

The Constitution Revision Commission
COMMITTEE MEETING EXPANDED AGENDA

FINANCE AND TAXATION
Commissioner Karlinsky, Chair
Commissioner Grady, Vice Chair

MEETING DATE: Thursday, January 11, 2018
TIME: 12:00 noon—3:00 p.m.
PLACE: *Cabinet Meeting Room - Lower Level, The Capitol, Tallahassee, Florida*

MEMBERS: Commissioner Karlinsky, Chair; Commissioner Grady, Vice Chair; Commissioners Armas, Nuñez, Rouson, Smith, and Washington

TAB	PROPOSAL NO. and INTRODUCER	PROPOSAL DESCRIPTION and COMMITTEE ACTIONS	COMMITTEE ACTION
1	P 94 Nuñez	MISCELLANEOUS, Comprehensive Statewide Tobacco Education And Prevention Program; Section 27 of Article X of the State Constitution to require that a certain percentage of funds from the proceeds of the tobacco settlement entered into with the state be dedicated to the research and treatment of cancer. GP 12/14/2017 Favorable FT 01/11/2018 Fav/CS	Fav/CS Yeas 3 Nays 2
2	CS/P 17 General Provisions / Gaetz	MISCELLANEOUS, Homestead; exemptions; Section 4 of Article X of the State Constitution to create exceptions to the homestead exemption from creditor claims. GP 11/28/2017 Temporarily Postponed GP 11/30/2017 Fav/CS FT 01/11/2018 Unfavorable	Unfavorable Yeas 1 Nays 3

**Constitution Revision Commission
Finance and Taxation Committee
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: P 94

Relating to: MISCELLANEOUS, Comprehensive Statewide Tobacco Education And Prevention Program

Introducer(s): Commissioner Nuñez

Article/Section affected: Article X, Section 27

Date: January 8, 2018

	REFERENCE	ACTION
1.	<u>GP</u>	Favorable
2.	<u>FT</u>	Pre-meeting

I. SUMMARY:

Currently, s. 27 of Art. X of the Florida Constitution provides that fifteen percent of the funds paid to the state of Florida for the tobacco settlement are to be used for a statewide tobacco education and prevention program.

The proposal revises s. 27 of Art. X of the Florida Constitution to require that twenty percent of the fifteen percent received from the tobacco settlement for tobacco prevention be used for purposes related to the research and treatment of cancer.

Based on estimates of s.27, Art X funds from the Office of Economic and Demographic Research, the amounts dedicated to research and treatment equate to the following:

- FY19-20: \$14.3 million
- FY20-21: \$14.6 million
- FY21-22: \$15.0 million
- FY22-23: \$15.2 million

The proposal provides that the funds shall be distributed evenly between competitive cancer research projects that are administered by the biomedical research advisory council. After consultation with the biomedical research advisory council, the state surgeon general shall award the grants.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Florida Tobacco Settlement

In August 1997, tobacco companies (Phillip Morris, Inc., R.J. Reynolds Tobacco Company, Brown & Williamson Tobacco Corp., and Lorillard Tobacco Company) entered into a multi-billion dollar tobacco settlement agreement with Florida for all past, present and future claims by the state, including reimbursement of Medicaid expenses, fraud, RICO, and punitive damages.¹ In November 2006, Florida's voters approved a state Constitutional amendment, creating Article X, Section 27, calling for a comprehensive tobacco education and use prevention program.²

Comprehensive Statewide Tobacco Education and Prevention Program

Section 381.84, F.S, provides that the Department of Health (DOH), through the Bureau of Tobacco Free Florida (BTFF), administers the statewide tobacco education and use prevention program outlined in s. 27 of Art. X of the Florida Constitution. The statute requires BTFF's programs to focus on tobacco use by youth and specifies the primary goals of the program are to "reduce the prevalence of tobacco use among youth, adults, and pregnant women; reduce per capita tobacco consumption; and reduce exposure to environmental tobacco smoke, and enforcing the "Florida Clean Indoor Air Act". As directed by statute, BTFF organizes and administers the program in accordance with the CDC Best Practices for Comprehensive Tobacco Control Programs, with a "focus on educating people, particularly youth and their parents, about the health hazards of tobacco and discouraging the use of tobacco."

Funding From the Tobacco Settlement

Section 27(b) of Article X of the Florida Constitution, directs the legislature to appropriate 15 percent of the funds paid to the state in 2005 under the tobacco settlement for the statewide tobacco education and use prevention program.³ The legislature appropriates the remaining 85% of the annual tobacco settlement trust fund amount to programs outside of BTFF.

The following are the funds appropriated for FY16-17 and FY17-18 and estimates for the next years:

- FY16-17: \$66.3 million

¹ *The State of Florida et al., vs. The American Tobacco Company, et al.*, Civil Action #95-1466AH (Circuit Court of the 15th Judicial Circuit, Palm Beach Co., FL August 25, 1997).

