



## TAXATION AND BUDGET REFORM COMMISSION

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### Staff Analysis and Economic Impact Statement

Measure: CP 3

REFERENCE: ACTION:

Sponsor: Commissioner Les Miller

1. PBPC

Pre-meeting

2. GPSC

Subject: Commencement Date of  
Legislative Sessions

3.

Date: November 30, 2007

#### I. Summary:

This proposed amendment to the Florida Constitution requires the Legislature to convene annually in regular session on the second Tuesday in January. However, the amendment also permits the Legislature to establish alternative commencement dates by law.

In contrast, Art. III, s. 3, Fla. Const., currently requires the Legislature to "convene on the first Tuesday after the first Monday in March of each odd-numbered year, and on the first Tuesday after the first Monday in March, or such other date as may be fixed by law, of each even-numbered year."

#### II. Present Situation:

##### *Changing Commencement Dates*

Initially upon the adoption of the Florida Constitution of 1968, legislative sessions convened on the first Tuesday after the First Monday in April of odd-numbered years. In even-numbered years, the Legislature convened on the first Tuesday after the first Monday in April or other date fixed by law.

In 1990, the voters approved an amendment to change the regular session start date to the first Tuesday after the first Monday in February of odd-numbered years. In even-numbered years the Legislature was to convene on the first Tuesday after the first Monday in February or other date fixed by law. In reapportionment years, the Legislature convenes in January to allow time for review of reapportionment plans under the Voting Rights Act.

The main reason for the 1990 change in session dates was to provide for a "longer period between the approval of the appropriation bill and the beginning of the state budget

year.”<sup>1</sup> As a result, agencies and the education system would have more time to plan their budgets for the next fiscal year. However, the amendment compressed the budget process between the November elections and the earlier commencement dates.<sup>2</sup>

The current commencement date for the regular sessions of the Legislature result from an amendment proposed by the Legislature and approved by the voters in 1994. Currently, Art. III, s. 3 of the Florida Constitution requires the legislature to “convene on the first Tuesday after the first Monday in March of each odd-numbered year, and on the first Tuesday after the first Monday in March, or such other date as may be fixed by law, of each even-numbered year.”

Proponents of the current commencement date argued that newly elected lawmakers would have more time to study issues before session and that later financial figures would be available for budget work.<sup>3 4</sup>

Opponents argued that:

[c]ities, counties and school boards already must wait until the Legislature adopts the state budget - usually in the session’s waning days - before knowing how much state revenue is coming their way. The amendment would move that date back another month, meaning, for example, that it could be May before school boards know how many teachers they can hire for the fall.<sup>5</sup>

### ***Factors Influencing Commencement Dates of Legislative Sessions***

“Most state legislatures originally determined their date for convening according to when members could leave their businesses or farms to go to the capital.”<sup>6</sup> As a result, many other state legislatures convene in January. Florida’s legislative sessions initially convened in April because winter was Florida’s busy commercial and farm time.

### ***2008 Multi-State Regular Session Calendar***

STATE	CONVENE	ADJOURN
Alabama	February 5	May 19
Alaska	January 15	April 15
Arizona	January 14	Late April
Arkansas	No Regular Session in 2008	
California	January 7	August 31

<sup>1</sup> Ann Dixcy and Margaret T. Tappan, *Constitutional Amendments 1990*, St. Petersburg Times, Oct. 23, 1990.

<sup>2</sup> See *id.*

<sup>3</sup> *Vote no on Amendment 1*, The Tampa Tribune, Oct. 26, 1994.

<sup>4</sup> Some have also suggested “that the change [to the current session commencement dates] is the work of South Florida legislators who don’t want to come to Tallahassee in February when it is cold.” *No. 1: For later sessions*, St. Petersburg Times, Nov. 2, 1994.

<sup>5</sup> *Proposed Amendments*, The Orlando Sentinel, Nov. 6, 1994.

<sup>6</sup> Ann Dixcy and Margaret T. Tappan, *Constitutional Amendments 1990*, St. Petersburg Times, Oct. 23, 1990.

