

FLORIDA TAXATION AND BUDGET REFORM COMMISSION

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IN RE:

Committee Meeting

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Tallahassee, FL

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Notary Public

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MEMBERS OF THE COMMITTEE:

Hoyt "Barney" Barnett

Martha W. Barnett

Allan Bense

R. Mark Bostick

Talbot "Sandy" D'Alemberte

Daniel Gelber

Mike Haridopolos

Mike Hogan

Julia Johnson

Bruce Kyle

Carlos Lacasa

Patricia Levesque

Richard Corcoran

Gwen Margolis

Roberto "Bobby" Martinez

Jacintha Mathis

John M. McKay

Robert "Bob" McKee

Lesley J. "Les" Miller, Jr.

Randy Miller

Jade Thomas Moore

Nancy J. Riley

Darryl E. Rouson

David Rivera

James "Jim" A. Scott

Susan Story

William Gregory "Greg" Turbeville

Kenneth "Ken" Wilkinson

Brian Yablonski

1 P R O C E E D I N G S

2 * * *

3 CHAIRMAN BENSE: Members, let's take our

4 seats. We're still short a couple. We're in the

5 final two days of the stretch run for the Taxation
6 and Budget Reform Commission meeting. Let's call
7 the meeting to order.

8 Nancy, please call the roll.

9 MS. FRIER: Commissioner Barney Barnett.

10 MR. BARNETT: Here.

11 MS. FRIER: Commissioner Martha Barnett.

12 MS. BARNETT: Here.

13 MS. FRIER: Commissioner Bostick.

14 MR. BOSTICK: Here.

15 MS. FRIER: Commissioner Corcoran.

16 (No response.)

17 MS. FRIER: Commissioner D'Alemberte.

18 MR. D'ALEMBERTE: Here.

19 MS. FRIER: Commissioner Gelber.

20 MR. GELBER: Here.

21 MS. FRIER: Commissioner Haridopolos.

22 (No response.)

23 MS. FRIER: Commissioner Hogan.

24 MR. HOGAN: Here.

25 MS. FRIER: Commissioner Johnson.

1 MS. JOHNSON: Here.

2 MS. FRIER: Commissioner Kyle.

3 (No response.)

4 MS. FRIER: Commissioner Lacasa.

5 MR. LACASA: Here.

6 MS. FRIER: Commissioner Levesque.

7 MS. LEVESQUE: Here.

8 MS. FRIER: Commissioner Margolis.

9 (No response.)

10 MS. FRIER: Commissioner Martinez.

11 MR. MARTINEZ: Here.

12 MS. FRIER: Commissioner Mathis.

13 MS. MATHIS: Here.

14 MS. FRIER: Commissioner McKay.

15 MR. MCKAY: Here.

16 MS. FRIER: Commissioner McKee.

17 MR. MCKEE: Here.

18 MS. FRIER: Commissioner Les Miller.

19 MR. LES MILLER: Here.

20 MS. FRIER: Commissioner Randy Miller.

21 MR. RANDY MILLER: Here.

22 MS. FRIER: Commissioner Moore.

23 MR. MOORE: Here.

24 MS. FRIER: Commissioner Riley.

25 MS. RILEY: Here.

5

1 MS. FRIER: Commissioner Rivera.

2 (No response.)

3 MS. FRIER: Commissioner Rouson.

4 MR. ROUSON: Here.

5 MS. FRIER: Commissioner Story.

6 MS. STORY: Here.

7 MS. FRIER: Commissioner Turbeville.

8 MR. TURBEVILLE: Here.

9 MS. FRIER: Commissioner Wilkinson.

10 (No response.)

11 MS. FRIER: Commissioner Yablonski.

12 MR. YABLONSKI: Here.

13 MS. FRIER: Vice Chair Scott.

14 VICE CHAIR SCOTT: Here.

15 MS. FRIER: Chair Bense.

16 CHAIRMAN BENSE: Here.

17 Let the record reflect that a quorum is

18 present. I want to congratulate Commissioner

19 Rouson. I think since our last meeting he has

20 become a member of the Florida House, and

21 let's -- how about a nice round of applause.

22 (Applause.)

23 I mentioned to him that he got elected on

24 Tuesday; I think he was sworn in on Wednesday.

25 And by Friday he brought the House to their

6

1 knees, and they went all night Friday night.

2 MS. RILEY: I think that's another

3 commissioner's fault.

4 CHAIRMAN BENSE: Okay. Members, I want to

5 make a few remarks, if you don't mind, before we

6 start off today.

7 And today's -- today and tomorrow, if it

8 goes through to tomorrow, are very important
9 days in the history of the 2007/2008 Taxation
10 and Budget Reform Commission.

11 After 13 months of hard work, we're
12 prepared to take up the report of the Styling
13 and Drafting Committee, the committee's
14 recommendation for technical changes in the
15 constitutional proposals which have been put
16 forth to the Commission, and to take final
17 votes on the constitutional proposals for
18 transmittal to the Secretary of State's office

19 for placement on the 2008 general election

20 ballot.

21 Today's actions are the final steps in the

22 very orderly and transparent process that has

23 been followed for each of these proposals.

24 It's imperative that we conclude in the same

25 manner to maintain the public trust and the

7

1 integrity of the Commission.

2 Each of the proposals before you today are

3 the product of this Commission. While they

4 came before us as proposals from individual

5 members or from committees, they have each
6 received the distinction of having received the
7 support of at least 17 members and thus have
8 become the work product of the Commission.

9 Every member of this Commission has added
10 a unique and important perspective to the work
11 of the body. I'm not sure that I've ever
12 served on as distinguished a commission in my
13 life. I don't say that lightly, because I
14 have -- the level of debate sometimes is way
15 over my pay grade, and it's by folks that are

16 scholars, that are very bright, and that I have
17 a great deal of respect for.