² The Protect People, Especially Youth, from Addiction, Disease, and other Health Hazards of using Tobacco Amendment passed in the 2006 general election .See

<http://dos.elections.myflorida.com/initiatives/initdetail.asp?account=41791&seqnum=1> (last visited 01/05/18).

³ Sec. 27(b), Art. X, Fla. Const., sets the base amount at 15% of the funds paid in 2005 and then adjusted annually for inflation.

- FY17-18: \$69.0 million
- FY18-19: \$70.3 million
- FY19-20: \$71.5 million
- FY20-21: \$73.0 million
- FY21-22: \$75.1 million
- FY22-23: \$77.1 million⁴

Section 27(a)(1) of Article X also requires that one third of the total appropriation be used for an advertising campaign to discourage the use of tobacco.⁵

B. EFFECT OF PROPOSED CHANGES:

The proposal revises s. 27 of Art. X of the Florida Constitution to require that twenty percent of the fifteen percent received from the tobacco settlement be used for purposes related to the research and treatment of cancer.

Based on estimates of s.27, Art X funds from the Office of Economic and Demographic Research, the amounts dedicated to research and treatment equate to the following:

- FY19-20: \$14.3 million
- FY20-21: \$14.6 million
- FY21-22: \$15.0 million
- FY22-23: \$15.2 million⁶

The proposal provides that the funds shall be distributed evenly between competitive cancer research projects that are administered by the biomedical research advisory council.⁷ After consultation with the biomedical research advisory council, the state surgeon general shall award the grants.

C. FISCAL IMPACT:

The following fiscal impact was provided by the Florida Department of Health at the request of Constitution Revision Commission staff:⁸

Redirecting funding from the tobacco education and use prevention program toward the research and treatment of cancer would require reductions to community-based tobacco prevention programs, including youth and young adult initiatives, health education

⁴ Estimates are from the *Tobacco Settlement Trust Fund Financial Outlook Statement*, 12/08/17, by the Florida Office of Economic and Demographic Research. http://edr.state.fl.us/content/revenues/outlook-statements/tobacco-settlement-tf/171208_TSTFoutl.pdf (last visited 01/05/18).

⁵ For more information, see Tobacco Free Florida website: <http://tobaccofreeflorida.com/> (last visited 01/05/18).

⁶ These estimates are based on 20% of Office of Economic and Demographic Research estimates of funds available for tobacco prevention program.

⁷ For more information on the Florida Biomedical Research Advisory Council, see <http://www.floridahealth.gov/provider-and-partner-resources/brac/index.html> (last visited 01/05/18).

⁸ Staff Analysis on Proposal 94 by Florida Department of Health (on file with CRC staff).

communications efforts, cessation programs currently available to Florida's citizens trying to quit smoking, statewide health behavior surveillance and evaluative systems. Reductions to tobacco program area funding would likely result in setbacks in progress towards DOH's Long Range Program Plan (LRPP) components of "Readiness for Emerging Health Threats" and the DOH and State Health Improvement Plan (SHIP) strategic priority of reducing statewide inhaled nicotine prevalence among youth and adults.⁹ In addition, economic modeling from BTFF's independent external evaluator demonstrates redirecting current funding from tobacco education and use prevention to cancer research would significantly increase health care costs to Florida citizens and to the state, including to Medicaid. Conservative projections indicate a 20% redirect in funding could equate to \$1.9 billion increased in personal health care costs (including \$.5 billion to Medicaid), a moderate estimate could equate to \$3.9 billion in increased costs (\$.9 billion to Medicaid), and maximum estimate of \$21.4 billion (\$4.5 billion to Medicaid) in increased costs from 2019-2028.¹⁰

III. Additional Information:

A. Statement of Changes:

(Summarizing differences between the current version and the prior version of the proposal.)

None.

B. Amendments:

None.

C. Technical Deficiencies:

None.

D. Related Issues:

None.

⁹ Florida Department of Health. (2017). State Health Improvement Plan, Long Range Program Plan, Agency Strategic Plan. Retrieved from <http://www.floridahealth.gov/about-the-department-of-health/about-us/priorities.html> (last visited 01/05/18).

¹⁰ Research Triangle Institute International. (2017). Prevalence Scenarios and Health Care Costs 2011-2028: Ad hoc report.



898300

CRC ACTION

Commissioner .
Comm: FAV .
01/12/2018 .
. .
. .
. .

