

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB FTC 16-03 Ad Valorem Tax Exemption for Deployed Servicemembers

**SPONSOR(S):** Finance & Tax Committee

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Committee	16 Y, 0 N	Dugan	Langston

### SUMMARY ANALYSIS

Current law provides an additional ad valorem tax homestead exemption to military servicemembers deployed in the previous year outside of the United States in support of certain named military operations designated by the Legislature. The exemption is equal to the taxable value of the qualifying servicemember's homestead on January 1 of the year in which the exemption is sought, multiplied by the number of days that the servicemember was on a qualifying deployment in the preceding calendar year, and divided by the number of days in that year. By January 15 of each year, the Department of Military Affairs (DMA) must submit to the Legislature a report of the military operations eligible for the exemption.

The bill updates the designated operations for which deployed servicemembers may qualify. Based upon the 2015 DMA report, the bill removes Operation Iraqi Freedom from the statutory list, which ended on August 31, 2010, and adds 11 operations to the statutory list. The bill also allows the exemption for deployments in newly named operations beginning with deployments in calendar year 2014.

The bill extends the normal March 1 application deadline for the exemption application for qualifying deployments during the 2014 and 2015 calendar years to June 1, 2016.

The bill also provides refund procedures for servicemembers who were on qualifying deployments for more than 365 days during the 2014 and 2015 calendar years.

The Revenue Estimating Conference estimates that this bill will reduce local property tax revenues by -\$1.6 million in Fiscal Year 2016-2017, with a recurring impact of -\$800,000 thereafter.

This bill is effective upon becoming a law, and first applies to tax rolls for 2016.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, cities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.<sup>1</sup> The property appraiser annually determines the “just value”<sup>2</sup> of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”<sup>3</sup> Tax bills are typically mailed in late October and early November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes,<sup>4</sup> and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.<sup>5</sup>

##### Ad Valorem Exemption for Deployed Servicemembers<sup>6</sup>

The Florida Constitution grants an exemption for military servicemembers that have Florida homesteads and are deployed on active duty outside the continental United States, Alaska or Hawaii in support of military operations designated by the Legislature.<sup>7</sup> The exemption is equal to the taxable value of the qualifying servicemember’s homestead on January 1 of the year in which the exemption is sought, multiplied by the number of days that the servicemember was on a qualifying deployment in the preceding calendar year, and divided by the number of days in that year.<sup>8</sup>

In 2014, over 1,400 deployed service members were granted an additional property tax exemption in recognition of their service.<sup>9</sup>

##### Eligible Military Operations

The Legislature has designated the following military operations as eligible for the exemption:

- Operation Noble Eagle, which began on September 15, 2001;
- Operation Enduring Freedom, which began on October 7, 2001;
- Operation Iraqi Freedom, which began on March 19, 2003, and ended on August 31, 2010;
- Operation New Dawn, which began September 1, 2010, and ended on December 15, 2011; or
- Operation Odyssey Dawn, which began on March 19, 2011, and ended on October 31, 2011.<sup>10</sup>

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<sup>1</sup> Both real property and tangible personal property can be subject to the tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>2</sup> Property must be valued at “just value” for purposes of property taxation unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

<sup>3</sup> *See* s. 192.001(2) and (16), F.S.

<sup>4</sup> FLA. CONST. art. VII, s. 1(a)

<sup>5</sup> *See* FLA. CONST. art. VII, s. 4.

<sup>6</sup> Section 196.173(7), F.S., defines the term “servicemember” for purposes of this exemption to mean a member or former member of any branch of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard.

<sup>7</sup> Fla. Const. art. VII, s. 3(g).

<sup>8</sup> s. 196.173(4), F.S.

<sup>9</sup> Revenue Estimating Conference, *Deployed Service Members Exemptions, House Proposed Language. October 2, 2015.*

<sup>10</sup> s. 196.173(2), F.S.

