

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Finance and Tax Committee

BILL: SJR 4-B

INTRODUCER: Senators Haridoplos and Fasano

SUBJECT: Property Tax Reform

DATE: June 11, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	Johansen	FT	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SJR 4-B provides property tax relief to Florida taxpayers. Specifically, the SJR:

- Increases the homestead exemption to 75 percent of the first \$200,000 in just value, plus 15 percent of the next \$300,000 in just value; provides a minimum exemption of \$50,000, which is increased to \$100,000 for low-income seniors; adjusts the upper limit by growth in per capita Florida personal income and allows it to be increased by a 2/3 vote of the legislature;
- Limits the existing Save Our Homes assessment limitation to those homesteads for which it provides a greater benefit than the increased homestead exemption;
- Allows a statutory exemption from ad valorem taxes for tangible personal property no less than a value of \$25,000;
- Allows affordable housing subject to rent restrictions imposed by a governmental agency to be assessed by general law;
- Allows working waterfronts to be assessed by general law; and
- Requires the legislature to limit the authority of local governments, with the exception of school districts, to increase property taxes

SJR 4-B takes effect if approved by the voters, and will operate retroactively to January 1, 2008.

SJR 4-B substantially amends Sections 3, 4, 6, and 9 of Article VII, Florida Constitution, and creates section 27 of Article XII in the Florida Constitution.

II. Present Situation:

Tangible Personal Property

Article VII of the Florida Constitution grants exclusive authority to local governments to levy ad valorem taxes on real and tangible personal property,¹ 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 district² and that property must be assessed at just value unless the Constitution provides for a different assessment standard.³ Tangible personal property is singled out for special treatment by the following constitutional provisions:

SECTION 1. Taxation; appropriations; state expenses; state revenue limitation.--

(b) Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes, as defined by law, shall be subject to a license tax for their operation in the amounts and for the purposes prescribed by law, but shall not be subject to ad valorem taxes.

SECTION 3. Taxes; exemptions.--

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

(d) By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years.

SECTION 4. Taxation; assessments.--By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

Tangible personal property not excluded by the above provisions is subject to ad valorem taxation.

¹ Sections 1(a) and 9(a), Art. VII, State Constitution.

² Section 2, Art. VII, State Constitution.

³ Section 4, Art. VII, State Constitution.

Section 193.052, F.S., requires that tax returns be filed for tangible personal property in the county where the property is located. The Department of Revenue is directed to promulgate rules to ensure that all railroad and utility property is properly returned in the appropriate county. However, the evaluating or assessing of utility property in each county is the duty of the property appraiser. Department of Revenue form DR-405 requires that a separate return must be filed by a taxpayer for each location in the county, except for owners of vending machines, propane tanks and similar free-standing property at many locations, who may submit a single return.

In 2006, 1,293,043 tangible personal property tax returns were filed, with a total taxable value of \$103.7 billion. The 997,109 returns with taxable amounts less than \$25,000 accounted for only \$4.5 billion of the total taxable value.

Save Our Homes

In 1992, Florida voters approved an amendment to s. 4, Art. VII of the State Constitution that is popularly known as the “Save Our Homes” amendment. Beginning with the 1994 tax roll, the assessment of homestead property was limited to the Consumer Price Index or 3 percent, whichever is lower, and the limitation was first applied to the January 1, 1995 assessment.

As provided by law, after any change in ownership, as provided by general law, homestead property must be assessed at just value as of January 1 of the following year. Thereafter the property is subject to the Save Our Homes assessment limitation. New homestead property must be assessed at just value as of January 1 of the first year the property owner establishes homestead. Thereafter the property is subject to the Save Our Homes assessment limitation. Changes, additions, reductions, and improvements to homestead property are assessed as provided by general law, but after its initial assessment this property is subject to the Save Our Homes assessment limitation. If homestead status is terminated the property is assessed at just value.

Purpose of the Save Our Homes Amendment

In *Smith v. Welton*,⁴ the First District Court of Appeal said:

The purpose of the amendment is to encourage the preservation of homestead property in face of ever increasing opportunities for real estate development, and rising property values and assessments. The amendment supports the public policy of this state favoring preservation of homesteads. Similar policy considerations are the basis for the constitutional provisions relating to homestead tax exemption, exemption from forced sale, and the inheritance and alienation of homestead.

Impact of Save Our Homes

In the twelve years since Save Our Homes first limited the assessment of homestead property, its impact on the assessed value of this property has far exceeded original expectations. In 1997, the

⁴ 710 So. 2d 135, 137 (Fla. App. 1998)

third year of assessment limitations, Save Our Homes reduced the assessed value of homestead property by 3 percent. In 2006, Save Our Homes reduced homestead just value by more than 38 percent. The \$405 billion reduction from Save Our Homes in 2006 equals approximately 25 percent of the statewide total taxable value.