The Committee on Finance and Taxation (Nuñez) recommended the following:

CRC Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

ARTICLE X

MISCELLANEOUS

SECTION 27. Comprehensive Statewide Tobacco Education And
Prevention Program.—In order to protect people, especially
youth, from health hazards of using tobacco, including addictive
disorders, cancer, cardiovascular diseases, and lung diseases;



11 and to discourage use of tobacco, particularly among youth, a
12 portion of the money that tobacco companies pay to the State of
13 Florida under the Tobacco Settlement each year shall be used to
14 fund a comprehensive statewide tobacco education and prevention
15 program consistent with recommendations of the U.S. Centers for
16 Disease Control and Prevention (CDC), as follows:

17 (a) PROGRAM. The money appropriated pursuant to this
18 section shall be used to fund a comprehensive statewide tobacco
19 education and prevention program consistent with the
20 recommendations for effective program components in the 1999
21 *Best Practices for Comprehensive Tobacco Control Programs* of the
22 CDC, as such *Best Practices* may be amended by the CDC. This
23 program shall include, at a minimum, the following components,
24 and may include additional components that are also contained
25 within the CDC *Best Practices*, as periodically amended, and that
26 are effective at accomplishing the purpose of this section, and
27 that do not undermine the effectiveness of these required
28 minimum components:

29 (1) An advertising campaign to discourage the use of
30 tobacco and to educate people, especially youth, about the
31 health hazards of tobacco, which shall be designed to be
32 effective at achieving these goals and shall include, but need
33 not be limited to, television, radio, and print advertising,
34 with no limitations on any individual advertising medium
35 utilized; ~~and which shall be funded at a level equivalent to~~
36 ~~one-third of each total annual appropriation required by this~~
37 ~~section;~~

38 (2) Evidence-based curricula and programs to educate youth
39 about tobacco and to discourage their use of it, including, but



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40 not limited to, programs that involve youth, educate youth about
41 the health hazards of tobacco, help youth develop skills to
42 refuse tobacco, and demonstrate to youth how to stop using
43 tobacco;

44 (3) Programs of local community-based partnerships that
45 discourage the use of tobacco and work to educate people,
46 especially youth, about the health hazards of tobacco, with an
47 emphasis on programs that involve youth and emphasize the
48 prevention and cessation of tobacco use;

49 (4) Enforcement of laws, regulations, and policies against
50 the sale or other provision of tobacco to minors, and the
51 possession of tobacco by minors; and

52 (5) Publicly-reported annual evaluations to ensure that
53 moneys appropriated pursuant to this section are spent properly,
54 which shall include evaluation of the program's effectiveness in
55 reducing and preventing tobacco use, and annual recommendations
56 for improvements to enhance the program's effectiveness, which
57 are to include comparisons to similar programs proven to be
58 effective in other states, as well as comparisons to CDC *Best*
59 *Practices*, including amendments thereto.

60 (6) Research of Cancer. Funds appropriated shall be
61 distributed evenly between competitive cancer research projects
62 that are administered by the biomedical research advisory
63 council. After consultation with the biomedical research
64 advisory council, the state surgeon general shall award the
65 grants.

66 (b) FUNDING.

67 (1) Each fiscal year ~~In every year beginning with the~~
68 ~~calendar year after voters approve this amendment,~~ the Florida



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69 legislature shall appropriate, for the purpose expressed herein,
70 from the total gross funds that tobacco companies pay to the
71 State of Florida under the Tobacco Settlement, an amount equal
72 to fifteen percent of such funds paid to the State in 2005; and
73 the appropriation required by this section shall be adjusted
74 annually for inflation, using the Consumer Price Index as
75 published by the United States Department of Labor.

76 (c) DEFINITIONS. "Tobacco" includes, without limitation,
77 tobacco itself and tobacco products that include tobacco and are
78 intended or expected for human use or consumption, including,
79 but not limited to, cigarettes, cigars, pipe tobacco, and
80 smokeless tobacco. The "Tobacco Settlement" means that certain
81 Settlement Agreement dated August 25, 1997, entered into in
82 settlement of the case styled as *State of Florida, et al. v.*
83 *American Tobacco Company, et al.*, Case No. 95-1466 AH (Fla. 15th
84 Cir. Ct.), as amended by Stipulation of Amendment dated
85 September 11, 1998; and includes any subsequent amendments and
86 successor agreements. "Youth" includes minors and young adults.

