



TAXATION AND BUDGET REFORM COMMISSION

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Staff Analysis and Economic Impact Statement

Measure:	CS/CP 2, First Engrossed	REFERENCE:	ACTION:
Sponsor:	Commissioners McKay, Rouson, L. Miller, Lacasa, Levesque, Riley, Corcoran, Wilkinson, Kyle, and Martinez	1. GPSC 2. FTC 3. TBRC 4. Style/Drafting	Fav/2 amendments Fav/CS Fav/Engrossed Pre-meeting
Subject:	Property taxes and replacement of required local effort with state revenues		

Date: March 17, 2008

I. Summary:

This measure requires the Legislature to fully replace the ad valorem taxes comprising the required local effort to fund education with:

- Revenues gained from the repeal of sales tax exemptions;
- An increase in the sales tax rate of up to one cent;
- Reductions in state spending;
- Revenues resulting from economic growth attributable to lower property taxes; and
- Other revenues identified or created by the Legislature.

The ad valorem taxes comprising the required local effort must be replaced starting with the 2011 General Appropriations Act for property taxes assessed in 2011 and thereafter.

This measure also:

- Reduces the annual cap on the growth in assessments of non-homestead property to five percent from ten percent for all property tax levies, except for school district levies;
- Reduces the maximum ad valorem millage for school purposes to five mills from ten mills, for which voter approval is not required by the Florida Constitution; and
- Provides that laws creating new sales tax exemptions must address only the single subject-matter of a single exemption and include a finding that the exemption serves a public purpose.

territory, or the District of Columbia is permitted. Credit is not given for taxes paid to another country.⁶

Sales Tax Exemptions

The 2007 *Florida Tax Handbook* lists 246 exemptions from the sales tax.⁷ The *Tax Handbook* states that several of the exemptions are fundamental to the structure of the tax. These structural exemptions include:

- Items purchased for subsequent resale;
- Intangible personal property;
- Tangible personal property imported or produced for export; and
- Purchases of agricultural products used in further processing for resale.

The revenue impact of the remaining exemptions is estimated to be \$12.3403 billion. However, the *Tax Handbook* notes that some of the exemptions overlap such that the repeal of all of the exemptions, excepting the structural exemptions, would yield less than \$12.3403 billion. Of non-structural exemptions:

- \$8.15 billion relate to household items;
- \$0.67 billion relate to organizations;
- \$2.16 billion relate to business items; and
- \$1.35 billion relate to miscellaneous items.⁸

Sales Tax on Services

In 1986, the Legislature repealed the sales tax exemptions on services, effective July 1, 1987. In 1987, the Legislature integrated the tax on services with the sales tax on tangible personal property. In a 1987 special session, the Legislature repealed the sales tax on services, effective January 1, 1988. Accordingly, the state's experience with a broad-based sales tax on services lasted six months.

Most services are not [currently] subject to Florida's sales tax. This lack of tax on most services is not due to an exemption from the tax, but from the fact that services are not specified as taxable. There are basically two exceptions to this. First, s. 212.05(1)(k), F.S., specifically states that detective, burglar protection, and other protective services and nonresidential cleaning and pest control services are subject to the sales tax.⁹

Second, the definition of "sales price" in s. 212.02, F.S., states that the amount paid for tangible personal property includes any services which are part of the sale "without any deduction therefrom on account of the cost of property sold, the cost of materials used, labor or service cost, interest charged, losses, or any other expense whatsoever." The

⁶ *Id.*

⁷ The Florida Senate, 2007 *Florida Tax Handbook: Including Fiscal Impact of Potential Changes* 115-118 (2007).

⁸ *Id.* at 118.

⁹ The Florida Senate, Fiscal Resource Committee, *Sales Tax Exemptions: A Tool for Lowering the Sales Tax Rate in Florida* 13 (Aug. 2000).

valorem taxes. A school district must levy the required local effort as a condition to receive state funding through the FEFP. The required local effort amount set by the Legislature for fiscal year 2007-2008 was approximately \$7.9 billion, not including discretionary local effort.

Growth of Property Tax Assessments

Article VII, section 4(c) of the Florida Constitution generally limits the annual growth in the assessed value of homesteads to the lesser of inflation or three percent. On January 29, 2008, the voters approved a constitutional amendment to section 4 which generally limits annual increases in the assessed value of non-homestead properties to ten percent, except for school district levies.

Ad Valorem Taxes for School Purposes

Article VII, section 9(b) of the Florida Constitution limits the maximum millage for ad valorem taxes for school purposes to 10 mills. However, the millage limit expressly does not apply to ad valorem taxes "levied for the payment of bonds and taxes levied for periods not longer than two years when authorized by vote of the electors who are the owners of freeholds therein not wholly exempt from taxation."

III. Effect of Proposed Changes:

This constitutional proposal:

- Requires the Legislature to fully replace the ad valorem taxes comprising the required local effort to fund education with state revenues;
- Reduces the annual cap on the growth in assessments of non-homestead property to five percent from ten percent for all property tax levies, except for school district levies;
- Reduces the maximum ad valorem millage for school purposes to five mills from ten mills, for which voter approval is not required by the Florida Constitution; and
- Provides that laws creating new sales tax exemptions must address only the single subject-matter of a single exemption and include a finding that the exemption serves a public purpose.