STATE	CONVENE	ADJOURN
Colorado	January 9	May 7
Connecticut	February 6	May 7
Delaware	January 8	June 30
Florida	March 4	May 2
Georgia	January 14	Mid March
Hawaii	January 16	Early May
Idaho	January 7	Late March
Illinois	January 9	Meets throughout the year
Indiana	January 14	March 14
Iowa	January 14	April 22
Kansas	January 14	April 12
Kentucky	January 8	April 15
Louisiana	March 31	June 23
Maine	January 2	April 16
Maryland	January 9	April 7
Massachusetts	January 2	Meets throughout the year
Michigan	January 9	Meets throughout the year
Minnesota	February 12	May 19
Mississippi	January 8	May 11
Missouri	January 9	May 30
Montana	No Regular Session	
Nebraska	January 9	Mid April
Nevada	No Regular Session	
New Hampshire	January 2	July 1
New Jersey	January 8	Meets throughout the year
New Mexico	January 15	February 13
New York	January 9	Meets throughout the year
North Carolina	May 13	July
North Dakota	No Regular Session	
Ohio	January 2	Meets throughout the year
Oklahoma	February 4	May 30
Oregon	No Regular Session	
Pennsylvania	January 1	Meets throughout the year
Rhode Island	January 1	Late June
South Carolina	January 8	June 5
South Dakota	January 8	Mid March
Tennessee	January 8	Late April
Texas	No Regular Session	
Utah	January 21	March 5
Vermont	January 8	Early May
Virginia	January 9	March 8
Washington	January 14	March 12
West Virginia	January 9	March 8

STATE	CONVENE	ADJOURN
Wisconsin	January 15	Meets throughout the year
Wyoming	February 11	March 7

*Source: National Conference of State Legislatures*<sup>7</sup>

### ***Relationship of the Budgeting Process to Regular Session Commencement Dates***

Many dates for the state budgeting process are tied to the commencement dates of regular sessions of the Legislature. The dates and actions below were taken from the *Legislative Budget Request Instructions: Fiscal Year 2008-2009*.<sup>8</sup>

DUE	DATE ACTION
June 30	Repayment date of any funds temporarily transferred from one fund to another [section (s.) 215.18, F. S.].
June 30	End of fiscal year [s. 215.01, F. S.].
June 30/July	Agencies and the Judicial Branch identify any undisbursed incurred obligations for operations only which will be carried forward to the next fiscal year; appropriations not identified shall revert to the fund from which appropriated and shall be available for reappropriation by the Legislature [s. 216.301(1)(a), F. S.].
July 1	Beginning of fiscal year [s. 215.01, F. S.].
<b>July 1</b>	<b>Executive Office of the Governor (EOG) furnishes the Original Approved Financial Plan to agencies and Chief Financial Officer and the Annual Release Plan [s. 216.192(1), F. S.].</b>
July 15	Budget instructions due to agencies [s. 216.023(3), F. S.].
August 1	The balance of any appropriation for fixed capital outlay certified forward which is not disbursed but expended, contracted, or committed to be expended prior to the end of the second fiscal year of the appropriation, or the third fiscal year if it is for an educational facility, shall be certified by the head of the affected state agency or judicial branch to the Executive Office of the Governor [s. 216.301(2)(c), F. S.].
September 1	The Executive Office of the Governor shall review and approve or disapprove requests for certification of fixed capital outlay [s. 216.301(2)(c), F. S.].
<b>September 30</b>	<b>Agencies post their Long-Range Program Plans for Fiscal Year (FY) 2008-09 through FY 2012-13 on their internet website [s. 186.021 and 216.013(4), F. S.].</b>
<b>September 30</b>	<b>Agencies submit target budgets if requested [s. 216.031, F. S.].</b>
September 30	Submission by agencies and the judicial branch of financial and other information to the Chief Financial Officer (CFO) necessary for the July, 2007 6 Legislative Budget Request Instructions preparation of annual

<sup>7</sup> National Conference of State Legislatures, *2008 Preliminary Legislative Session Calendar*, updated Sept. 25, 2007, <http://www.ncsl.org/programs/legismgt/about/sess2008.htm>.

<sup>8</sup> Executive Office of the Governor, Office of Policy and Budget, *State of Florida Legislative Budget Request Instructions: Fiscal Year 2008-2009 5-7* (July, 2007), [http://www.flgov.com/pdfs/lbr\\_instruct.pdf](http://www.flgov.com/pdfs/lbr_instruct.pdf).