87 ~~(d) EFFECTIVE DATE. This amendment shall become effective~~
88 ~~immediately upon approval by the voters.~~

91 ===== T I T L E A M E N D M E N T =====

92 And the title is amended as follows:

93 Delete everything before the enacting clause
94 and insert:

95 A proposal to amend

96 Section 27 of Article X of the State Constitution to
97 require that cancer research be included in the comprehensive



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98 | statewide tobacco education and prevention program.
99 |

By Commissioner Nuñez

nuezej-00101-17

201794__

A proposal to amend

Section 27 of Article X of the State Constitution to require that a certain percentage of funds from the proceeds of the tobacco settlement entered into with the state be dedicated to the research and treatment of cancer.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 27 of Article X of the State Constitution is amended to read:

ARTICLE X
MISCELLANEOUS

SECTION 27. Comprehensive Statewide Tobacco Education And Prevention Program.—In order to protect people, especially youth, from health hazards of using tobacco, including addictive disorders, cancer, cardiovascular diseases, and lung diseases; and to discourage use of tobacco, particularly among youth, a portion of the money that tobacco companies pay to the State of Florida under the Tobacco Settlement each year shall be used to fund a comprehensive statewide tobacco education and prevention program consistent with recommendations of the U.S. Centers for Disease Control and Prevention (CDC), as follows:

(a) PROGRAM. The money appropriated pursuant to this section shall be used to fund a comprehensive statewide tobacco education and prevention program consistent with the recommendations for effective program components in the 1999 *Best Practices for Comprehensive Tobacco Control Programs* of the CDC, as such *Best Practices* may be amended by the CDC. This program shall include, at a minimum, the following components, and may include additional components that are also contained

Page 1 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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within the CDC *Best Practices*, as periodically amended, and that are effective at accomplishing the purpose of this section, and that do not undermine the effectiveness of these required minimum components:

(1) An advertising campaign to discourage the use of tobacco and to educate people, especially youth, about the health hazards of tobacco, which shall be designed to be effective at achieving these goals and shall include, but need not be limited to, television, radio, and print advertising, with no limitations on any individual advertising medium utilized; and which shall be funded at a level equivalent to one-third of each total annual appropriation required by this section;

(2) Evidence-based curricula and programs to educate youth about tobacco and to discourage their use of it, including, but not limited to, programs that involve youth, educate youth about the health hazards of tobacco, help youth develop skills to refuse tobacco, and demonstrate to youth how to stop using tobacco;

(3) Programs of local community-based partnerships that discourage the use of tobacco and work to educate people, especially youth, about the health hazards of tobacco, with an emphasis on programs that involve youth and emphasize the prevention and cessation of tobacco use;

(4) Enforcement of laws, regulations, and policies against the sale or other provision of tobacco to minors, and the possession of tobacco by minors; and

(5) Publicly-reported annual evaluations to ensure that moneys appropriated pursuant to this section are spent properly,

Page 2 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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 62 which shall include evaluation of the program's effectiveness in
 63 reducing and preventing tobacco use, and annual recommendations
 64 for improvements to enhance the program's effectiveness, which
 65 are to include comparisons to similar programs proven to be
 66 effective in other states, as well as comparisons to CDC *Best*
 67 *Practices*, including amendments thereto.

(b) FUNDING.

69 (1) Each fiscal year ~~In every year beginning with the~~
 70 ~~calendar year after voters approve this amendment,~~ the Florida
 71 legislature shall appropriate, for the purpose expressed herein,
 72 from the total gross funds that tobacco companies pay to the
 73 State of Florida under the Tobacco Settlement, an amount equal
 74 to fifteen percent of such funds paid to the State in 2005; and
 75 the appropriation required by this section shall be adjusted
 76 annually for inflation, using the Consumer Price Index as
 77 published by the United States Department of Labor.

78 (2) Beginning with the 2019-2020 fiscal year, twenty
 79 percent of the funding provided pursuant to paragraph (1) must
 80 be used for purposes related to the research and treatment of
 81 cancer. Funds shall be distributed evenly between competitive
 82 cancer research projects that are administered by the biomedical
 83 research advisory council. After consultation with the
 84 biomedical research advisory council, the state surgeon general
 85 shall award the grants.

86 (c) DEFINITIONS. "Tobacco" includes, without limitation,
 87 tobacco itself and tobacco products that include tobacco and are
 88 intended or expected for human use or consumption, including,
 89 but not limited to, cigarettes, cigars, pipe tobacco, and
 90 smokeless tobacco. The "Tobacco Settlement" means that certain

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 91 Settlement Agreement dated August 25, 1997, entered into in
 92 settlement of the case styled as *State of Florida, et al. v.*
 93 *American Tobacco Company, et al.*, Case No. 95-1466 AH (Fla. 15th
 94 Cir. Ct.), as amended by Stipulation of Amendment dated
 95 September 11, 1998; and includes any subsequent amendments and
 96 successor agreements. "Youth" includes minors and young adults.
 97 ~~(d) EFFECTIVE DATE. This amendment shall become effective~~
 98 ~~immediately upon approval by the voters.~~

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

11/11/18

Meeting Date

94

Proposal Number (if applicable)

*Topic TOBACCO FREE FLA

*Name TRICIA BEALL

Amendment Barcode (if applicable)

Address 1513 LEE AVE

Phone 828 551-8773

Street

Tallahassee FL

City

State

32303

Zip

Email triciabeall@gmail

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? _____

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

94

Proposal Number (if applicable)

