

Meeting Minutes
Governmental Procedures and Structure Committee
Taxation and Budget Reform Commission
Senate Office Building, Room 37
Tallahassee, Florida
Friday, November 30, 2007
8:30 a.m. □ 11:30 p.m.

(Committee Members: Alan Levine, Chair; Mike Hogan; Julia Johnson; Carlos Lacasa; Patricia Levesque; Jacinta Mathis; Nancy Riley; Darryl Rouson; Greg Turbeville; Ken Wilkinson; Brian Yablonski)

Commissioners Present:

Alan Levine, Chair (By Phone)
Patricia Levesque
Jacinta Mathis
Nancy Riley (By Phone)
Greg Turbeville, Acting Chair
Ken Wilkinson

Other Members Present:

John McKay
Les Miller

Excused Absences:

Mike Hogan
Julia Johnson
Carlos Lacasa
Darryl Rouson
Brian Yablonski

Acting Chairman Greg Turbeville called the meeting to order at 8:44 a.m. Staff called roll and announced the presence of a quorum.

Constitutional Proposal 4

Zack Kobrin presented the measure on behalf of Commissioner Margolis. Mr. Kobrin explained that the goal of CP 4 is to prohibit increases in assessed value of residential real property due to storm hardening improvements and the installation of renewable energy devices.

Staff explained that the amendment to CP 4:

- Provides that storm hardening improvements and renewable energy source devices cannot be considered when determining the assessed value of residential

real property. The language effectively restates the most significant component of the measure in clearer terms.

- Provides that the benefit under the amendment is subject to conditions and limitations established by the Legislature. This will give the Legislature flexibility to prevent abuse of the benefit.
- Repeals the existing, but not operative, renewable energy exemption in Art VII, s. 3(d), Fla. Const. Retention of the existing exemption could create confusion, conflict, or a double benefit for installing a renewable energy source device.
- Deletes application of the benefit to “additions.” The term could be used to make additional square footage of a structure exempt from property tax.
- Makes conforming changes to the Save Our Homes provisions regarding the assessment of improvements.

Staff further explained that the amendment was designed to address the concerns of the committee while carrying out the intent of the sponsor.

Commissioner Turbeville agreed to sponsor the amendment. The amendment was adopted by the committee.

Commissioner Wilkinson stated that he believed that the amendment addressed his concerns.

The secretary called the vote and the measure was recommended favorably.

Constitutional Proposal 5

Zack Kobrin explained that CP 5 is the implementing bill for CP 4. He asked staff to explain the amendment. Staff explained that the amendment to CP 5:

- Conforms the measure to the changes to CP 4.
- Repeals s. 196.175, F.S., the now inoperative statute that previously implemented the constitutional renewable energy property tax exemption.
- Deletes the application of the benefit to “additions.” As such, the measure clarifies that it will not apply to increases in square footage.
- Clarifies that the benefit will apply to existing structures that are retrofitted, but not to new construction.
- Provides that the benefit disappears upon a change in ownership.

Staff further explained that the amendment was designed to address the concerns of the committee while carrying out the intent of the sponsor.

Commissioner Turbeville agreed to sponsor the amendment. The amendment was adopted by the committee.

Constitutional Proposal 2

Commissioner McKay explained the proposal, but indicated that he was unable to answer some of the questions from the previous meeting. As a result, he invited Bob Nabors to explain the measure.

Mr. Nabors explained that the purpose of the proposal is to give broad and substantial property tax relief by expanding the tax base. Under the measure, necessities will remain untaxed, sales tax rate will remain unchanged, and the Legislature must buy-out the required local effort. Mr. Nabors asserted that the purpose of the measure is readily achievable by the Legislature.

Mr. Nabors explained that there are \$12.3 billion of exemptions after essentials are excluded. Thus, \$4 billion of exemptions are available to offset required local effort. Mr. Nabors explained that services can be taxed either by sunseting services or by taxing services by NAICS codes. Approximately \$23 billion of revenues are available by taxing services.

Mr. Nabors explained that the appropriations bill sets the required local effort to fund education. The measure, however, does not address the 2 mill capital outlay authority.

Commissioner Turbeville expressed concern that the property tax millage rate establishment is much more transparent than the sales tax.

Bob Nabors and Commissioner McKay also explained that broadening the sales tax base will make sales tax revenues less volatile. Commissioner McKay explained that the Legislature has been increasing property taxes by increasing required local effort requirements over the past few years. However, commissioner Turbeville explained that millage rates have decreased.

