capital interest at the time of purchase. For the final four years, the value of the credit is six percent annually. Investors may not redeem their investments in CDEs prior to the conclusion of the seven-year period. An organization wishing to receive allocations under the federal NMTC Program must be certified as a CDE by the US Department of Treasury. To qualify as a CDE, an organization must:

- Be a domestic corporation or partnership at the time of the certification application;
- Demonstrate a primary mission of serving, or providing investment capital for low-income communities or low-income persons; and
- Maintain accountability to residents of low-income communities through representation on a governing board of or advisory board to the entity.

As stated above, both the federal program and the state program provide credits totaling 39 percent of the investment over a seven year period. Therefore, a qualified taxpayer with a qualified investment approved for both the federal and state program could receive 78 percent of the purchase price of the investment in tax credits over seven years. In addition to the tax credits that are received, the investor also has the potential to receive benefit from the results of the investment and eventual return of their principal.

Effect of Proposed Changes

HB 1119 increases the total amount of tax credits available to be allocated for the New Markets Development Program from \$97.5 million to \$195 million.

In addition, the legislation increases from six to seven the number of years that a qualified community development entity is prohibited from making cash interest payments in excess of their operating income on long term debt securities issued as qualified investments. The bill further provides that interest expense on debt securities will not be included in the calculation of operating income for purposes of the above limitation.

B. SECTION DIRECTORY:

Section 1: Amends s. 288.914, F.S., to increase the available tax credits from \$97.5 million to \$195 million.

Section 2: Amends 288.915, F.S., to increase the prohibition on participants making certain interest payments from 6 years to 7 years, and clarifies how interest expenses are to be treated for purposes of certain operating income calculations.

Section 3: Provides an effective date of July 1, 2012.

¹ Federal New Markets Tax Credit Program http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=5 (last visited on January 30, 2012)

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

On January 6, 2011, the Revenue Estimating Conference determined the provisions of this bill have no impact to General Revenue in the 2012-13 or the 2013-14 fiscal years. The first revenue impacts will be in Fiscal Year 2014-15 at -\$18 million, then -\$20 million in each of the next four years.

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The New Markets Development program draws private sector investment into low-income rural and urban communities that may not otherwise have occurred.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 1, 2012, the Finance & Tax Committee adopted an amendment that clarifies how interest expenses are to be treated for purposes of certain operating income calculations.

This analysis has been updated to reflect the above changes.

1 A bill to be entitled
 2 An act relating to the New Markets Development
 3 Program; amending s. 288.9914, F.S.; revising limits
 4 on tax credits that may be claimed by qualified
 5 community development entities under the program;
 6 amending s. 288.9915, F.S.; revising restrictions on a
 7 qualified community development entity's making of
 8 cash interest payments on certain long-term debt
 9 securities; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Paragraph (c) of subsection (3) of section
 14 288.9914, Florida Statutes, is amended to read:

15 288.9914 Certification of qualified investments;
 16 investment issuance reporting.—

17 (3) REVIEW.—

18 (c) The department may not approve a cumulative amount of
 19 qualified investments that may result in the claim of more than
 20 \$195 ~~\$97.5~~ million in tax credits during the existence of the
 21 program or more than \$40 ~~\$20~~ million in tax credits in a single
 22 state fiscal year. However, the potential for a taxpayer to
 23 carry forward an unused tax credit may not be considered in
 24 calculating the annual limit.

25 Section 2. Subsection (1) of section 288.9915, Florida
 26 Statutes, is amended to read:

27 288.9915 Use of proceeds from qualified investments;
 28 recordkeeping.—

29 | (1) A qualified community development entity may not make
30 | cash interest payments on a long-term debt security that is a
31 | qualified investment in excess of the entity's cumulative
32 | operating income earned during the 7-year period after ~~for 6~~
33 | ~~years following the~~ issuance of the security. For purposes of
34 | calculating operating income, the interest expense on the
35 | security is disregarded.