Amendment Barcode (if applicable)

Meeting Date

*Topic Opposition to Proposal 94

*Name KITTY FLYNN

Address 3333 SAGEE PLACE

Street

Phone 850-980-0517

TALLAHASSEE FL 32309

City

State

Zip

Email ki.flynn@aol.com

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? American Congress Society Conservation Relevance

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

11/11/2018
Meeting Date

94
Proposal Number (if applicable)

*Topic Comprehensive Tobacco Control Program

Amendment Barcode (if applicable)

*Name Barry Hummel MD

Address 5944 Coral Ridge Drive 855
Street
Coral Springs FL 33076
City State Zip

Phone 954.495.6541

Email BHUMMEL@HOTMAIL.COM

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? Tobacco Free Partnership of Broward County

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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***Required**

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

~~0000~~ 11/11/18
Meeting Date

94
Proposal Number (if applicable)

Against
Amendment Barcode (if applicable)

*Topic TFE

*Name Caitlin Shackelford

Address 1790 Carolina St

Phone 850-381-5601

Street Alford State FL Zip 32420
City

Email CaitlinShackelford17@yahoo

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? _____

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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*Required

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

01/11/18

Meeting Date

94

Proposal Number (if applicable)

Against

Amendment Barcode (if applicable)

*Topic TFF

*Name MILTON BROWN

Address 3399 MAHORY Rd.
Street

Phone 850-260-5767

VERNON FL 32462
City State Zip

Email miltonleonbrown@yahoo.com

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? _____

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

11 January 2018
Meeting Date

94
Proposal Number (if applicable)

*Topic Comprehensive Tobacco Education + Prevention

Amendment Barcode (if applicable)

*Name KAHREEM GOLDEN

Address 2004 Woodstock Lane
Street

Phone 850.345.7108

Tallahassee FL 32303
City State Zip

Email _____

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? Tobacco Education and Use Prevention Advisory Council

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

**CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD**

(Deliver completed form to Commission staff)

1-11-17

Meeting Date

94

Proposal Number (if applicable)

*Topic Proposn 54 - Tobacco Control

*Name Brenda Olsen

Amendment Barcode (if applicable)

Address 1532 Breamstone Ridge

Phone 850 241-1002

Street

Tallahassee FL 32312

Email brenda.olsen@lung.org

City

State

Zip

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? American Lung Association

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1-11-17

Meeting Date

94

Proposal Number (if applicable)

*Topic Prop 94 TFF

Amendment Barcode (if applicable)

*Name Matt Jordan

Address 1922 Dellwood Dr

Phone 850-519-2801

Street

Tall

City

Fl

State

32303

Zip

Email matt.jordan@cancer.org

*Speaking: For [] Against [x] Information Only []

Waive Speaking: In Support [] Against [] (The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes [x] No []

If yes, who? American Cancer Society Cancer Action Net

Are you a registered lobbyist? Yes [x] No []

Are you an elected official or judge? Yes [] No [x]

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD
(Deliver completed form to Commission staff)

9/11/18
Meeting Date

94
Proposal Number (if applicable)

*Topic PROP 94

Amendment Barcode (if applicable)

*Name RIVERS BUFORD, III

Address 2851 RICHMOND TOWN GREEN
Street

Phone 850-566-9119

TALAMAGHER, FL
City State Zip

Email Rivers.Buford@heart.org

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? AMERICAN HEART ASSOCIATION

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

**CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD**

(Deliver completed form to Commission staff)

1/11/18

Meeting Date

#94

Proposal Number (if applicable)

Against

Amendment Barcode (if applicable)

*Topic TFF

*Name Lily Anderson

Address 602 hwy 273

Phone 505-400-2994

Street

chipley

FL

State

32428

Zip

Email lilyandersonswat@gmail

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? _____

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**



Creating a Healthier Washington County

Mission: We are working with community organizations and leaders committed to educating others about tobacco use, helping protect kids from tobacco, and strengthening local policies, especially those that protect the public from secondhand smoke.

Progress: In 2016 locally only 6.2% of 11-17 year old students (combination middle and high) reported using smokeless tobacco in the last 30 days down from 9.1% in 2014. Additionally, current cigarette smoking in the last 30 days has decreased from 34.6% in 2014 to 28.9% in 2016. So we are making progress.

Challenges: Smokeless Tobacco rates in Washington County are still higher than the state average and Electronic (E-Cig) use is steadily increasing.

Statewide Impact: While smoking in Florida is low, overall, there are geographic and demographic inequalities across the state, as seen in the 2017 County Health Rankings & Roadmaps report released earlier this year. The report, which is a collaboration between the Robert Wood Johnson Foundation and the University of Wisconsin Population Health Institute, looks at a variety of measures that can affect the health and future of communities, such as rates of smoking. Many of Florida's rural counties had significantly higher smoking rates than the statewide average (15.8 percent).