- financial statements as of June 30 in accordance with generally accepted accounting principles [s. 216.102(1), F. S.].
- September 30 Any incurred obligations for operations only remaining undisbursed shall revert to the fund from which appropriated and shall be available for reappropriation by the Legislature [s. 216.301(1)(b), F. S.].
- October 15 **State agencies and the judicial branch submit the Legislative Budget Request [s. 216.023(1) and (2), F. S.].** Submission of the Schedule IV-C is optional for the FY 2008-09 LBR. However, because the Schedule IV-C will continue to be used to evaluate IT recurring budgets, agencies may wish to update their prior-year Schedule IV-C data if agency information technology operations or costs have undergone substantial change.
- October 28 OPB develops a final budget report containing budget, revenues, cash balance, and program data [s. 216.178(2), F. S., as amended by Ch. 2006-119, Laws of Florida].
- October OPB modifies Legislative Budget Request for technical adjustments [s. 216.023(6), F. S.].
- October Prior to release of Governor's budget recommendations to the Legislature, the Governor holds at least one public hearing on legislative agency budget requests and the Chief Justice of the Supreme Court holds at least one hearing on the judicial branch budget request [s. 216.131, F. S.].
- November 6 Agencies up for annual trust fund review must submit the Pro Forma Schedule I information and Analysis of Trust Fund Creation forms.
- December Ninety days prior to the regular session of the Legislature, the Department of Management Services (DMS) shall make recommendations regarding fixed capital outlay legislative budget requests for state agencies and the judicial branch [s. 216.044(3), F. S.].
- February **At least 30 days prior to the scheduled annual regular session, the Governor shall furnish each senator and representative a copy of his or her recommended budget and revenues [s. 216.162, F. S.].**
- February Not later than 14 days after the Governor submits his recommended budget to the Legislature, the Executive Office of the Governor shall submit to the legislative committees:
- a recommended appropriations bill
  - economic impact statements
  - appropriate staff analyses and supporting materials
  - all legislation in bill form which will be necessary to fully implement the Governor's recommendations. [s. 216.164 and 216.166, F. S.]
- February 1 The balance of any appropriation for fixed capital outlay which is not disbursed but expended, contracted, or committed to be expended prior to February 1 of the second fiscal year, or the third fiscal year if it is for an educational facility, shall be certified by the head of the affected state agency or judicial branch [s. 216.301(2), F. S.].
- February 28 EOG furnishes the Chief Financial Officer, the legislative appropriations committees, and the Auditor General a report listing in detail the fixed capital outlay items and amounts reverting under the authority of 216.301(2), F. S.

- February 28 The Chief Financial Officer furnishes financial statements to the Governor, President of the Senate and Speaker of the House of Representatives [s. 216.102(3), F. S.].
- March 1 Agencies must submit any additions or changes to the Agency Litigation Inventory schedule (Schedule VII) included in the Legislative Budget Request [s. 216.023(7), F. S.].

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

This proposed amendment to the Florida Constitution requires the Legislature to convene annually in regular session on the second Tuesday in January. However, the amendment also permits the Legislature to establish alternative commencement dates by law.

In contrast, Art. III, s. 3, Fla. Const., currently requires the Legislature to “convene on the first Tuesday after the first Monday in March of each odd-numbered year, and on the first Tuesday after the first Monday in March, or such other date as may be fixed by law, of each even-numbered year.”

If this amendment is approved by the voters at the November, 2008 General Election, the 2009 regular session of the Legislature will convene on January 13, 2009.

This constitutional amendment does not contain an effective date. As such, the amendment, if approved by the voters, will take effect on the default effective date provided in Art. XI, s. 5(e), Fla. Const. That provision provides that the amendment will take effect on “the first Tuesday after the first Monday in January” following the November, 2008 General Election. The resulting effective date is January 6, 2009.

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

None.

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

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

Private sector entities dependent on the state budget may have more time to plan expenditures after the Legislature approves a budget.

### **C. Government Sector Impact:**

If the constitutional amendment is passed by the voters, school boards may have more time to plan their internal budgets for the fiscal year after the Legislature adopts the General Appropriations Act.

However, the Governor's Office of Policy and Budget and the Legislature will be required to revise the submission dates for the Long Range Program Plan, Agency Legislative Budget Request, recommendations from the Department of Management Services for fixed capital outlay, legislative budget requests for state agencies and the judicial branch, and submission of the Governor's Budget Recommendations to the Legislature.

Section 216.162, F.S., requires the Governor to submit a copy of the Governor's Budget Recommendations to the Legislature at least 30 days prior to the scheduled annual regular session. In years following a gubernatorial election, the incoming Governor will not be able to meet the required "30 days prior to session" submission. The newly elected Governor will have less than two weeks from the inauguration day until the first day of session to prepare budget and other legislative priorities.

In addition, the timeframe for technical activities which must be performed by the Chief Financial Officer, Governor's Office of Policy and Budget, and the Department of Management Services must be revised to ensure the timely electronic transfer of information for the Florida Financial Management System and the three subsystems necessary for the development of the Agency Legislative Budget Request. The three subsystems are the Florida Accounting Resource Subsystem (FLAIR), People First, and Legislative Appropriation System/Planning and Budgeting System (LAS/PBS). The FLAIR and People First subsystems provide historical accounting information, employee base-year salary and position data, and information necessary for executive and legislative analysis and decision-making. The LAS/PBS is the automated budgeting system which serves as the database for information needed for executive and legislative decision-making and the production of appropriation documents.