Affordable Housing

The Florida Constitution provides no exception to the just value standard for assessment of property in affordable housing programs. Under statutory provisions, in assessing property in the Low-Income Housing Tax Credit Program, neither the tax credits nor the financing generated by the tax credits may be considered income to the property, and the actual rental income from rent-restricted units may be recognized by the property appraiser.⁵ A property tax exemption exists for property used to provide affordable housing for eligible individuals if the property is owned entirely by a charitable nonprofit entity meeting certain federal criteria.⁶ HB 1375, enacted by the 2007 Legislature, authorizes a county or municipality to adopt an ordinance to allow for the deferral of property taxes and non-ad valorem assessments if the owners of the property are operating, rehabilitating, or renovating affordable rental housing property. The use of the property as affordable housing must be maintained over the deferral period or the total amount of deferred assessments, taxes and interest becomes due and payable on November 1 of the year in which the use of the property was changed.

The cost of housing has risen much faster in recent years than household income. From 2003 through 2005 the affordability of housing fell throughout the state.⁷ In 2003, the median household had sufficient income to purchase a single-family home selling at the median price in 52 counties; by 2005 this was true in only 18 counties. In 2005, 5 counties – Miami-Dade, Collier, Franklin, Walton, and Monroe – had a median household income less than half of the income needed to buy a median-priced single-family home. Statewide, the average median sales price of a home was \$235,000 and the average home-buying power was \$157,650 – a gap of more than \$77,000. Florida has more than 1 million households that qualify as extremely-low-income households.⁸

Working Waterfronts

“Recreational and commercial working waterfront” means a parcel or parcels of real property that provide access for water-dependent commercial activities, including hotels and motels as defined in s. 509.242(1), F.S., or that provide access for the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to, or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities open to the public that offer public access by vessels to the waters of the state or are support facilities for recreational, commercial, research, or governmental vessels. These facilities include public lodging establishments, docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and

⁵ S. 193.017, F.S.

⁶ S. 196.1978, F.S.

⁷ The State of Florida’s Housing 2006, Shimberg Center for Affordable Housing, 2007.

⁸ *Id.*

repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water. Seaports are excluded from the definition.⁹

Counties and cities may allow tax deferrals for recreational and commercial working waterfronts by adopting ordinances or resolutions which specify:

- the percentage of taxes to be deferred,
- the type of working waterfront property eligible for the tax deferral, and
- the location of property.

Tax deferrals and other liens may not exceed 85 percent of assessed value and the primary mortgage may not exceed 70 percent of assessed value. The deferred tax and interest (variable up to 9.5 percent) are due when:

- the property is sold,
- the required property insurance is not maintained, or
- the property ceases to be used as a working waterfront.

For coastal counties, the future land use element of comprehensive planning must include, without limitation, regulatory incentives and criteria that encourage the preservation of recreational and commercial working waterfronts as defined in s. 342.07, F.S.¹⁰

Public access to navigable water is diminishing. Commercial working waterfronts face increasing expenses, including taxes and insurance. Establishing new working waterfronts with public access may not be financially feasible.

Homestead Exemption – Section 6, Art. VII, Florida Constitution

Subsection (a), Art. VII of the Florida Constitution provides that every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another person legally or naturally dependent on the owner, shall be exempt from taxation up to the assessed value of five thousand dollars. Subsection (b) provides that only one exemption shall be allowed to any individual or family unit. Subsections (c) and (d) provide that under certain conditions the homestead exemption is \$25,000, which is, in fact, the effective homestead exemption. Subsection (f) provides that, by local option, an additional homestead exemption of up to \$50,000 is available to low-income seniors, and subsection (g) provides an ad valorem tax discount for homestead property owned by disabled veterans who were Florida residents at the time they entered military service.

In 2006 there were 4,368,937 homesteads in Florida, and the homestead exemption reduced the 2006 tax roll by \$108.9 billion, or 17%.

Low-Income Seniors

Any county or city may allow an additional homestead exemption of up to \$50,000 for any person 65 years of age and older whose household income¹¹ does not exceed \$24,214 (in 2007).

⁹ S. 342.07, F.S.

¹⁰ S. 163.3177, F.S.

¹¹ As defined in s. 62 of the United States Internal Revenue Code.

The income limit is increased each year by the percentage change in the Consumer Price Index. The exemption only applies to taxes levied by the county or city enacting the exemption.¹² In 2006, 53 counties and 178 municipalities had implemented the exemption. Prior to the constitutional amendment effective January 1, 2007, the exemption limit was \$25,000. There are 211,000 homesteads benefiting from the current exemption.

Homeowners 65 years of age and older, with household income of less than \$24,214 in the prior year, may defer all ad valorem taxes and non-ad valorem assessments. All senior homesteaders may defer the portion of their tax levy that exceeds 3 percent of household income so long as tax deferrals and other liens do not exceed 85 percent of assessed value and the primary mortgage may not exceed 70 percent. Deferred tax and interest up to 7 percent are due when the property is sold, property insurance is not maintained, or the property ceases to qualify for homestead exemption.

The household income limitation does not capture all income. Household income is measured by “adjusted gross income” as reported to the IRS. This income measure excludes income from a number of sources, including income from tax-free bonds, some social security income, and some types of retirement income.