18 I want to thank our chairmen of our
19 standing committees, the Finance and Tax
20 Committee, the Governmental Procedures and
21 Structure Committee, the Governmental Services
22 Committee, and the Planning and Budgetary
23 Processes Committee. They all met on numerous
24 occasions around the state and worked to bring
25 forth proposals for discussion by the full

1 Commission.

2 And I want to thank our committee chairs,
3 commissioner Susan Story, Commissioner Alan
4 Levine, Commissioner Roberto Martinez, and
5 Commissioner Carlos Lacasa. They deserve
6 special recognition for the dedication and
7 steady guidance they provided throughout the
8 process.

9 And also each of you who served on ad hoc
10 committees, special work groups and
11 subcommittees are to be commended.

12 We began this journey back in March of

13 2007, and again I want to thank you for

14 maintaining credibility throughout this

15 process. We have debated in a heated manner

16 from time to time, but we've always been

17 respectful and courteous to each other. And

18 I'm sure we'll continue that same vein.

19 I'm very proud of the full body of work

20 that is before us today and of all the hard

21 work and commitment that went into the process

22 to get us to this point. Each commissioner has

23 maintained a high standard of adherence to the

24 oath that each of us took to uphold the

25 constitution and to abide by the

9

1 self-determined rules of this Commission.

2 This Commission and its committees have

3 held over 125 meetings, public hearings or

4 committee meetings across the state and

5 received thousands of public comments. We have

6 literally volumes and volumes of public

7 testimony that we've received and patiently

8 listened to.

9 We have held public hearings in

10 Jacksonville, Tampa, Orlando, Fort Myers,
11 Miami, Fort Lauderdale, and Niceville, and
12 taken public testimony from hundreds of
13 citizens from all parts of the state at these
14 public hearings. And while everyone won't be
15 pleased with all the outcomes of the work by
16 this Commission, no one can say that the
17 Commission did not well and faithfully perform
18 their responsibilities in reviewing the state's
19 taxation and budget process. Not everyone got
20 what they wanted; not everyone is going to come
21 out a winner. That's the nature of the

22 process.

23 The eight proposals which have received

24 the necessary 17 votes to proceed to the

25 Styling and Drafting Committee have been

10

1 closely reviewed for technical correctness by

2 the committee and are back before us today. I

3 want to commend the Styling and Drafting

4 Committee for their hard work. They've met for

5 countless hours, debating over individual words

6 and the meaning of the words and the meaning of

7 those words in the constitution.

8 I feel comfortable that the Styling and

9 Drafting Commission [sic] has done a very, very

10 good job. They've worked tirelessly over the

11 last several weeks to be sure that all the

12 proposals before us today are ready to be

13 placed on the ballot for voter approval.

14 Individually, I'd like to thank

15 Commissioner Patricia Levesque for chairing the

16 committee, for Commissioner Martha Barnett,

17 Commissioner Mike Hogan, Commissioner Les

18 Miller, and Commissioner Jim Scott for their

19 hard work on the Styling and Drafting

20 Committee. As a member of the committee, I was

21 amazed at the level of detail that went into

22 the review of each proposal. As Commissioner

23 Barnett repeatedly reminded us, each word in

24 the constitution must have meaning.

25 The purpose of today's meeting is to take

11

1 up the report of the Styling and Drafting

2 Committee. There will be no public testimony,

3 but members of the Commission will be able to

4 ask questions and have full debate on each of
5 the recommendations of this committee. If you
6 are familiar with the legislative process, it's
7 like we're on third reading.

8 The Constitutional Revision Committee
9 [sic] ten years ago actually met in the House
10 chambers, I think, their last day or two in the
11 Senate. Well, would have been nicer in the
12 House, though.

13 (Laughter.)

14 They met in the Senate, so -- and we have
15 heard hours and hours and hours and hours of

16 public testimony. I think the members have
17 received significant input and sufficient
18 input.

19 Approval of recommendations of the Styling
20 and Drafting Committee will require a majority
21 vote. Any substantive amendments to
22 constitutional proposals will require a vote of
23 17 members. Just a rehash of the rules, folks.
24 And substantive amendments will be entertained
25 at the point of final passage.

1 We will now receive the report of the
2 Styling and Drafting Committee. Chair Levesque
3 is prepared to make that report and
4 recommendation at this time. Chairman
5 Levesque, you're recognized.

6 MS. LEVESQUE: Thank you, Mr. Chairman and
7 members. And I also want to take an opportunity
8 and thank the members of the Styling and Drafting
9 Committee, Commissioner Barnett, Hogan, Les
10 Miller, Jim Scott, and Chairman Bense. We did
11 spend hours and hours and hours and hours
12 reviewing the proposals and going through every

13 single word. And I want to thank our staff also,

14 Richard Hixson and Tom Cibula and Chandra and

15 Susan and everyone who helped us on the committee.

16 Before we get started with Agenda Item

17 No. 5, I kind of wanted to walk the Commission

18 members through some of the process that we

19 used when we were reviewing proposals, and then

20 if you-all want to ask questions even on our

21 process, please feel free to. And I'd ask the

22 other members of Styling and Drafting, if you

23 want to chime in, if you want to highlight

24 things that we also did.

25 When we started our first Style and

13

1 Drafting Committee meeting, we started with

2 staff giving us guiding principles for what we

3 should be doing when we reviewed different

4 constitutional proposals. There were very

5 technical things that we needed to do, such as

6 looking at the title of every ballot summary,

7 making sure the title didn't exceed 15 words,

8 making sure the ballot summary actual text did

9 not exceed 75 words.

10 Staff gave us other guidance based upon
11 past court cases and different things on prior
12 constitutional amendments, that every ballot
13 summary needed to specifically identify the
14 chief purpose of the proposed revision, and
15 that we needed to use clear and unambiguous
16 language. So we used some of these principles
17 as we reviewed every single one of the
18 proposals.

19 We basically followed a process that
20 was -- of this. Every individual

21 constitutional proposal was first reviewed by
22 our staff. And our staff did a technical
23 review to see, did we meet the 75 words, did we
24 meet the 15 words. And they also looked at
25 issues such as -- and you will notice this in

14

1 two of the proposals that we will bring for you
2 today.