- Gadsden, Hardee, Madison, Okeechobee, Union – 21 percent
- DeSoto, Hamilton, Hendry, Holmes, Liberty, Putnam, Suwannee – 20 percent
- Baker, Calhoun, Dixie, Jackson, Lafayette, **Washington** – 19 percent

Policy Efforts:

Smokeless Tobacco: Encourage our County and Cities to NOT allow free sampling and distribution of smokeless tobacco at community events like the Watermelon Festival and other family friendly events.

Point of Sale (Retail Advertising/Marketing): Bring awareness on the advertising and marketing tactics targeting children and youth. In a lot of stores tobacco marketing consists of candy flavors, bright color packages and is below door handle levels "eye level is buy level".

Worksite Wellness: Helping businesses create and enhance policies that support Tobacco Free Grounds, Increasing Cessation Health Insurance Benefits and Providing Tobacco Free Florida Cessation Information for employees and their families. We also work with business to provide quarterly information of a variety of health topics to support workplace wellness.

Smoke-Free Housing: We are working with our local housing authority to implement a policy.

Secondhand Smoke: We are gaining support from the community to assure our parks and sporting complexes are tobacco free in order to reduce exposure to secondhand smoke.

New Work Area's: Electronic Devices including Vaper Cigarettes, E-Cigs and Hookah's.



Washington Youth (Ages 11-17): 2012 - 2016

	2012		2014		2016	
	County	State	County	State	County	State
PERCENTAGE OF YOUTH WHO HAVE						
<u>Ever tried cigarettes</u> ***Making Progress	35.6%	21.6%	34.6%	17.5%	28.9%	13.7%
<u>Ever tried cigars</u> ***Making Progress	23.6%	16.2%	23.6%	12.8%	17.7%	9.0%
<u>Ever tried smokeless tobacco</u> ***Making Progress	20.1%	7.0%	19.9%	6.1%	15.1%	5.0%
Ever tried hookah	6.0%	9.4%	9.2%	14.1%	9.2%	15.4%
Ever tried electronic vaping	10.5%	5.7%	19.9%	14.3%	29.6%	24.5%
Ever tried cigarettes, cigars, or smokeless tobacco	41.9%	27.6%	41.5%	23.4%	35.0%	18.5%
Ever tried cigarettes, cigars, smokeless, hookah, or electronic vaping	42.3%	30.2%	43.9%	30.7%	42.8%	32.8%
PERCENTAGE OF YOUTH WHO						
<u>Currently use cigarettes</u> ***Making Progress	14.1%	6.1%	12.6%	4.3%	7.6%	3.0%
<u>Currently use cigars</u> ***Making Progress	12.2%	6.5%	13.0%	5.1%	7.7%	3.4%
<u>Currently use smokeless tobacco</u> ***Making Progress	9.4%	3.0%	9.1%	3.0%	6.2%	2.2%
Currently use hookah	2.7%	4.1%	4.2%	7.1%	3.9%	4.8%
Currently use electronic vaping	5.1%	2.3%	9.4%	7.2%	16.2%	11.6%
Currently use cigarettes, cigars, or smokeless tobacco	22.2%	11.0%	21.2%	9.0%	14.3%	6.3%
Currently use cigarettes, cigars, smokeless, hookah, or electronic vaping	23.8%	13.1%	24.1%	15.3%	24.1%	16.3%
PERCENTAGE OF YOUTH WHO WERE						
<u>Exposed to secondhand cigarette smoke</u> ***Making Progress	61.0%	44.1%	57.5%	37.5%	54.9%	40.0%
Exposed to secondhand electronic vapor smoke	-	-	-	-	40.0%	29.5%
Exposed to secondhand cigarette or electronic vapor smoke	-	-	-	-	61.4%	49.7%
PERCENTAGE OF YOUTH WHO USED						
<u>Cigarettes on school property</u> ***Making Progress	2.3%	2.2%	3.5%	1.1%	1.2%	0.6%
Cigars on school property	1.6%	2.1%	3.2%	1.5%	1.0%	0.8%
<u>Smokeless tobacco on school property</u> ***Making Progress	5.5%	1.8%	5.0%	1.6%	3.1%	1.0%
Electronic vapors on school property	;	;	4.5%	5.5%	4.8%	2.4%
PERCENTAGE OF YOUTH WHO						
<u>Are committed to never using cigarettes</u> ***Making Progress	56.3%	65.7%	55.7%	67.1%	71.6%	80.7%

**Constitution Revision Commission
Finance and Taxation Committee
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: CS/P 17

Relating to: MISCELLANEOUS, Homestead; exemptions

Introducer(s): General Provisions Committee and Commissioner Gaetz

Article/Section affected: Article X, Section 4

Date: January 8, 2018

	REFERENCE	ACTION
1.	<u>GP</u>	<u>Fav/CS</u>
2.	<u>FT</u>	<u>Pre-meeting</u>

I. SUMMARY:

The Florida Constitution grants broad protection for an owner of a homestead from forced sale or liens by creditors. This is commonly known as homestead exemption protection.