Currently, the Governor's Office of Policy and Budget provides the Original Approved Financial Plan and Annual Release Plan to agencies on July 1, the beginning of the fiscal year. Budget instructions are forwarded to agencies by July 15, and the Agency Legislative Budget Request must be submitted to the Governor's Office of Policy and Budget and the Legislature by October 15 of each fiscal year. Passage of the constitutional amendment will require revision of these dates and may result in compressed time for agencies to implement the General Appropriation Act, develop the Long Range Program Plan, and submit the Agency Legislative Budget Request for the upcoming fiscal year. In addition, chapter 216, F.S., must be amended to revise related dates currently in statute.

Another factor for consideration is the schedule for Consensus Estimating Conferences. The conferences must be held prior to the submission of the Governor's Budget Recommendations and prior to the adoption of the General Appropriations Act pursuant to section 216.136, F.S.. If the constitutional amendment is passed, the schedule must be developed to conduct the conferences earlier in the planning and budgeting process. Revising the conference schedule to accommodate the January regular session commencement date may eliminate the opportunity for the Legislature to act upon changes in estimated revenues, positive or negative, which may occur in March or April.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Commission may wish to consider whether the proposed constitutional amendment gives the Legislature too much flexibility to establish alternate regular session commencement dates. Perhaps, the Commission may wish to require alternate dates to be set by a supermajority vote or provide that laws establishing alternate dates be set one year at a time.

The Commission may also wish to add an effective date to this measure to delay application of the measure until the 2010 regular session. Such a change would provide the Legislature and the Governor's Office with time to modify budget process timelines.



## Amendment No. 1

1 Commissioner L. Miller offered the following:

2  
3 **Amendment (with ballot statement)**

4 Remove line(s) 11 and 56, insert:

5 That the following amendment to Section 3 of Article III  
6 and the creation of a new section in Article XII of the State  
7 Constitution is agreed to and shall be submitted to the electors  
8 of this state for approval or rejection at the next general  
9 election or at an earlier special election specifically  
10 authorized by law for that purpose:

11 ARTICLE III

12 LEGISLATURE

13 SECTION 3. Sessions of the legislature.--

14 (a) ORGANIZATION SESSIONS. On the fourteenth day  
15 following each general election the legislature shall convene  
16 for the exclusive purpose of organization and selection of  
17 officers.

18 (b) REGULAR SESSIONS. A regular session of the  
19 legislature shall convene annually on the second first Tuesday  
20 in January after the first Monday in March of each odd-numbered  
21 year, and on the first Tuesday after the first Monday in March,  
22 or such other date as may be fixed by law, of each even-numbered  
23 year. The legislature may fix an alternative date by law  
24 approved by a three-fifths vote of the membership of each house.  
25 Such law may fix only the date of the next annual regular  
26 session.

## Amendment No. 1

## (c) SPECIAL SESSIONS.

(1) The governor, by proclamation stating the purpose, may convene the legislature in special session during which only such legislative business may be transacted as is within the purview of the proclamation, or of a communication from the governor, or is introduced by consent of two-thirds of the membership of each house.

(2) A special session of the legislature may be convened as provided by law.

(d) LENGTH OF SESSIONS. A regular session of the legislature shall not exceed sixty consecutive days, and a special session shall not exceed twenty consecutive days, unless extended beyond such limit by a three-fifths vote of each house. During such an extension no new business may be taken up in either house without the consent of two-thirds of its membership.

(e) ADJOURNMENT. Neither house shall adjourn for more than seventy-two consecutive hours except pursuant to concurrent resolution.

(f) ADJOURNMENT BY GOVERNOR. If, during any regular or special session, the two houses cannot agree upon a time for adjournment, the governor may adjourn the session sine die or to any date within the period authorized for such session; provided that, at least twenty-four hours before adjourning the session, and while neither house is in recess, each house shall be given formal written notice of the governor's intention to do so, and

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53 agreement reached within that period by both houses on a time  
54 for adjournment shall prevail.

55 ARTICLE XII

56 SCHEDULE

57 The amendment to Section 3 of Article III relating to the  
58 date on which annual regular sessions of the legislature must  
59 convene and this section shall take effect January 1, 2009. The  
60 amendment shall first apply to the date on which the 2010  
61 regular session of the legislature convenes.

62  
63 == B A L L O T S T A T E M E N T A M E N D M E N T ==

64 Remove line(s) 61-66 and insert:

65 ARTICLE XII

66 JANUARY COMMENCEMENT DATE FOR REGULAR SESSIONS OF THE  
67 LEGISLATURE.--This proposed amendment to the State Constitution  
68 will change the commencement date of regular sessions of the  
69 Legislature to the second Tuesday in January from commencement  
70 dates in early March. The amendment also permits the  
71 Legislature, through a supermajority vote, to establish an  
72 alternative commencement date by law for the subsequent regular  
73 session.