3 For example, amendment -- a Constitutional
4 Proposal 4 by Senator Margolis that dealt with
5 the section of the constitution that had been
6 amended by Amendment 1 that was on the ballot

7 January 29th. And when Commissioner Margolis
8 had first filed that proposal, Amendment 1 had
9 not passed. So one of the things that staff
10 identified is we needed to incorporate the
11 provisions of Amendment 1 that were in the
12 constitution needed to be part of Commissioner
13 Margolis's proposal.

14 So staff did that type of a technical
15 review for us. Then we sent every single
16 proposal to legislative bill drafting. These
17 are the folks that -- it's their full-time job

18 all year long to look at the legislative bills
19 and constitutional proposals, and they gave
20 very many good recommendations for stylistic
21 and technical things, and they also helped
22 point out areas where we needed to look at the
23 proposals with a little bit more detail.

24 The members took all of the input from
25 bill drafting and from the staff, and then we

15

1 gave direction to the staff to make any
2 stylistic changes to the different proposals.
3 Those proposal -- then they went through

4 another process and then were brought back to
5 us.

6 So every single constitutional proposal
7 received more than one review in the Style and
8 Drafting Committee. We never had an issue
9 brought to us that was voted on that day.

10 There was time and deliberation in between the
11 first time we saw the proposal, through the
12 review of the proposal, to when it came back to
13 make sure that our changes were done before we
14 voted on them.

15 And then we had individual members that
16 identified other issues in proposals. I'd say
17 Commissioner Barnett, having her background on
18 the Constitutional Revision Commission, was
19 very clearly able to identify things that none
20 of us had caught. So I thank her for her input
21 very much on the committee.

22 I want everyone to know that we also
23 worked with the sponsors of the proposals, so
24 any change that was made to any constitutional
25 proposal was brought before the sponsor, and

1 every sponsor agreed and approved the things
2 that we were doing to his or her proposal.

3 We also worked with what I would say are
4 interested parties. You know, there were
5 several folks that brought these ideas to a
6 commissioner to put before the Commission, and
7 we also made sure they were included in the
8 process and were looking at all the items we
9 were making edits to.

10 I'm happy to say that every proposal that
11 we will bring forth to you today was

12 unanimously supported by Style and Drafting.

13 Within our final votes for each proposal, they

14 were unanimously supported, so I think that

15 gives you a good idea of the consensus work

16 product that we have in the particular meeting.

17 I want to -- Mr. Chairman, is it okay if

18 we move into Agenda Item No. 5? That's kind of

19 where I --

20 CHAIRMAN BENSE: Okay.

21 MS. LEVESQUE: What we're going to do, in

22 your packets you have every single constitutional

23 proposal in numeric order, but we're not going to

24 go in numeric order. We're going to go in a
25 slightly different order, if you-all could indulge

17

1 me, to walk through some of the simpler measures
2 first so that you-all can just get in the rhythm
3 of what we did and how we looked at items.

4 But in -- in your packets you should have
5 for each proposal a first engrossed version.

6 The first engrossed version is how the proposal
7 came to the Styling and Drafting Committee.

8 You should also have a second engrossed

9 version, which is what we're now bringing back

10 to you with any amendments that we had made.

11 You should also have a thing called a change

12 sheet. The change sheet identifies the changes

13 that we made to each proposal. And you should

14 also have the bill analysis. So you should

15 have that for every single proposal.

16 So I'm going to take just a second here.

17 We are going to start with CS for CP4 by

18 Commissioner Margolis, so if everybody can find

19 that.

20 MR. MCKAY: Can I ask a question?

21 CHAIRMAN BENSE: Commissioner McKay, you're
22 recognized.

23 MR. MCKAY: I understand the wisdom of the
24 proposal, that we take the simple ones first so we
25 get the rhythm. I think that's very smart. I

18

1 seem to recall, perhaps incorrectly, that the --
2 that there was going to be a proposal from the
3 Style and Drafting Committee also about the order
4 in which these would appear on the ballot, and I
5 wonder if there's any relationship between the

6 order we're taking them up today --

7 CHAIRMAN BENSE: No.

8 MR. MCKAY: -- or the numerical order? How

9 are we going to do deal with that? If you

10 could -- if you wouldn't mind enlightening me.

11 CHAIRMAN BENSE: Commissioner Levesque, I'll

12 let you answer that.

13 MS. LEVESQUE: Sure. Commissioner McKay,

14 if -- on our agenda for the full Commission

15 meeting, if you would look at Agenda Item 6,

16 that's when we're going to walk through the whole

17 process of what the Style and Drafting Committee

18 did on discussion of the order and then the
19 proposed order, if that's -- unless members want
20 me to talk about how we discussed ordering now, I
21 was going to wait until Item No. 6 --

22 MR. MCKAY: That's fine. That -- if it's a
23 separate item. I just wanted to make sure we
24 weren't --

25 MS. LEVESQUE: No. What we're going through

19

1 now, and -- whatever order that we go through now
2 has nothing to do with the order that we

3 recommended for the ballot.

4 MR. MCKAY: Thank you.

5 MS. LEVESQUE: Okay. So does every member

6 have CS for CP4 in front of them?

7 Okay. What I would recommend is that

8 members take the second engrossed version,

9 because that's the version that we're going to

10 actually be voting on. It should say "second

11 engrossed" up in the top left, or in the bottom

12 left it'll say "final." And then members

13 should also take the change sheet, because

14 that's basically what I'm going to talk from.

15 If everybody's ready. CS for CP4, this
16 was Commissioner Margolis. It was the proposal
17 that dealt with having an assessment
18 differentiation based on storm hardening
19 improvements that individuals made to their
20 homes. If you can look at line 5 of CS for
21 CP4, second engrossed, you can see the words
22 "Wind Damage Resistance" in the title of that
23 proposal.