There were 1.2 million homesteads in Florida owned by persons 65 years of age or older in 2006. Based on U.S. Census data, 42 percent of the total population 65 years of age and older has household income below \$25,000.

Limitations on Ad Valorem Taxes

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.¹³ Local governments may levy ad valorem taxes subject to the following limitations:

- 10 mills for county purposes,
- 10 mills for municipal purposes,
- 10 mills for school purposes,
- 1 mill for water management purposes, except in Northwest Florida where the limit is .05 mill,
- Millage fixed by law for a county furnishing municipal services, and
- Millage authorized by law and approved by voters for special districts.¹⁴

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.¹⁵

¹² Art. VII, sec. 6(f), Fla. Const., and s. 196.075, F.S.

¹³ Art. VII, sec. 1(a), Fla. Const.

¹⁴ Art. VII, sec. 9, Fla. Const. A mill is equal to \$1 per \$1,000 of value, or .001. A tax rate of 10 mills is equal to 1%.

¹⁵ Art. VII, sec 9(b), Fla. Const.

III. Effect of Proposed Changes:

Ad Valorem Taxes on Homestead Property

SJR 4-B provides for an increase in the homestead exemption. The new homestead exemption will exempt 75 percent of the first \$200,000 in just value, with a minimum exemption of \$50,000 per homestead. Additionally, homestead property will receive an exemption of 15 percent on just value from \$200,001 to \$500,000. This \$500,000 limit is automatically increased each year by per capita Florida personal income, and may be increased by a 2/3 vote of the Legislature. The minimum homestead exemption for low-income seniors is \$100,000.

The SJR amends Save Our Homes so that the assessment limitation applies only to homestead property that receives a greater tax savings on January 1, 2008 under Save Our Homes than under the new homestead exemption. Those “grandfathered” homesteads will continue to be assessed under the Save Our Homes limitation. They will not receive the new homestead exemption contained in SJR 4B but will receive all homestead exemptions to which they were entitled on December 31, 2007.

Constitutional exemptions that are retained under the SJR include those now provided to disabled veterans and low-income seniors.

Required Local Effort

The SJR grants a larger exemption to homesteads and reduces the tax base by exempting tangible personal property and reducing assessments of affordable housing and working waterfront property, thereby reducing the tax base for all taxing authorities, including school districts. The Legislature annually determines the level of overall education funding as part of its budget development process. The portion of this funding that comes from local property taxes is known as the Required Local Effort (RLE). This is the amount that each county must produce in order to participate in the Florida Education Finance Program. While the General Appropriations Act only establishes the total required funding level, it necessarily implies a statewide millage rate that the RLE generates. If taxable values are reduced for school districts, then for a given required funding level, local millage rates required to raise this level of revenue must increase. However, a reduced tax base need not harm school districts, as it is the Legislature’s required funding level that determines local required levies. Alternatively, the Legislature may need to increase taxes or provide funding from other sources to mitigate some of the loss of local revenue to school districts.

Tangible Personal Property

The SJR allows an exemption from ad valorem taxes to tangible personal property (TPP) of at least \$25,000.

Affordable Housing

The SJR allows real property used to provide affordable housing subject to rent restrictions imposed by a government agency to be classified and assessed based on use.

Working Waterfronts

The SJR allows land that is used exclusively for commercial fishing purposes or that is open to the public and used predominantly for commercial water-dependent activities or for public access to waters that are navigable to be assessed as provided by general law. "Water-dependent activity" is limited to activities that can be conducted only on, in, over, or adjacent to waters that are navigable and that require direct access to water and involve the use of water as an integral part of the activity.

Authority to Increase Taxes

The SJR requires the Legislature to limit the authority of counties, municipalities, and special districts to increase ad valorem taxes.

SJR 4-B will take effect upon approval by the electorate and will operate retroactively to January 1, 2008.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The mandates provision of the Florida Constitution does not apply to Joint Resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

If the changes to the State Constitution in SJR 4-B are approved by the voters, local governments' ad valorem tax revenues will be reduced as follows at the maximum millage rates provided in SB 2-B:

Revenue Impacts by Issue (\$ Millions)					
	2008-09	2009-10	2010-11	2011-12	4 year total
Homestead Exemption	(3,177)	(3,454)	(3,737)	(3,936)	(14,303)
Low income Senior Exemption	(58)	(58)	(57)	(57)	(230)
Affordable Housing	(80)	(81)	(82)	(85)	(328)
Working Waterfronts	(72)	(75)	(80)	(85)	(312)
Tangible Personal Property	(212)	(212)	(213)	(217)	(854)

B. Private Sector Impact:

At maximum millage rates provided by SB 2-B, property owners would pay an estimated \$16.1 billion less in ad valorem taxes during fiscal years 2008-09 through 2011-12.

C. Government Sector Impact:

At maximum millage rates provided by SB 2-B, local governments would experience an estimated \$16.1 billion reduction in ad valorem tax collections during fiscal years 2008-09 through 2011-12.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