Education Funding

Replacement of Required Local Effort - This measure eliminates the property taxes established by the Legislature as required local effort, which funds the operations of school districts. The Legislature must replace the "full revenue impact" of the loss of required local effort with:

- Revenues gained from the repeal of sales tax exemptions;
- An increase in the sales tax rate of up to one cent;
- Reductions in state spending;
- Revenues resulting from economic growth attributable to lower property taxes; and

101	Prescription drugs.	896.0	Household
102	Non-prescription drugs.	199.0	Household
103	Eyeglasses and other corrective lenses.	44.3	Household
104	Medical supplies and products such as syringes and prosthetics.	114.8	Household
160	Charges for hospital meals and rooms.	603.2	Household
161	In-facility meals purchased by residents of homes for the aged.	22.2	Household
162	Purchases of power & heating fuels by residential households.	2,178.9	Household
167	Sales or leases to churches.	10.3	Organizations
177	Section 501(c)(3) organizations.	47.8	Organizations
200	Nonprofit cooperative hospital laundries.	0.1	Business
207	Complimentary food items.	0.8	Business
208	Food or beverages donated to nonprofit organizations.	0.3	Organization
		8,115.1	

The maximum amount of revenue that may be gained by the repeal of all non-structural sales tax exemptions is \$12.3403 billion.¹⁷ The most that the Legislature will be able to recover from the non-exempt exemptions to offset the required local effort may be slightly more than \$4 billion.

Elimination of Required Local Effort

The required local effort is a property tax that must be levied by a school district for eligibility to receive state funds under the FEFP. The measure provides that the “legislature shall be prohibited from requiring the levy of an ad valorem property tax as a required local effort for participation by school districts in the Florida Education Finance Program.” The measure does not state that education must be primarily state funded. As a result, the measure may permit the Legislature to compel a school district to levy other taxes.

Statutory Cross-References

This measure contains a number of specific cross-references to the Florida Statutes. The inclusion of cross-references to statutes in state constitutions is rare. The inclusion of the statutory cross-references may incorporate the specific statutes into the constitution. Thus, the Legislature may be unable to modify or repeal them.¹⁸ Alternatively, if the Legislature is not precluded from amending or repealing the cross-referenced statutes, the measure contains provisions that will become obsolete when the Legislature amends the cross-referenced statutes. To avoid the potential problems described above, the Commission may wish to address the issue in terms of principles, rather than statutory cross-references and statutory concepts.

Taxes not Affected by CS/CP 2, 1st Eng.

Property taxes levied by school districts other than required local effort required property taxes are unaffected by this measure.

¹⁷ The *Tax Handbook* states that some exemptions overlap. As a result the repeal of all exemptions would generate less than \$12.3403 billion.

¹⁸ See *Williams v. State*, 100 Fla. 1567, 1569 (Fla. 1930) (stating “[i]t is a general rule that when a statute adopts a part or all of another statute, domestic or foreign, general or local, by a specific and descriptive reference thereto, the adoption takes the statute as it exists at that time”).

residents of several counties, however, pay substantially less than the state-wide ad valorem millage. Thus, the exchange of required local effort for state revenues for education may be less advantageous for residents of low millage counties. These counties include: Charlotte--3.611 mills, Collier--2.786 mills, Franklin--1.437 mills, Monroe--1.408 mills, Sarasota--3.541 mills and Walton--1.696 mills.²⁰

Property taxes are deductible from the federal income tax. The Federal Income Tax Deduction for state sales taxes has expired and has not been reenacted for 2008.²¹ If the deduction for state sales taxes is not reenacted and property taxes are reduced, Floridians will pay more federal income taxes.

C. Government Sector Impact:

Local school districts may become less relevant and less influential as the state revenues funding education increase relative to local revenues. This measure may reduce state government spending on services and items other than education due to possible budget reductions.

The cap on the annual growth of assessments of non-homestead properties may reduce local government revenues and/or lead to an increase in ad valorem millage rates on all properties.

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:

The Commission may wish to make the following technical changes:

- Delete the word “and” on line 213;
- Provide for the five percent cap on the growth of non-homestead assessments to take effect January 1, 2009;
- Provide for reduction in the maximum millage authorized for school purposes to coincide with the elimination of the required local effort;
- Make the date for the elimination of required local effort on lines 201-202 consistent with the date on line 222; and
- Move the word “not” on line 222 to after the word “shall.”

²⁰ Florida Department of Education, *2007-2008 Funding for Florida School Districts 2*, <http://www.fldoe.org/fefp/pdf/fefpdist.pdf>.

²¹ Kay Bell, *State sales taxes can still cut your IRS bill*, Bankrate.com, <http://www.bankrate.com/brm/itax/20041012b1.asp> (Jan. 14, 2008).