24 When that first came to us, the words that
25 were in there were "Storm Hardening

1 Improvements." And this was an issue that
2 staff in bill drafting and our staff
3 identified, because all throughout the proposal
4 we had referred to the items as "Wind Damage
5 Resistance" items, but in the title of the
6 proposal, we had used the term "Storm
7 Hardening." So for consistency all throughout,
8 we made the decision to change the words on
9 line 5 to "Wind Damage Resistance."

10 On lines 8 and 9, after the word
11 "Property" in the title -- and let me explain

12 something, members, because we'll talk through
13 this a lot. The title of each proposal does
14 not show up in the constitution and is not
15 anything that the voters see. The title of the
16 proposal is really more an internal process
17 that's used when bills are drafted to identify
18 everything that's in the bill. So the changes
19 that we make in the title are just to really
20 make sure we have a typed product in front of
21 us, but they don't have any impact on what's in
22 the constitution or what the voters think.

23 But, on lines 8 and 9, bill drafting

24 identified that there was a provision in the

25 substantive proposal that's in the constitution

21

1 that was stricken and that we hadn't identified

2 in the title. So the language to delete an

3 existing exemption for renewable energy source

4 devices to conform, we needed to add that

5 language in because that was not included in

6 the original title.

7 And if members have any questions, let me

8 know.

9 On lines 9 and 10, a change that was made,

10 the original language said that -- there -- to

11 provide an effective date if such amendment is

12 adopted. And bill drafting recommended that we

13 change that to say, "to provide effective

14 dates," plural, because we have two dates in

15 the proposal for such provisions if adopted.

16 So we did some singular/plural changes, because

17 there are actually two things that are in

18 Commissioner Margolis's proposal.

19 Then if you look at the next one, two,

20 three, four things that are identified on your
21 change sheet, items on lines 77 through 80,
22 lines 111 through 112, 131 to 168, and 191 to
23 235, that's a lot of language that was added
24 into Commissioner Margolis's proposal. All
25 that those four change items did was

22

1 incorporate the provisions of Amendment 1 that
2 had passed on January 29th into her proposal.

3 So it's a lot of language, but it's
4 nothing more than inserting existing provisions
5 of the constitution into her proposal that were

6 not part of the constitution when she first
7 filed her amendment. Does that make sense?

8 Then if you go to line 247 to 255 in the
9 proposal, this is the schedule of when
10 different provisions in the proposal are
11 adopted. The only thing that we did was we
12 changed the order so that the items were in
13 numerical sequence.

14 And those are the only changes that Style
15 and Drafting Committee made to CS for CP4. And
16 I'll entertain any questions if members have

17 any questions.

18 (No response.)

19 If no questions, Mr. Chairman, I would

20 move to adopt the report recommendation of the

21 Styling and Drafting Committee on CS for CP4.

22 VICE CHAIR SCOTT: Second.

23 CHAIRMAN BENSE: Is there discussion?

24 MS. BARNETT: Just one question.

25 CHAIRMAN BENSE: Commission Barnett, you're

23

1 recognized.

2 MS. BARNETT: More of a procedural question

3 in terms of the ballot language. Are you going to
4 go over that and discuss the ballot language?
5 Which it will appear on the -- in the public
6 forum.

7 CHAIRMAN BENSE: You want to go through that
8 now, Commissioner Levesque?

9 MS. LEVESQUE: Absolutely. If members want
10 to turn to line 263 through 274, this is the
11 actual ballot language that will be in front of
12 the members -- I mean, in front of the citizens.

13 On our change sheet we identified changes

14 on this. But you can read through the title.

15 "Changes and improvements not affecting the

16 assessed value of residential real property,"

17 and then the text of what's in the ballot

18 summary is the cleaned-up recommended language

19 of both bill drafting and our staff and the

20 wordsmithing that the members did. I don't

21 know if members want to ask specific questions

22 on the ballot summary.

23 CHAIRMAN BENSE: Are there questions,

24 members? Commissioner Riley.

25 MS. RILEY: So the repeal of the exemption

1 that currently exists, we're repealing it because
2 we're incorporating it into this one also? Is
3 that the reason?

4 MS. LEVESQUE: I'm sorry. What was your
5 question?

6 MS. RILEY: The repeal of the existing
7 exemption, we're repealing that and then putting
8 it back in under this proposal?

9 MS. LEVESQUE: If you -- Mr. Chairman?

10 CHAIRMAN BENSE: You're recognized.

11 MS. LEVESQUE: If memory serves, the repeal
12 of that existing one was obsolete, so it was more
13 of a cleanup of what was in the constitution.

14 MS. RILEY: Then when I'm looking at the --
15 the way it's going to be worded, it includes that
16 back in, so I'm a little bit ...

17 MS. LEVESQUE: Commissioner Barnett, maybe --

18 CHAIRMAN BENSE: Commissioner Barnett, you
19 want to weigh in on that?

20 MS. BARNETT: Yes. The language is
21 correct --

22 CHAIRMAN BENSE: Turn your mic on.

23 MS. BARNETT: Is it on? I think it is on.

24 The answer to your question is yes.

25 They're repealing -- there's a new provision

25

1 dealing with renewable energy sources, and

2 because that may be -- there was a solar energy

3 provision in the constitution, they're --

4 that's being deleted and this new provision

5 substituted.

6 CHAIRMAN BENSE: Commissioner Riley, you

7 okay with that?

8 MS. RILEY: Yes, thank you.

9 CHAIRMAN BENSE: Okay. Commissioner

10 Levesque, continue.

11 MS. LEVESQUE: Members want me to read the

12 whole ballot summary, is that what's the

13 preference? There were so many -- on all the

14 ballot summaries, ballot summaries seemed to be

15 not adjusted as all the proposals went through the

16 process. And so many times when we got to the

17 ballot summaries, there was a lot of rewriting of

18 the ballot summaries because it just didn't even

19 reflect what the substantive proposal -- so it's

20 hard to do a compare of the prior ballot summary

21 to the current, so I don't have a line-by-line to

22 explain. But we can walk through the exact words,

23 if you like, or members want to take some time to

24 read them.

