

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 813 Homestead Property Tax Discount for Disabled Veterans

SPONSOR(S): Veteran & Military Affairs Subcommittee

TIED BILLS: PCS for HJR 811 **IDEN./SIM. BILLS:** SB 816

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Veteran & Military Affairs Subcommittee		Renner	Thompson

SUMMARY ANALYSIS

PCS for HB 813 is the implementing legislation for PCS for HJR 811.

HJR 811 proposes an amendment to the Florida Constitution to allow the same ad valorem tax discount on homestead property for combat-disabled veterans age 65 or older to carry over to the surviving spouse of a veteran receiving the discount if the surviving spouse holds legal or beneficial title to the homestead and permanently resides thereon. The discount would apply to the property until the surviving spouse remarries, sells, or otherwise disposes of, the property. If the surviving spouse sells the property, the discount may be transferred to the surviving spouse's new residence, not to exceed the dollar amount granted from the most recent ad valorem tax roll, as long as the residence is used as the surviving spouse's permanent residence and he or she does not remarry.

PCS for HB 813 establishes this legislation in statute.

On December 18, 2015, the Revenue Estimating Conference (REC) estimated that if HJR 811 should pass, the local government revenue impact of HB 813 beginning in Fiscal Year 2016-17 would be -\$1.5 million, growing to -\$3.5 million in 2020-21, holding the 2014 statewide average property tax rates constant.

This bill takes effect on the same date that PCS for HJR 811, or a similar joint resolution, is approved by the electors at the general election to be held in November 2016 or at an earlier special election specifically authorized for that purpose. If approved by the voters in the general election held November 2016, the joint resolution will become effective on January 1, 2017, and will first apply to the 2017 property tax roll.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Property Taxes in Florida

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.¹ The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.² The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,³ and it provides for specified assessment limitations, property classifications and exemptions.⁴ After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.⁵

Exemptions

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

Case law precedent provides that the Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁶

Article VII, section 3 of the Florida Constitution provides for other specific exemptions from property taxes, including, but not limited to, exemptions for widows and widowers, blind persons, persons who are totally and permanently disabled.

Military Service

Article VII, section 6(e) of the Florida Constitution provides a discount on the amount of ad valorem tax otherwise owed on the homestead property of an honorably discharged veteran who is age 65 or older and is partially or totally permanently disabled as a result of combat. Section 196.082, F.S., implements this provision. The discount is equal to the percentage of the veteran's permanent, service-connected disability as determined by the United States Department of Veterans Affairs.⁷ The discount is limited to

¹ Fla. Const. art. VII, s. 1(a).

² Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

³ Fla. Const., art. VII, s. 4.

⁴ Fla. Const. art. VII, ss. 3, 4, and 6.

⁵ s. 196.031, F.S.

⁶ *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

⁷ The U.S. Department of Veterans Affairs (USDVA) assigns a percentage evaluation from 0-percent to 100-percent (in 10-percent increments) for the amount of disability that the USDVA determines the veteran has sustained. The resulting disability percentage rating determines the level of a veteran's monthly disability compensation.

veterans with a combat related disability, and not all service-connected disabilities are combat related.⁸ Further, current law does not allow the spouse of a veteran receiving this discount to claim the benefit if he or she survives the veteran.

In 2015, 8,510 veterans received the combat-disabled ad valorem tax discount.⁹ According to the Florida Department of Veterans Affairs, there are more than 731,000 veterans over the age of 65 residing in Florida.¹⁰ The U.S. Department of Veterans Affairs indicates that there were 177,664 veterans over the age of 55 in Florida receiving compensation for service-related conditions at the end of Fiscal Year 2013.¹¹

Effect of Proposed Changes

PCS for HB 813 is the implementing legislation for PCS for HJR 811. The bill establishes in statute that the ad valorem discount on homestead property for combat-disabled veterans age 65 or older must carry over to the surviving spouse of a veteran receiving the discount if the surviving spouse holds legal or beneficial title to the homestead and permanently resides thereon.

The discount would apply to the property until the surviving spouse remarries, sells, or otherwise disposes of the property. If the surviving spouse sells the property, the discount may be transferred to the surviving spouse's new residence, not to exceed the dollar amount granted from the most recent ad valorem tax roll, as long as the residence is used as the surviving spouse's permanent residence and he or she does not remarry.

B. SECTION DIRECTORY:

Section 1 Amends s. 196.082, F.S., relating to discounts for disabled veterans.

Section 2 Provides for a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

⁸ United States Department of Veterans Affairs, Office of Public and Intergovernmental Affairs, Federal Benefits for Veterans, Dependents and Survivors, Chapter 2-Service-connected Disabilities, available at: http://www.va.gov/opa/publications/benefits_book/benefits_chap02.asp (last viewed December 14, 2015)

⁹ Revenue Estimating Conference, *Combat-related Disability/Surviving Spouse Discount: HJR 811* (December 18, 2015).

¹⁰ Florida Department of Veterans Affairs website, Fast Facts, available at: <http://floridavets.org/our-veterans/profilefast-facts/> (last viewed December 14, 2015).

¹¹ The USDVA provides data in 20 year increments. There was no data available that provided the number of veterans receiving disability compensation in a range that began at age 65. U.S. Department of Veterans Affairs, Veterans Benefits Administration, *Annual Benefits Report: Fiscal Year 2013*, <http://www.benefits.va.gov/REPORTS/abr/ABR-Combined-FY13-09262014.pdf> (last visited December 14, 2015).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On December 18, 2015, the REC estimated the bill to have a zero or negative indeterminate impact on local government revenue due to the need for approval by the electorate and further implementation by the Legislature. However, if the PCS for HJR 811 is approved by the electorate and implemented by the Legislature, the REC determined this bill would have a local government revenue impact beginning in Fiscal Year 2016-17 of -\$1.5 million (-\$0.8 million school and -\$0.7 million non-school), growing to -\$3.5 million in 2020-21 (-\$1.9 million school and -\$1.6 million non-school), holding the 2014 statewide average property tax rates constant. The Fiscal Year 2016-17 cash impact is zero because of the effective date.¹²

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the bill is approved and implemented by the Legislature, surviving spouses of certain veterans could receive property tax relief.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

¹² Revenue Estimating Conference, *Combat-related Disability/Surviving Spouse Discount: HJR 811* (December 18, 2015).
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