The proposal removes the homestead exemption protection from creditor claims if a creditor:

- Establishes in an action against the owner of the homestead that the creditor's funds were fraudulently used by the owner to acquire or improve the homestead; or
- Obtains a judgment against the owner of the homestead for damages caused by an intentional tort or intentional criminal or fraudulent act by the owner of the homestead, so long as the homestead was not the primary residence for the owner's spouse or minor child when the tort or act occurred or at the time of the judgment in the action.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Florida Homestead Exemption

Section 4 of Article X of the Florida Constitution provides an exemption from forced sale of a natural person's homestead. A homestead includes:

- If located outside a municipality, one hundred sixty acres of contiguous land and improvements; or
- If located within a municipality, one half-acre of contiguous land, upon which the exemption shall be limited to the residence of the owner or the owner's family; and
- Personal property up to the value of one thousand dollars.

There are several exceptions to the homestead exemption, including:

- Payment of taxes and assessments;
- Obligations contracted for the purchase, improvement or repair; and
- Obligations contracted for house, field or other labor performed on the realty.

Historically, courts have liberally construed the homestead exemption in favor of the owner, including protecting the homestead from civil and criminal forfeiture,¹ and when the homestead was acquired with funds from illicit proceeds.² Courts have also provided that homesteads are shielded from creditors when non-exempt funds were used to purchase the homestead with the specific intent of hindering, delaying, or defrauding creditors.³ However, Florida courts have held that a homestead purchased with the proceeds of fraud may be subject to an equitable lien in limited circumstances.⁴

Florida has several prominent examples of public figures embroiled in scandal shielding themselves from creditors by using the homestead exemption.⁵ These include white collar crimes,⁶ and sexual harassment lawsuits.⁷ In a recent case in Walton County, a woman was shot in the face by a former intimate partner and nearly died.⁸ The defendant in the case was unemployed, and his only asset was a home he had inherited from a deceased

¹ See *Butterworth v. Caggiano*, 605 So.2d 56 (Fla. 1992).

² *Tramel v. Stewart*, 697 So.2d 821 (Fla. 1997). The court noted that, "However, to permit the State to forfeit a homestead based upon criminal activity in Florida requires a constitutional revision. We call this to the attention of the Constitutional Revision Commission." The court also noted in footnote 10, that "In the event of a constitutional revision including an exception to the homestead guarantee for forfeiture pursuant to the Forfeiture Act, the legislature would need to address with particularity forfeiture of homesteads. For example, is there a threshold percentage of the amount used to purchase a homestead which would allow forfeiture? Does it have to be one hundred percent, more or less than fifty percent, or could one percent be the basis for forfeiture? Is there any limitation on the time between the obtaining of the proceeds in violation of the Forfeiture Act and the acquisition of the property?"

³ See *Havoco of America, Ltd. v. Hill*, 790 So.2d 1018 (Fla. 2001). Answering a certified question from the U.S Court of Appeals for the 11th Circuit.

⁴ Phillip M. Hanaka, *Recent Developments in Florida Homestead Law* at 2 (2006). See *Palm Beach Savings & Loan Ass'n v. Fishbein*, 619 So.2d 267 (Fla. 1993).

⁵ *Enron's Many Strands: The Executives; Home as Shield from Creditors is Under Fire*, New York Times, April 4, 2002. <http://www.nytimes.com/2002/04/04/business/enron-s-many-strands-the-executives-home-as-shield-from-creditors-is-under-fire.html> (last visited 11/22/17).

⁶ *Ruth Madoff Files Homestead Exemption in Palm Beach on Same Day Authorities Announce Investigation*, New York Daily News, March 17, 2009. <http://www.nydailynews.com/news/money/ruth-madoff-files-homestead-exemption-palm-beach-day-authorities-announce-investigation-article-1.368394> (last visited 11/22/17).

⁷ *Roger Ailes Poured the Bulk of his Fox Severance Package into Palm Beach Mansion. Say \$36 Million Cash*, Miami Herald, May 18, 2017. <http://www.miamiherald.com/entertainment/ent-columns-blogs/jose-lambiet/article151338922.html> (last visited 11/22/17).