25 I'm not sure what the preference is,

26

1 but -- Commissioner Scott?

2 CHAIRMAN BENSE: Commissioner Scott, you're

3 recognized.

4 VICE CHAIR SCOTT: Just to comment, you

5 recall when we took up these proposals, either --
6 even in committee or in full Commission, that we
7 never really got into any discussion of the ballot
8 language because it was anticipated that whatever
9 the product that came out of the committee or the
10 Commission, then the ballot language would be
11 drafted to reflect that so that it accurately does
12 it, and that's what is done here.

13 So there's really no way to compare prior
14 ballot language, which also I might point out
15 were just drafted by whoever drafted the
16 proposal and were not reviewed by anyone, so I

17 think the point is that these have all been
18 reviewed by staff, legislative drafting, and in
19 some cases others, including a former Supreme
20 Court justice, so I think that -- have to trust
21 that we've got this accurate.

22 If someone has some question about
23 something that might not be proper, they're all
24 within the 75 words. They're all within the
25 15-word title.

27

1 MS. LEVESQUE: Mr. Chairman --

2 CHAIRMAN BENSE: Have you completed the

3 ballot? Okay. Are there other -- is there any

4 discussion?

5 (No response.)

6 Any further questions?

7 (No response.)

8 Is there debate?

9 (No response.)

10 Okay. This takes a majority vote. This

11 is -- this vote will be to approve the changes

12 to CP004 that were made in Styling and

13 Drafting. All in favor say aye.

14 (Aye.)

15 Opposed no.

16 (No response.)

17 The changes are approved.

18 Next, move on -- Commissioner Levesque,

19 you're recognized.

20 MS. LEVESQUE: Sure. Members, now I'd like

21 to move to CS for CP6, 8, and 34, so I'll wait

22 until you-all find that, and then we'll walk

23 through that proposal.

24 If you have the second engrossed version

25 in front of you and the change sheet, if

28

1 you-all will move to lines 174 to 175 of the

2 second engrossed version.

3 An issue was identified for us that the

4 original language in the first engrossed

5 version that came to us, the provision said

6 that land used for vessel launches into waters

7 that are navigable and accessible to the public

8 was one of the items that would receive this

9 different assessment based on use.

10 It was pointed out to us that it's not

11 really the water that needs to be accessible to
12 the public, but the land. So what Style and
13 Drafting Committee did was we moved the phrase
14 "that is accessible" from modifying water to
15 modifying land.

16 So now, the new item B on lines 174 and
17 175 says, "land that is accessible to the
18 public and used for vessel launches into waters
19 that are navigable." And that was the
20 clarification that we believed needed to be
21 made on what specifically was getting this

22 special valuation.

23 Then if you look at line 189 --

24 CHAIRMAN BENSE: Are there any questions on

25 the first one?

29

1 MS. LEVESQUE: In all of these -- is

2 Commissioner Wilkinson here?

3 CHAIRMAN BENSE: To your right.

4 MS. LEVESQUE: We checked with all the

5 sponsors again to make sure that what we were

6 changing here was the original intent of the

7 proposal.

8 If you go to line 189, there was some
9 clarifying language that was recommended
10 instead of the verbiage that came to us that
11 said that this shall take -- shall first apply
12 to assessments on January 1st, 2010, to say
13 that this shall first apply to assessments for
14 tax years beginning January 1st, 2010. And
15 those were the only changes that we made to the
16 proposal.

17 And then we can now look -- unless members
18 have questions -- at the ballot summary

19 starting on line 197. And I'll just read it
20 for the public. The ballot summary that
21 members -- that citizens will see says,
22 "Assessment of working waterfront property
23 based upon current use. Provides for
24 assessment based upon use of land used
25 predominantly for commercial fishing purposes,

30

1 land used for vessel launches into waters that
2 are navigable and accessible to the public."

3 CHAIRMAN BENSE: Okay. Are there questions?

4 MS. LEVESQUE: It appears that I just caught

5 a mistake. Yeah, I think we just caught a
6 mistake, Mr. Chairman. We didn't make the same
7 modification to the ballot summary on that land
8 that is accessible to the public. We kept the
9 modifier after water, so we may need to make a
10 change to this one and bring it back to the
11 members.

12 CHAIRMAN BENSE: Okay. All right.

13 MS. LEVESQUE: So why don't we --

14 VICE CHAIR SCOTT: Why don't we pass this one
15 and let the staff straighten that out?

16 CHAIRMAN BENSE: Mr. Hixson, if you could get

17 to work on that.

18 MS. LEVESQUE: It's a good thing we read

19 through this again.

20 CHAIRMAN BENSE: Let's -- since there was no

21 motion on that one, let's move on to your next

22 one.

23 MS. LEVESQUE: Members, if you want to pull

24 CP18 from your packet.

25 Okay. CS -- or CP18 is the streamlined

31

1 sales and use tax. And ...

2 CHAIRMAN BENSE: Okay, members, we're on

3 CP0018.

4 MR. RANDY MILLER: Mr. Chair --

5 CHAIRMAN BENSE: You're recognized.

6 MR. RANDY MILLER: Did you-all want me to go

7 ahead and suggest that this be withdrawn at this

8 point?

9 CHAIRMAN BENSE: Okay. Do you make a motion,

10 Commissioner Miller?

11 MR. RANDY MILLER: I would like to make a

12 motion that CP18 be withdrawn from public

13 consideration, as I have had some communication
14 from some leadership that this is an important
15 issue to the state and that they will be willing
16 to take a look at it, but it shouldn't be in the
17 constitution.

18 So I'm willing to not go ahead and clutter
19 up our constitution without assurance, I think,
20 we have gained the -- the attention that we
21 sought on this issue, and I don't think we need
22 to spend a whole lot more time on this
23 proposal.

24 CHAIRMAN BENSE: Okay, members, this proposal

25 is at this point a Commission proposal. It will

32

1 require a majority vote to be withdrawn.