## Annual Report of All Known and Unclassified Military Operations

By January 15 of each year, the Department of Military Affairs (DMA) must submit to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature a report of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year.<sup>11</sup>

To the extent possible, the report must include:

- The official and common names of the military operations;
- The general location and purpose of each military operation;
- The date each military operation commenced; and
- The date each military operation terminated, unless the operation is ongoing.<sup>12</sup>

### Exemption Application

A servicemember who seeks to claim the tax exemption must file an application for exemption with the property appraiser on or before March 1 of the year following the year of the qualifying deployment.<sup>13</sup>

The servicemember's application must include:

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

The property appraiser must consider a servicemember's application for the exemption within 30 days after receipt of the application or within 30 days after receiving notice of the designation of qualifying deployments by the Legislature, whichever is later.<sup>14</sup> If a servicemember's application is denied, the property appraiser must send a notice of disapproval no later than July 1, citing the reason for disapproval and advising the servicemember of the right to appeal the decision to the value adjustment board (VAB) along with the procedures for filing such appeal.<sup>15</sup>

### **Effect of Proposed Changes**

The DMA has submitted the report required by s. 196.173(3), F.S., providing the names, dates, locations and general purposes of all known and unclassified military operations that occurred outside the continental United States in calendar year 2015.<sup>16</sup>

The bill amends s. 196.173(2), F.S., to remove from the statutory list Operation Iraqi Freedom, which ended on August 31, 2010. The final year a servicemember could apply for an exemption under s. 196.173, F.S., for a deployment on Operation Iraqi Freedom was 2011. Further, any refund claim for ad valorem taxes paid must be made within four years after January 1 of the tax year for which the taxes were paid. For example, a servicemember who was deployed in 2010 and paid property taxes (and claimed the exemption) in 2011, must submit his or her refund claim before January 1, 2015.

The bill also amends s. 196.173(2), F.S., to add to the statutory list the following 11 operations from the 2015 DMA report:

- Operation Joint Guardian;
- Operation Octave Shield;
- Operation Trans-Sahara Counterterrorism Partnership;
- Operation Nomad Shadow;
- Operation U.S. Airstrikes Al Qaeda in Somalia;
- Operation Objective Voice;

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<sup>11</sup> s. 196.173(3), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> s. 196.173(5)(a), F.S.

<sup>14</sup> s. 196.173(6), F.S.

<sup>15</sup> ss. 194.015 and 194.011, F.S.

<sup>16</sup> State of Florida Department of Military Affairs Office of the Adjutant General, *Named Operations Report* (Feb. 17, 2015).

- Operation Georgia Deployment Program;
- Operation Copper Dune;
- Operation Observant Compass;
- Operation Juniper Shield; and
- Operation Inherent Resolve.

The bill also allows the exemption for deployments in newly named operations beginning with deployments in calendar year 2014. The application deadline for qualifying deployments during the 2014 and 2015 calendar years is changed to June 1, 2016, for the military operations added by the bill.

The bill specifies that a property appraiser may grant the exemption to an otherwise qualifying applicant who fails to meet the June 1, 2016, deadline, under the following conditions:

- The applicant files on or before the 25th day after the mailing by the property appraiser of the notices required under s. 194.011(1), F.S. (i.e., the “TRIM” notices), during the 2016 calendar year;
- The applicant is qualified under the exemption; and
- The applicant produces sufficient evidence to demonstrate that they were unable to apply in a timely manner.

The bill provides an opportunity for review by a value adjustment board (VAB), if the applicant files a petition on or before the 25th day following the mailing by the property appraiser of the notices required under s. 194.011(1), F.S., and demonstrates extenuating circumstances that warrant granting the exemption. Payment of the VAB filing fee is waived.

The bill also provides that if the number of days that a servicemember was on qualifying deployments in the 2014 and 2015 calendar years exceeds 365 days, the servicemember may receive a refund of taxes paid for the 2015 tax year. The amount of the 2015 tax year refund is equal to the number of days in excess of 365 that the servicemember was on qualifying deployments in the 2014 and 2015 calendar years divided by 365.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 196.173, F.S., to add 11 military operations that qualify for the exemption.

Section 2. Provides an application deadline for 2016.

Section 3. Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

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

##### 1. Revenues:

On October 2, 2015, the REC estimated that this bill will reduce local property tax revenues by -\$1.6 million in Fiscal Year 2016-2017, with a recurring impact of -\$800,000, thereafter, assuming current millage rates.

2. Expenditures:

The bill provides additional duties to county property appraisers and VABs, which must consider servicemembers' applications for exemption that would otherwise not have met the filing deadline.

The bill may also require tax collectors to issue refunds to servicemembers if the servicemembers were on qualifying deployment for more than 365 days during the 2014 and 2015 calendar years.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the bill becomes law, servicemembers deployed overseas in support of the added military operations may receive property tax relief.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill expands the designated operations which certain deployed servicemembers may be eligible for an exemption from ad valorem taxes, resulting in less ad valorem taxes to local governments. Also, the bill may require some additional expenditures to process exemption applications and refund requests. However, an exemption may apply because the fiscal impact may be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES