



TAXATION AND BUDGET REFORM COMMISSION

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Staff Analysis and Economic Impact Statement

Measure: CS/CP 21

REFERENCE:

ACTION:

Sponsor: Commissioner Carlos Lacasa

1. FTC
2. GSPC

Favorable/CS
Pre-meeting

Subject: Property Tax Amendment

3.

Date: March 3, 2008

I. Summary:

Committee Substitute for Constitutional Proposal 21 proposes an amendment to the State Constitution to provide an exemption for non-homestead improved residential property equal to a percentage of the just value of the property after the first \$50,000. The proposal provides an additional homestead exemption and limits the annual increases in assessments for non-homestead real property. In addition, a temporary increase in the state sales tax rate is provided to address reductions in ad valorem taxes associated with the constitutional proposal, if passed by the electors.

II. Present Situation:

Save Our Homes

In 1992, Florida electors approved an amendment to s. 4, Art. VII of the State Constitution that is popularly known as the "Save Our Homes" amendment. The assessment growth limitation provided that annual increases in the assessment of homestead property were limited to the Consumer Price Index or 3 percent, whichever was lower.

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 the property is also subject to the Save Our Homes assessment limitation. If the homestead status is terminated, the property is assessed at just value.

Purpose of the Save Our Homes Amendment

In *Smith v. Welton*¹, the First District Court of Appeal said: “The purpose of the amendment is to encourage the preservation of homestead property in the 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.

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, shall be exempt from taxation up to the assessed value of five thousand dollars. Subsection (b) provided that only one exemption shall be allowed to any individual or family unit. Subsections (c) and (d) provided that under certain conditions the homestead exemption is \$25,000, which is, in fact, the effective homestead exemption. Subsection (f) provided that, by local option, an additional homestead exemption of up to \$50,000 is 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 electors of Florida approved a constitutional amendment for property tax relief which:

1. Provides an additional homestead exemption of \$25,000 for homes valued over \$50,000. This provision does not apply to school taxes.
2. Provides for the transfer of accumulated Save-Our-Homes benefits. Homestead property owners will be able to transfer their Save-Our-Homes benefit to a new homestead within 1 year and not more than 2 years after relinquishing their previous homestead; except, if the new homestead is established on January 1, 2008, the previous homestead must have been relinquished in 2007. If the new homestead has a higher just value than the previous one, the accumulated benefit can be transferred; if the new homestead has a lower just value, the amount of benefit transferred will be reduced. The transferred benefit may not exceed \$500,000. This provision applies to all taxes.
3. Establishes an exemption from property taxes of \$25,000 of assessed value of tangible personal property. This provision applies to all taxes.
4. Limits the assessment increases for specified non-homestead real property to 10 percent each year. Property will be assessed at just value following an improvement, as defined by general law, and may be assessed at just value following a change of ownership or control if provided by general law. This

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

limitation does not apply to school district taxes. This limitation is repealed effective January 1, 2019, unless renewed by a vote of the electors in the general election held in 2018.

III. Effect of Proposed Changes:

Committee Substitute for Constitutional Proposal 21 includes amendments to Section 3, 4, and 6 of Article VII of the State Constitution to:

- Provide an exemption for improved residential property for property owners not receiving a homestead exemption under Section 6, Article 5, equal to a percentage of the just value of the property. The exemption is 12.5 percent in 2009 and increases to 25 percent in 2010. However, the property owner can only receive either this exemption or the cumulative assessment limit calculated pursuant to Section 4(f) for real property, whichever provides the lower taxable value. Improved residential property includes all non-homestead residential property, except vacant lots.
- Provide an additional homestead exemption equal to a percentage of the property's just value after the first \$50,000. The additional homestead exemption is 12.5 percent in 2009 and increases to 25 percent in 2010. However, the property owner can only receive either this exemption or the cumulative assessment limit calculated pursuant to Section 4(c) of the proposal, whichever provides the lower taxable value. This action will repeal the additional homestead exemption of \$25,000 which was applicable with the passage of the January 29th constitutional amendment.
- Limit the assessment increases for non-homestead real property to 5 percent of the assessment for the prior year. Property will be assessed at just value following an improvement, as defined by general law, and may be assessed at just value following a change of ownership or control if provided by general law
- Provide a temporary one-half percentage point increase in the sales and use tax for the period July 1, 2009 through June 30, 2012. The increase in sales and use tax is dedicated to school districts to compensate for the revenue losses which may result from amending Sections 3, 4, and 6 of the State Constitution. Any taxes in excess of what is required by the school districts will be distributed to other local government entities as provided by general law.

IV. Constitutional Issues:

A. Constitutional or Statutory Issues:

Committee Substitute for Constitutional Proposal 21 is appropriately classified as a constitutional issue.

B. Other Constitutional Issues:

None.

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

The impact of Committee Substitute for Constitutional Proposal 21, if passed by the electors, is as follows:

Property Tax Revenue Impacts by Major Plan Component ⁽¹⁾				
	(Millions of \$)			
	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
Guaranteed 25% SOH Protection (2)	(12)	(1,270)	(1,498)	(1,683)
25% Exemption--Non-Homestead Residential (2)	(1,315)	(2,742)	(2,875)	(3,017)
5% Cap--Non-Homestead Property	(111)	(231)	(345)	(427)
Total Property Tax Impact	(1,438)	(4,243)	(4,718)	(5,127)
Change from Current Law	-4.5%	-12.6%	-13.2%	-13.3%

(1) Impacts in each year reflect changes in that year's tax base compared to what the tax base would otherwise be under current law in that year.

- The tax base impacts are converted to revenue impacts using current millage rates.
- Impacts of individual components estimated as stand-alone proposals could be different due to overlapping impacts among the components in this plan.

(2) Changes phased in over two years. Exemption percentage is 12.5 percent in the first year and 25 percent in the second year.

(3) Does not apply to communication services. Based on November 2007 Revenue Estimating Conference, with downward adjustments for recent collection weakness.

The proposed one-half percentage point increase in sales and use taxes will result in the increases and overall impacts indicated below:

Sales Tax Revenue Impacts ⁽³⁾ (in millions)				
	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
Tax at 0.5 percent (3)	1,887	2,017	2,142	0

Net Tax Change v. Current Law				
	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
Tax at .05 percent (3)	1,887	2,017	2,142	-
Total Property Tax Impact	(1,438)	(4,243)	(4,718)	(5,127)
Sales Tax - Property Tax	448	(2,226)	(2,575)	(5,127)

B. Private Sector Impact:

Taxpayers will experience lower ad valorem taxes if this proposal is passed by the electors. However, there will be a sales tax increase of one-half percentage point for items subject to the sales and use tax.

C. Government Sector Impact:

Committee Substitute for Constitutional Proposal 21, if approved by the electors, will reduce ad valorem taxes received by local governments as indicated below. However, the increased sales and use tax percentage is proposed to compensate for the reduction for the first three years.

Property Tax Revenue Impacts by Government Type				
	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
Counties	(239)	(1,195)	(1,314)	(1,407)
Schools	(1,028)	(2,298)	(2,576)	(2,831)
RLE	(639)	(1,429)	(1,602)	(1,761)
Discretionary	(93)	(208)	(233)	(256)
Capital Outlay & Other	(296)	(661)	(741)	(814)
Cities	(101)	(451)	(498)	(536)
Special Districts	(71)	(300)	(330)	(353)
Total Impact	(1,438)	(4,243)	(4,718)	(5,127)

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:

None.

VII. Related Issues:

None.