2 MR. LES MILLER: Mr. Chairman?

3 CHAIRMAN BENSE: Commissioner Miller.

4 MR. LES MILLER: Question of Commissioner

5 Miller.

6 CHAIRMAN BENSE: You're recognized.

7 MR. LES MILLER: Commissioner Miller, are you

8 saying that leadership in the Legislature are

9 saying that they feel that this should not be a

10 part of the constitution, and therefore that --

11 you-all are withdrawing it and they will look at

12 it in the interim? Is that what you're saying?

13 MR. RANDY MILLER: No, sir.

14 MR. LES MILLER: What are you saying?

15 MR. RANDY MILLER: What I'm saying is the

16 leadership says this needs to be done, and they

17 plan on taking it up in the future but not this

18 session.

19 MR. LES MILLER: Follow-up.

20 CHAIRMAN BENSE: You're recognized,

21 Commissioner Miller, for a follow-up.

22 MR. LES MILLER: In the future, but not this
23 session?

24 MR. RANDY MILLER: Right.

25 MR. LES MILLER: Does that also hold credence

33

1 that -- follow-up, Mr. Chairman.

2 CHAIRMAN BENSE: You're recognized.

3 MR. LES MILLER: Did you get a guarantee in

4 writing on that? Because we were also told by

5 a -- by a Senate chair of a financial tax

6 committee they were going to look at taxes at the

7 Legislature this year, and they didn't do that
8 either. Did you get a guarantee on that in
9 writing?

10 MR. RANDY MILLER: Absolutely, Senator. You
11 want me to show it to you? I've got it in my
12 wallet.

13 (Laughter.)

14 CHAIRMAN BENSE: Further questions? Further
15 questions?

16 (No response.)

17 Okay. Commissioner Miller moves that CP18
18 be withdrawn from further consideration. All

19 in favor say aye.

20 (Aye.)

21 Opposed no.

22 (No.)

23 The motion carries. CP18 is withdrawn.

24 MR. RANDY MILLER: Thank you, sir.

25 CHAIRMAN BENSE: Move on to the --

34

1 Commissioner Levesque, you're recognized again.

2 MS. LEVESQUE: Thank you, Mr. Chairman.

3 Members, if you could pull from your

4 packet CP20, CS for CP20. Give you a second to
5 find it.

6 And if you could refer to the -- your
7 first engrossed version and the change sheet.

8 And, members, I'm going to start with the edits
9 on line 23 first, because the edits that are
10 done in lines 3 through 8 just conform to what
11 was done in line 23 and line 24.

12 On line 23, the proposal that came to us
13 had used the plural, the words "individuals"
14 and "entities," and bill drafting recommended,
15 to conform to the style of the constitution,

16 everything should be in the singular, so those
17 words were changed to "an individual or
18 entity."

19 And then on line 24, again, the plural was
20 used, "in public programs," and bill drafting
21 recommended the singular form, to change that
22 to say, "in any public program." And those
23 were the two changes that were made to the body
24 of the proposal.

25 If you move back to lines 3 through 8,

1 those changes were also made in the title of
2 the proposal, as was a reversed order of how
3 they were identified in the title of the
4 proposal. If there are any questions.

5 CHAIRMAN BENSE: Questions, members?

6 (No response.)

7 Okay, continue.

8 MS. LEVESQUE: But if you look to the ballot
9 summary on lines 31 to 39, the only changes that
10 were made to the ballot summary were those
11 conforming to the singular and plural that were
12 made in the body of the proposal. And those were

13 the only changes.

14 CHAIRMAN BENSE: Are there questions?

15 (No response.)

16 Did we find any last-minute errors there,

17 Commissioner Levesque?

18 MS. LEVESQUE: I hope not.

19 CHAIRMAN BENSE: Do you move -- do you have a

20 motion, Commissioner Levesque?

21 MS. LEVESQUE: Yeah. I move to adopt the

22 report and recommendation of the Style and

23 Drafting Committee on CS for CP20.

24 VICE CHAIR SCOTT: Second.

25 CHAIRMAN BENSE: Motion by Commissioner

36

1 Levesque, seconded by Vice Chairman Scott, to
2 adopt the report and recommendation of the Styling
3 and Drafting Committee on CP0020. All in favor
4 say aye.

5 (Aye.)

6 Opposed no.

7 (No response.)

8 Motion carries. You're recognized,

9 Commissioner Levesque.

10 MS. LEVESQUE: And, members, if you could
11 find CP35 in your packet. CP35. This is the one
12 dealing with the community colleges local option
13 tax. And then looking at the second engrossed
14 version on the change sheet, on line 3, these were
15 stylistic recommendations from bill drafting to
16 change the words "to require" to the word
17 "requiring."

18 On line 42 of the proposal -- wait until
19 you get there. Line 42, to make sure the --
20 the tense of the word was correct, we changed

21 from the word "awards" to "awarding." So now
22 the language would refer to "open access public
23 institutions whose primary mission and
24 responsibility includes providing and
25 awarding." That's why we changed the tense of

37

1 the word "awards" to "awarding."

2 And then on line 44, in the original

3 proposal that came to us, the words "upon

4 approval of the electors" was in there twice,

5 and it was identified that it didn't need to be

6 in there twice. So we struck the words that

7 would have been at the end of line 44 -- or at
8 the end of the sentence that ends in line 44.

9 We removed those, "upon approval of the
10 electors," because that was already taken care
11 of in the next sentence, where it says, "The
12 tax may not be levied unless approved by the
13 electors of each county."

14 And then also on line 44, we changed the
15 word "shall" to "may." So before the proposal
16 said, "The tax shall not be levied," and we
17 changed that to, "The tax shall not be levied

18 unless approved."

19 And again, these were stylistic things

20 that bill drafting said better conformed to the

21 verbiage and the flow of other provisions in

22 the constitution. And these were the only

23 changes that we made.

24 CHAIRMAN BENSE: Are there questions,

25 members, on the changes? Any questions?

38

1 (No response.)

2 Continue on.

3 MS. LEVESQUE: And then if we look at the

4 ballot summary starting on line 54, and I'll just
5 read that for members.