⁸ *Gaetz: Welcome home, O.J. Fla. is Your Kind of Place*, Pensacola News Journal, July 29, 2017. <http://www.pnj.com/story/news/2017/07/29/welcome-home-oj-florida-kind-place/104028184/> (last visited 11/22/17).

relative. The defendant was judgment proof, leaving the victim with mounting medical bills and no recourse.⁹

B. EFFECT OF PROPOSED CHANGES:

The proposal removes the homestead exemption protection from creditor claims if a creditor:

- Establishes in an action against the owner of the homestead that the creditor's funds were fraudulently used by the owner to acquire or improve the homestead; or
- Obtains a judgment against the owner of the homestead for damages caused by an intentional tort or intentional criminal or fraudulent act by the owner of the homestead, so long as the homestead was not the primary residence for the owner's spouse or minor child when the tort or act occurred or at the time of the judgment in the action.

The proposal requires the creditor to take affirmative steps to establish certain conditions for the owner of the homestead to lose the protection of the homestead exemption.

C. FISCAL IMPACT:

None.

III. Additional Information:

A. Statement of Changes:

(Summarizing differences between the current version and the prior version of the proposal.)

General Provisions Committee on November 30, 2017:

The amended proposal requires a creditor to do the following in order for an owner to lose homestead exemption protection:

- Establish in an action against the owner of the homestead that the creditor's funds were fraudulently used by the owner to acquire or improve the homestead; or
- Obtain a judgment against the owner of the homestead for damages caused by an intentional tort or intentional criminal or fraudulent act by the owner of the homestead, so long as the homestead was not the primary residence for the owner's spouse or minor child when the tort or act occurred or at the time of the judgment in the action.¹⁰

⁹ *Id.*

¹⁰ See amendment barcode 620722 <http://www.flcrc.gov/Proposals/Commissioner/2017/0017/Amendment/620722/PDF> (last visited 01/05/18).

The amended proposal requires the creditor to take affirmative steps to establish certain conditions for the owner of the homestead to lose the protection of the homestead exemption. The previous version did not specify steps that a creditor must take to establish conditions necessary for the loss of homestead protection.

The amendment also removed language from the proposal allowing for the implementation of the amendment by the legislature.

B. Amendments:

None.

C. Technical Deficiencies:

None.

D. Related Issues:

None.

By the Committee on General Provisions; and Commissioner Gaetz

335-00146-17

201717c1

A proposal to amend

Section 4 of Article X of the State Constitution to create exceptions to the homestead exemption from creditor claims.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 4 of Article X of the State Constitution is amended to read:

ARTICLE X
MISCELLANEOUS

SECTION 4. Homestead; exemptions.-

(a) There shall be exempt from forced sale under process of any court, and no judgment, decree or execution shall be a lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement or repair thereof, or obligations contracted for house, field or other labor performed on the realty, the following property owned by a natural person:

(1) a homestead, if located outside a municipality, to the extent of one hundred sixty acres of contiguous land and improvements thereon, which shall not be reduced without the owner's consent by reason of subsequent inclusion in a municipality; or if located within a municipality, to the extent of one-half acre of contiguous land, upon which the exemption shall be limited to the residence of the owner or the owner's family;

(2) personal property to the value of one thousand dollars.

(b) These exemptions shall inure to the surviving spouse or heirs of the owner.

(c) The homestead shall not be subject to devise if the

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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owner is survived by spouse or minor child, except the homestead may be devised to the owner's spouse if there be no minor child. The owner of homestead real estate, joined by the spouse if married, may alienate the homestead by mortgage, sale or gift and, if married, may by deed transfer the title to an estate by the entirety with the spouse. If the owner or spouse is incompetent, the method of alienation or encumbrance shall be as provided by law.

(d) Notwithstanding subsection (a), a homestead is not exempt from the claim of a creditor if the creditor:

(1) Establishes in an action against the owner of the homestead that the creditor's funds were fraudulently used by the owner to acquire or improve the homestead; or

(2) Obtains a judgment against the owner of the homestead for damages caused by an intentional tort or an intentional criminal or fraudulent act by the owner of the homestead, so long as the homestead was not the primary residence for the owner's spouse or minor child when the tort or act occurred or at the time of the judgment in the action.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/11/2018
Meeting Date

CS/P17
Proposal Number (if applicable)

*Topic _____

Amendment Barcode (if applicable)

*Name PATRICK L. "BOOPER" IMHOF

Address 561 E. Jefferson St.

Phone 850-561-3177

Tallahassee FL 32399
City State Zip

Email pinhof@floridabca.com

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? The Florida Bar

Are you a registered lobbyist? Yes No in process

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

9/10/18

Meeting Date

17

Proposal Number (if applicable)

*Topic homestead exemption proposal

Amendment Barcode (if applicable)

*Name Mike Chesser

Address 1201 Eglin Parkway
Street

Phone 850-651-9944

Shalimar Florida 32578
City State Zip

Email mike@chesserbarr.com

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? I have several clients who would be affected

Are you a registered lobbyist? Yes No

at least potentially on both sides.

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**