36 | Section 3. This act shall take effect July 1, 2012.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1119 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Economic Affairs Committee
2 Representative Crisafulli offered the following:

3
4 **Amendment**

5 Remove lines 29-35 and insert:

6 (1) For the period from the issuance of the qualified investment
7 to the 7th anniversary of such issuance, a qualified community
8 development entity may not make cash interest payments on a
9 long-term debt security that is a qualified investment, but not
10 in excess of the entity's cumulative operating income as of the
11 date of the cash interest payment. For purposes of calculating
12 operating income under this section, the interest expense on the
13 security is disregarded for 6 years following the issuance of
14 the security.
15

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1165 Identification Cards and Driver Licenses

SPONSOR(S): McBurney

TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 1298

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	12 Y, 0 N	Kiner	Kruse
2) Transportation & Economic Development Appropriations Subcommittee	15 Y, 0 N	Rayman	Davis
3) Economic Affairs Committee		Kiner <i>KLK</i>	Tinker <i>TBT</i>

SUMMARY ANALYSIS

HB 1165 provides for placement of a temporary capital "V" on driver's licenses and identification cards to designate veteran status. The temporary designation is intended to serve as a place holder until the veteran is next required to renew his or her driver's license or identification card. To receive the temporary designation, the veteran must pay a \$2 fee and present the required documentation. The bill eliminates the requirement that a currently licensed veteran first purchase a renewal or replacement driver's license or identification card in order to receive the designation.

The bill has an indeterminate but likely insignificant fiscal impact on state government.

The bill has an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

During the 2011 regular Legislative Session, the Florida Legislature passed ch. 2011-94,¹ L.O.F., which provides veterans the choice of obtaining a driver's license or identification card that exhibits a capital "V" to designate veteran status. To receive the designation, the veteran must pay a \$48 fee for a driver's license (original or renewal) or a \$25 fee for a replacement driver's license or identification card (original, renewal, or replacement), plus a \$1 fee for the permanent designation. In total, a veteran must currently pay \$49 or \$26 to have his or her veteran status designated on his or her driver's license or identification card (or replacement driver's license). Additionally, the veteran must present a copy of his or her DD Form 214 (Certificate of Release or Discharge from Active Duty) issued by the United States Department of Defense.

Effect of Proposed Changes

The bill provides for placement of a temporary capital "V" on driver's licenses and identification cards to designate veteran status. The temporary designation is intended to serve as a place holder until the veteran is next required to renew his or her driver's license or identification card. To receive the temporary designation, the veteran must pay a \$2 fee – in lieu of \$48 for an original driver's license or renewal, or \$25 for an original, replacement or renewal identification card (or replacement driver's license), plus an extra \$1 fee for the designation – and present a copy of his or her DD Form 214 (Certificate of Release or Discharge from Active Duty) issued by the United States Department of Defense.

The \$2 fee will eliminate the requirement that a currently licensed veteran first purchase a renewal or replacement driver's license or identification card in order to receive the designation. Additionally, the \$2 fee will offset additional administrative costs related to reviewing an applicant's documents and furnishing the driver's license or identification card with the temporary designation sticker.

The bill has an effective date of July 1, 2012.

B. SECTION DIRECTORY:

- Section 1. Amends s. 322.051, F.S., providing for placement of a temporary capital "V" on an identification card to designate veteran status upon payment of a \$2 fee and presentation of required documents.
- Section 2. Amends s. 322.14, F.S., providing for placement of a temporary capital "V" on a driver's license to designate veteran status upon payment of a \$2 fee and presentation of required documents.
- Section 3: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

DHSMV may receive additional revenue associated with the \$2 fee for the temporary sticker. The amount that may be received is indeterminate.