6 "Local option community college funding.

7 Proposing an amendment to the state

8 constitution to require that the Legislature

9 authorize counties to levy a local option sales

10 tax to supplement community college funding,

11 requiring voter approval to levy the tax,

12 providing that approved taxes will sunset after

13 five years and may be reauthorized by the

14 voters."

15 Any questions on the ballot summary?

16 CHAIRMAN BENSE: Questions on the ballot

17 summary? Any questions, members?

18 (No response.)

19 Do you have a motion for Commission

20 approval?

21 MS. LEVESQUE: Yes. I move to adopt the

22 report and recommendation of the Style and

23 Drafting on CP35.

24 MR. HOGAN: Second.

25 CHAIRMAN BENSE: Commissioner Levesque moves

1 and Commissioner Hogan seconds. Motion by
2
3 Commissioner Levesque and Hogan to adopt the
4
5 report and recommendation of the Styling and
6
7 Drafting Committee on CP35. All in favor say aye.

8 (Aye.)

9 Opposed no.

10 (No response.)

11 Motion carries. You're recognized,

12 Commissioner Levesque.

13 MS. LEVESQUE: Members, if you could find in
14
15 your packets CP15 and CP16, and this will be one

12 of the first items -- this will be the only item,
13 members, that we recommended combining. So you
14 will have CP15, first engrossed, second engrossed,
15 and the change sheet. You'll have CS for CP16,
16 first engrossed, second, and then a change sheet.
17 And then you will also have the combined proposal.

18 The combined proposal only -- included all
19 of the changes that we made to 15 and 16, so
20 I'd like to walk you through 15 and 16
21 individually, if that's all right. So if you
22 could take the second engrossed for CS for CP15
23 and then the change sheet.

24 On line 6, and again, this conforms --

25 this is the title of the proposal. We made

40

1 this change within the body of the proposal,

2 but it's conforming here in the title. We

3 moved basically the words "in perpetuity" on

4 what it modified earlier in the sentence. So

5 the language on line 6 had said previously,

6 "Used for conservation purposes in perpetuity,"

7 and we changed that to, "Dedicated in

8 perpetuity for conservation purposes."

9 So we did two things there. We moved the

10 modifier "in perpetuity" and we changed the

11 word "used" to "dedicated." And we can have a,

12 you know, discussion on why we changed those

13 words. I think it was brought before us by

14 Commissioner Barnett that that may be a

15 better -- that better fit the intent was to

16 change the word to "dedicated," and our staff

17 went and looked in Black's Law to look up the

18 word "dedicated," and it indeed did better

19 capture the intent of the membership.

20 So if you look at lines 74 through 77,

21 this was incorporating provisions -- I'm sorry.

22 74 to 77 in the proposal. This was one of

23 those provisions that was adopted in Amendment

24 1 on January 29th that had not been included in

25 Commissioner Yablonski's proposal when he first

41

1 drafted it, because Amendment 1 hadn't passed,

2 so 74 to 77 is just including current language

3 of the constitution into this proposal.

4 So on line 78, his proposal gets

5 renumbered to paragraph G. And then the only

6 other change we made on line 78 is we struck
7 lead-in language that said "by general law,"
8 because at the end of the proposal we already
9 say everything is done by general law, so we
10 struck it because it was in there twice.

11 And then again, on lines 79, we changed
12 the word "used" to "dedicated" and we moved the
13 modifier of "in perpetuity." So the sentence
14 now reads -- it used to read "real property
15 used for conservation purposes in perpetuity."
16 It now says, "real property dedicated in
17 perpetuity for conservation purposes."

18 And those were the changes that we made to
19 CS for CP15. Hope everybody's comfortable with
20 that. I'm not going to walk through the ballot
21 summary for this, because when we make the
22 combined proposal, we'll walk through the
23 combined ballot summary, if that's all right.

24 So if members can move to CS for CP16,
25 we'll walk through those changes before then we

42

1 walk through the combined proposals.

2 CHAIRMAN BENSE: You're recognized. Go

3 ahead.

4 MS. LEVESQUE: So CS for CP16, if you look at
5 the second engrossed version and then look at the
6 change sheet. On line 3, the proposal that came
7 to us just said that we created a new section of
8 the constitution. Bill drafting recommended that
9 we specify the section number, so we changed "new
10 section" to "section 28" because that is where it
11 would be placed in the constitution.

12 Lines 4 and 5, we did some technical
13 cleanup there to remove the words "to provide
14 for classification of," and instead inserted

15 the words "requiring," because that whole --
16 basically the title of the proposal gets
17 reworded to match the text of the constitution.

18 So if we can move to lines 26 and 27, this
19 is the actual language that's going in the
20 constitution. And basically what we did,
21 members, was we reworded it, because there were
22 two ways that we had identified that things
23 would be provided by law. And in the proposal
24 that came us to us, we had language that said
25 that the proposal would be provided by the

1 Legislature by law. That's not really how the
2 words are ever used. You just typically say
3 that "as provided by general law."

4 So what we did was we inverted the two
5 sentences. Originally the proposal started
6 with "land used for conservation purposes shall
7 be classified," et cetera, et cetera, and then
8 it provided for the limitations and conditions
9 and reasonable definitions. In order to make
10 it read what we thought was more effectively,
11 we reversed the order. So let me just read

12 this paragraph to you.

13 "As provided by general law and subject to
14 the conditions, limitations, and reasonable
15 definitions specified therein, land used for
16 conservation purposes shall be classified by
17 general law and assessed solely on the basis of
18 character or use."

19 And I do need to specify that when the
20 original proposal came to us, on line 29 it
21 said, "made on the basis of character of use,"
22 and we changed it to, "on the basis of

23 character or use," because that conformed, if

24 you look at line 25, to the words that are used

25 in the ag assessment, "based on character or

44

1 use." So we did change that "or "[sic] to an

2 "of."

