



## TAXATION AND BUDGET REFORM COMMISSION

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### Staff Analysis and Economic Impact Statement

Measure: CP 23

REFERENCE:

ACTION:

Sponsor: Commissioner Gwen Margolis

1. FTC

Pre-meeting

2.

Subject: Property Tax Exemptions for  
Non-resident Property Owners

3.

Date: February 7, 2008

#### I. Summary:

Constitutional Proposal 23 permits non-resident property owners who own residential property in Florida to claim a \$50,000 tax exemption on a single property for 2009. The exemption will apply to the property after 2009 if the property owner meets the following requirements:

1. The property becomes a permanent residence of the property owner or a legal dependent of the owner, and
2. The property owner is eligible for and claims a homestead exemption on the property.

#### II. Present Situation:

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

Prior to January, 2008, Subsection (a), Art. VII of the Florida Constitution provided 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, was exempt from taxation up to the assessed value of five thousand dollars. Subsection (b) provided that only one exemption was allowed to any individual or family unit. Subsections (c) and (d) provided that, under certain conditions, the homestead exemption was \$25,000. Subsection (f) provided that, by local option, an additional homestead exemption of up to \$50,000 was available to low-income seniors. Subsection (g) provided an ad valorem tax discount for homestead property owned by disabled veterans who were Florida residents at the time they entered military service.

On January 29, 2008, the voters of Florida approved a property tax relief proposal which:

1. Provides an additional \$25,000 homestead exemption on the value of a homestead valued over \$50,000, except for school levies;
2. Provides portability of the Save-Our-Homes differential, applicable to all tax levies;
3. Establishes a \$25,000 exemption on tangible personal property, applicable to all taxes levies; and
4. Provides a 10 percent cap on the increase of assessed value for non-homestead properties, except for school levies.

The proposal did not provide any benefits to non-residential homeowners.

### **III. Effect of Proposed Changes:**

Constitutional Proposal 23 permits non-resident property owners who own residential property in Florida to claim a one-time \$50,000 tax exemption on a single property. The exemption is only for 2009, unless the property becomes the permanent residence of the property owner or a legal dependent of the owner and the property owner is eligible for and claims a homestead exemption on the property.

Only one exemption is allowed for any individual or family unit and the exemption does not apply to time-share property.

Constitutional Proposal 23, if passed by the electors, will provide a more comprehensive exemption for non-residents since the proposal does not exclude school ad valorem taxes from the increased homestead exemption amount.

### **IV. Constitutional Issues:**

#### **A. Constitutional or Statutory Issues:**

Constitutional Proposal 23 creates an additional ad valorem tax exemption in Section 6, Art. VII, Fla. Const.

#### **B. Other Constitutional Issues:**

The Equal Protection Clause of the U.S. Constitution prohibits discrimination by state government institutions. The clause grants all people "equal protection of the laws," which means that the states must apply the law equally and cannot give preference to one person or class of persons over another. In this context, providing an exemption to non-residents could potentially be construed as a violation of the equal protection clause.

### **V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

The fiscal impact of CP 23 is indeterminate. However, any additional property tax exemption will have an adverse impact on the level of ad valorem taxes collected by local governments. The Revenue Estimating Conference fiscal analysis for Senate Bill 2D (2007), indicated that there were 4,464,236 homesteads in Florida in 2007, and the homestead exemption reduced the 2007 tax roll by \$111 billion, or 15.2 percent.

**B. Private Sector Impact:**

Constitutional Proposal 23 will reduce ad valorem taxes paid by non-residents. However, ad valorem millage rates may be increased for all properties to compensate for revenue losses.

**C. Government Sector Impact:**

Under Art. XI, s. 5(d), Fla. Const., the Secretary of State must publish in newspapers throughout the state proposed constitutional amendments and notice of the date of the election at which it will be submitted to the electors. According to the Department of State, the average publishing costs for citizen initiative amendments is \$60,000. However, the cost to publish lengthy amendments will exceed that amount.

**VI. Technical Deficiencies:**

There are no technical deficiencies.

**VII. Related Issues:**

Constitutional Proposal 23 was submitted prior to the constitutional amendment passed on January 29, 2008.