Commissioner Levesque stated that education funding is a state responsibility and that she supports the elimination of the required local effort. However, she did not want to do something to increase the size of government.

Gene Adams from the Coalition to Protect Florida's Economy presented their view on a service tax. Mr. Adams believes that a service tax will result in competitive disadvantages to the state.

He explained that, although Florida is generally a low tax state, Florida has higher taxes than the national average on businesses. Florida businesses carry a disproportionate property tax burden and pay state income tax, while individuals do not.

The McKay proposal will have to raise \$7.909 billion to replace the required local effort.

The real problem of a service tax is the administration of the tax, the definition of a service, and its impact on business. Tax pyramiding is very likely under a service tax.

Moreover, service transactions can occur across multiple states, making the determination of whether a service is taxable very complex. Many services subject to tax are consumed by businesses. Thus, businesses will bear the burden of a services tax. A service tax may make Florida disadvantageous to businesses who are large consumers of services. Printing businesses would be particularly hard hit by a service tax. Small homebuilders reliant on subcontractors would pay more taxes than large contractors not reliant on subcontractors.

The Coalition does not oppose a review of sales tax exemptions and exclusions. However, the Coalition will oppose taxation without a legislative review and action.

Kabe Woods representing the Okaloosa Citizens Alliance addressed the committee. The Alliance supports replacing the required local effort with sales tax. Mr. Woods explained that he has never made a major business decision as a result of sales taxes. He believes that substituting property taxes for sales taxes will stimulate the economy.

Scott Johnson explained, on behalf of the Florida Association of Insurance Agents, that insurance is already subject to an insurance premium tax. Mr. Johnson asked the committee to keep that in mind when considering the elimination of sales tax exemptions and taxation of services.

Jose Gonzalez, representing Associated Industries of Florida, stated that the organization supports a review of sales tax exemptions. Mr. Gonzalez cited a TaxWatch study that identified a number of sales tax exemptions that should be reviewed. However, those exemptions equate to about \$1 billion. Many exemptions are necessary for Florida to remain competitive with other states. Mr. Gonzalez asserted that Florida's tax structure is an asset, not a liability.

Nancy Stevens, representing the Florida Manufacturers Association and the Florida Minerals and Chemistry Council, explained that her members oppose a mandated review of exemptions and exclusions from sales tax. Moreover, she believes that the exemptions benefiting the industries she represents are meritorious. However, her businesses must be able to plan that the exemptions will be removed.

Jennifer Green, representing the Florida Institute of Certified Public Accountants, stated that her association does not object to a review of exemptions. However, her organization cautions the committee on exclusions. She noted that the tax code is designed to tax tangible personal property, not services. She also explained that it is difficult to determine whether services performed elsewhere for Florida residents should be taxable in Florida.

In response to a question by Commissioner Wilkinson, Ms. Green explained that her association has not taken a position on the property tax measure on the January 29, 2008 ballot.

Tray Price, representing the Florida Association of Realtors, stated that the association supports the elimination of required local efforts. However, he noted that the McKay proposal would lead to the imposition of services tax. Mr. Price also urged the committee to go slow with the proposal and study what it would do to the Florida real estate market.

Ben Parks, representing the Florida Farm Bureau, stated that his organization did not object to the removal of the ostrich feed exemption. Mr. Parks noted that those in the agricultural industry are price takers rather than price makers. As a result, taxation of services will hurt the agriculture industry. Mr. Parks also noted that surrounding states will not impose services taxes and that Florida's agricultural industry will be at a disadvantage.

Bob Nabors explained that the Legislature would have to make the decisions on what should be taxed. He also argued that the issue before the Committee is whether the required local effort should be replaced with sales tax.

Constitutional Proposal 3

Commissioner Les Miller explained that CP 3 would move the start date for legislative sessions from March to January. He explained that the move would give those dependent on the state budget time to plan their spending.

Commissioner Miller explained that the purpose of the amendment was to delay application of the measure until the 2010 legislative session.

The amendment was adopted and the measure was recommended favorably.

Commissioner Wilkinson stated that the measure would give appraisers more time to comply with legislative changes. Commissioner Levesque expressed concern that the measure would make it difficult for new governors to get involved in the budget process in their first year.

Commissioner Levesque moved to make CP 4, SR 5, and CP 3 into committee substitutes.

There being no further business before the committee, the meeting was adjourned at 11:35 a.m.