¹ House Bill No. 1165

2. Expenditures:

DHSMV believes the additional \$2 fee will offset additional administrative costs related to reviewing an applicant's documents and providing a driver's license or identification card with a temporary or permanent capital "V" denoting veteran status.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A veteran wishing to obtain the temporary capital "V" on his or her driver's license or identification card will be charged a \$2 fee. Veterans will be able to display their veteran status prior to their renewal period without having to pay for the renewal.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action(s) requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to identification cards and driver
 3 licenses; amending s. 322.051, F.S.; providing for a
 4 veteran to have a temporary sticker affixed to a state
 5 identification card which indicates veteran status;
 6 providing for a fee; amending s. 322.14, F.S.;
 7 providing for a veteran to have a temporary sticker
 8 affixed to a driver license which indicates veteran
 9 status; providing for a fee; providing an effective
 10 date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Paragraph (b) of subsection (8) of section
 15 322.051, Florida Statutes, is amended to read:

16 322.051 Identification cards.—

17 (8)

18 (b) A capital "V" shall be exhibited on the identification
 19 card of a veteran upon the payment of an additional \$1 fee for
 20 the license and the presentation of a copy of the person's DD
 21 Form 214, issued by the United States Department of Defense.

22 Until a veteran's identification card is next renewed, the
 23 veteran may have a temporary "V" sticker issued by the
 24 department and affixed to his or her identification card upon
 25 the payment of a \$2 fee and presentation of a copy of his or her
 26 DD Form 214.

27 Section 2. Paragraph (c) of subsection (1) of section
 28 322.14, Florida Statutes, is amended to read:

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29 322.14 Licenses issued to drivers.-

30 (1)

31 (c) A capital "V" shall be exhibited on the driver
 32 ~~driver's~~ license of a veteran upon the payment of an additional
 33 \$1 fee for the license and the presentation of a copy of the
 34 person's DD Form 214, issued by the United States Department of
 35 Defense. Until a veteran's license is next renewed, the veteran
 36 may have a temporary "V" sticker issued by the department and
 37 affixed to his or her license upon the payment of a \$2 fee and
 38 presentation of a copy of his or her DD Form 214.

39 Section 3. This act shall take effect July 1, 2012.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1165 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Economic Affairs Committee
2 Representative McBurney offered the following:

3
4 **Amendment**

5 Remove lines 21-38 and insert:
6 Form 214, issued by the United States Department of Defense, or
7 another acceptable form specified by the Department of Veterans'
8 Affairs. Until a veteran's identification card is next renewed
9 and upon surrender of their current identification card, the
10 veteran may have the "V" code added to his identification card
11 upon the payment of a \$2 fee to be deposited into the Highway
12 Safety Operating Trust Fund and presentation of a copy of his or
13 her DD Form 214 or another acceptable form specified by the
14 Department of Veterans' Affairs. If the applicant is not
15 conducting any other transaction, a replacement identification
16 card may be issued with the "V" designation without payment of
17 the fee required in s. 322.21(1)(f)3.
18

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1165 (2012)

Amendment No. 1

19 Section 2. Paragraph (c) of subsection (1) of section
20 322.14, Florida Statutes, is amended to read:

21 322.14 Licenses issued to drivers. -

22 (1)

23 (c) A capital "V" shall be exhibited on the driver
24 ~~driver's~~ license of a veteran upon the payment of an additional
25 \$1 fee for the license and the presentation of a copy of the
26 person's DD Form 214, issued by the United States Department of
27 Defense, or another acceptable form specified by the Department
28 of Veterans' Affairs. Until a veteran's license is next
29 renewed, and upon surrender of their current license the veteran
30 may have the "V" code added to his license upon the payment of
31 \$2 fee to be deposited into the Highway Safety Operating Trust
32 Fund and presentation of a copy of his or her DD Form 214 or
33 another acceptable form specified by the Department of Veterans'
34 Affairs. If the applicant is not conducting any other
35 transaction, a replacement license may be issued with the "V"
36 designation without payment of the fee required in s.
37 322.21(1)(e).

38

39