

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1503 Ad Valorem Taxation
SPONSOR(S): Fischer
TIED BILLS: HJR 923 **IDEN./SIM. BILLS:** SB 1264

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee		Leshko	Miller
2) Ways & Means Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Constitution requires all real estate or tangible personal property to be assessed at just value (i.e. market value) as of January 1 of each year for purposes of ad valorem taxation. Ad valorem assessments are used to calculate property taxes that fund counties, municipalities, school districts, and special districts. The taxable value against which local governments levy tax rates each year reflects the just value as reduced by applicable exceptions and exemptions allowed by the Florida Constitution. One such exemption is on the first \$25,000 of assessed value of a homestead property, which is exempt from all taxes. A second homestead exemption is on the assessed value between \$50,000 and \$75,000, which is exempt from all taxes other than school district taxes.

This bill implements HJR 923, which amends art. VII, s. 6 of the Florida Constitution and creates a new section in art. XII of the Florida Constitution to allow for an additional ad valorem taxation exemption up to \$25,000 on a homestead property with an assessed value that is greater than \$50,000, and for a periodic increase in this additional exemption as provided by general law. The bill provides that on January 1, 2023, and every January 1st thereafter, this taxation exemption shall be recalculated and shall be equal to the greater of the prior year's exemption or the prior year's exemption multiplied by the percentage change in the Florida House Price Index (based on the all transactions, not seasonally adjusted data set provided by the Federal Housing Finance Agency) between the most recent 4th quarter period ending September 30th compared to the 4th quarter period ending September 30th of the year immediately preceding the most recent period.

If the proposed constitutional amendment is approved, the REC estimates that this bill will have an annual recurring negative impact of \$122,200,000 on local government revenues.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Property Tax

Ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts.¹ The tax is based on the taxable value of property as of January 1 of each year.² The property appraiser annually determines the assessed or “just value”³ of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”⁴ The property appraiser then submits the certified assessment roll to the tax collector.⁵ The tax collector sends out a tax notice to each taxpayer stating the amount of current taxes due within 20 business days after receiving the certified ad valorem tax roll.⁶ All taxes are due and payable on November 1st of each year and become delinquent on the following April 1.⁷

In order to arrive at the just valuation of ad valorem taxation property contemplated in s. 4, Art. VII, Fla. Const., Florida law provides that property appraisers take into consideration the following eight criteria:

- Present cash value of the property;
- The highest and best use to which the property can be expected to be put in the immediate future and present use;
- Location;
- Quantity or size;
- Cost and present replacement value of any improvements;
- Condition;
- Income; and
- Net proceeds of the sale of the property.⁸

While the just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁹ the Florida Constitution authorizes certain types of property to be valued based on current use (classified use assessments), which often result in lower assessments.¹⁰ Properties receiving classified use treatment in Florida include agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for non-commercial recreational purposes;¹¹ land used for conservation purposes;¹² historic properties when authorized by the county or municipality;¹³ and certain working waterfront property.¹⁴

¹ Art. VII, s. 9(a), Fla. Const.; The Florida Constitution prohibits the state from levying ad valorem taxes. Art. VII, s. 1(a), Fla. Const.

² S. 193.155(1); Both real property and tangible personal property are subject to ad valorem tax. Art. VII, Fla. Const.; “Real property” is defined as land, buildings, fixtures, and all other improvements to land. S. 192.001(12), F.S.; “Tangible personal property” is defined as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself. S. 192.001(11)(d), F.S.

³ Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. Art. VII, s. 4, Fla. Const.; 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); and *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

⁴ See s. 192.001(2) and (16), F.S.; The Florida Constitution limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized. Art. VII, s. 4, Fla. Const.

⁵ S. 197.322(1), F.S.

⁶ S. 197.322(3), F.S.

⁷ S. 197.333, F.S.

⁸ S. 193.011, F.S.

⁹ S. 193.011(2), F.S.

¹⁰ Art. VII, s. 4, Fla. Const.

¹¹ Art. VII, s. 4(a), Fla. Const.

¹² Art. VII, s. 4(b), Fla. Const.

¹³ Art. VII, s. 4(e), Fla. Const.

¹⁴ Art. VII, s. 4(j), Fla. Const.

Homestead Exemption

Every person who, on January 1, has legal or equitable title to real property who in good faith makes the property (homestead property) their permanent residence or the permanent residence of another or others legally or naturally dependent upon them, is eligible for a tax exemption of up to \$25,000 of the assessed value of the property.¹⁵ An additional exemption applies to the assessed value of homestead property greater than \$50,000 up to \$75,000. This additional exemption does not apply to ad valorem taxes levied by school districts.¹⁶

Effect of Proposed Changes

This bill implements HJR 923, which amends art. VII, s. 6 of the Florida Constitution and creates a new section in art. XII of the Constitution, revising the additional ad valorem taxation exemption to be up to \$25,000 on a homestead property with an assessed value exceeding \$50,000 and providing for a periodic increase in this additional exemption as authorized by general law. The bill provides that on January 1, 2023, and every January 1st thereafter, this taxation exemption shall be recalculated and shall be equal to the greater of the prior year's exemption or the prior year's exemption multiplied by the percentage change in the Florida House Price Index (based on the all transactions, not seasonally adjusted data set provided by the Federal Housing Finance Agency)¹⁷ between the most recent 4th quarter period ending September 30th compared to the 4th quarter period ending September 30th of the year immediately preceding the most recent period.

B. SECTION DIRECTORY:

Section 1: Amends s. 196.031, F.S., to provide for the periodic increase in the ad valorem taxation exemption on a homestead property's assessed value that is greater than \$50,000.

Section 2: Provides the bill shall take effect on the effective date of an amendment to the Florida Constitution proposed by HJR 923 or a joint resolution having substantially the same specific intent and purpose, if such an amendment is approved at the next general election or at an earlier special election specifically authorized by law for that purpose.

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:

The Revenue Estimating Conference (REC) estimates the bill will have a zero or negative indeterminate impact on local government revenue due to the need for approval by the voters of the constitutional amendment proposed by HJR 923, in order for this bill to take effect. If the proposed

¹⁵ Art. VII, s. 6(a), Fla. Const.; s. 196.031(1)(a), F.S.

¹⁶ Art. VII, s. 6(a), Fla. Const.; See also S. 196.031(1)(b), F.S.

¹⁷ Federal Housing Finance Agency, *House Price Index Data Sets*,

<https://www.fhfa.gov/DataTools/Downloads/Pages/House-Price-Index-Datasets.aspx#qat> (last visited Jan. 20, 2022).

constitutional amendment is approved, the REC estimates that the bill will have an annual recurring negative impact of \$122,200,000 on local government revenues.¹⁸

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the bill goes into effect, the periodic adjustments are likely to increase the amount of assessed value of real property subject to homestead tax exemptions, reducing the total amount of ad valorem taxes paid by residential homestead property owners.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill allows for a greater ad valorem tax exemption on homestead property's assessed value greater than \$50,000, reducing the ability of local governments to generate revenue from property taxes. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

¹⁸ This estimate is based on the REC results from the January 7, 2022, meeting where the committee reviewed and scored SB 1264 which is the implementing bill for SJR 1266. Revenue Estimating Conference, http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2022/_pdf/Impact0107.pdf (last visited Jan. 21, 2022).