3 And then if you look on your change sheet,

4 lines 52 to 53, 71 to 107, and 130 to 175,

5 again, members, these are big chunks of the

6 constitution that were added based on Amendment

7 1 that passed in January that were not in the

8 original proposal that Commissioner Yablonski

9 filed, because Amendment 1 had not passed. So

10 all those insertions, again, are just

11 insertions of the current sections of the

12 constitution.

13 And if you move to lines 178 and 179, the

14 schedule, the scheduled portion of the

15 constitution, where it basically lays out

16 effective dates or implementing dates of

17 different provisions of the constitution, and

18 if you look at the schedule, they all have

19 short titles. When this proposal was filed,

20 there was no title put in. So all we did was

21 add a title to this schedule. So we added the

22 words on lines 178 and 179, "Classification and

23 Assessment of Land Used for Conservation

24 Purposes." And that's what was added to the

25 proposal.

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1 And if there's no further questions now, I

2 want to move to the combining of the two, so

3 that's when we can walk through the ballot

4 summary, if that's all right.

5 CHAIRMAN BENSE: Okay. Commissioner, why

6 don't we take up the changes to CP15, vote on

7 that, take up the changes to CP16, vote on that,

8 then we'll go back to combined ballot language.

9 MS. LEVESQUE: Okay.

10 VICE CHAIR SCOTT: Mr. Chairman, I wonder if

11 the combined may or may not -- I'm not sure if the

12 combined has the same product of 15 and 16

13 together. I mean, it's going to be worded

14 differently.

15 CHAIRMAN BENSE: Commissioner Barnett, what

16 are your thoughts on that? You're a guru on this.

17 MS. BARNETT: You've put me on the spot,

18 Mr. Chair. I don't have any thoughts on it.

19 Sorry.

20 CHAIRMAN BENSE: -- improve each of them

21 individually, then move on to combining them -- in

22 separate motions.

23 MS. BARNETT: I think that it's appropriate

24 to do it that way, or take up the combined product

25 individually. It's probably cleaner to pass each

46

1 of them and then combine them.

2 CHAIRMAN BENSE: Okay. Are there --

3 Commissioner Levesque, do you have a motion?

4 MS. LEVESQUE: Sure. I move to adopt the

5 report and recommendation of the Style and

6 Drafting Committee on CS for CP15.

7 CHAIRMAN BENSE: Is there a second?

8 Commissioner Scott seconds. The motion by

9 Commissioner Levesque, second by Commissioner

10 Scott, to adopt the report and recommendation of

11 the Styling and Draft Committee on CP15. All in

12 favor say aye.

13 (Aye.)

14 Opposed no.

15 (No response.)

16 Motion carries. Commissioner Levesque,

17 you're recognized for a motion.

18 MS. LEVESQUE: A motion to adopt the report

19 and recommendations of the Style and Drafting

20 Committee on CS for CP16.

21 CHAIRMAN BENSE: Is there a second?

22 MR. LACASA: Second.

23 CHAIRMAN BENSE: Commissioner Lacasa seconds

24 the motion by Commissioner Levesque, seconded by

25 Commissioner Lacasa, to adopt the report and

1 recommendation of the Styling and Drafting

2 Committee on CP16.

3 All in favor say aye.

4 (Aye.)

5 Opposed no.

6 (No response.)

7 They both pass. Commissioner Levesque,

8 you're recognized to move forward.

9 MS. LEVESQUE: Okay. Thank you,

10 Mr. Chairman. Members, we did have in front of us

11 the issue of do we combine any proposals, and we
12 were not faced with the issue that the
13 Constitution Revision Commission was where when
14 their styling and drafting committee met they had
15 52 or 57 proposals that they ended up combining
16 into nine. We only had eight proposals come to
17 us. So a necessity of combining for purposes of
18 not putting too many items on the ballot wasn't
19 really in front of us.

20 But we did take a look at, are there
21 things that are related that maybe should be
22 combined, and -- or were they in the same

23 section. We actually had a discussion of
24 should we combine Commissioner Margolis's with
25 others because they were in the same section of

48

1 the constitution. We ended up deferring a lot
2 to what the individual sponsors were interested
3 in. And Commissioner Yablonski, in talking
4 with the folks from the conservation and
5 environmental community, felt that it would be
6 good to combine 15 and 16.

7 So you have in front of you a combined

8 proposal for CS for CPs 15 and 16. All the
9 changes that you have just approved on 15 and
10 16 individually were incorporated into this
11 combined proposal. So the only thing we really
12 need to focus on is the ballot summary, which
13 is on -- starts on line 263. And I will
14 just -- I'll just read the ballot summary.

15 We basically took the proposals of both
16 ballot summaries from 15 and 16 individually,
17 combined them, and it actually -- we added in
18 one phrase that I'm going to point out to you
19 right now on line 269 and 270. This is

20 language that was added when we combined two
21 proposals. And that language is, "and not
22 perpetually encumbered."

23 What we found when we combined the
24 proposals was that there needed to be
25 clarification to the citizens that one

49

1 exemption was only for property in perpetual
2 conservation easements, and the second
3 classification and assessment of land was for
4 conservation purposes not perpetually

5 encumbered. So we believe, actually, that
6 combining the two clarifies the differences
7 between the two. Instead of citizens voting on
8 two separate proposals, actually combining them
9 helped us clarify the differences between the
10 two.

11 So let me read the proposal to you.

12 "Property tax exemption of perpetually
13 conserved land, classification and assessment
14 of land used for conservation. Requires
15 Legislature to provide a property tax exemption
16 for real property encumbered by perpetual

17 conservation easements or other perpetual
18 conservation protections defined by general
19 law. Requires the Legislature to provide for
20 classification and assessment of land used for
21 conservation purposes and not perpetually
22 encumbered solely on the basis of character or
23 use. Subjects assessment benefit to
24 conditions, limitations, and reasonable
25 definitions established by general law.

1 Applies to property taxes beginning in 2010."

2 And that's our proposal for the best way
3 to identify these combined proposals in the
4 ballot summary. And we'll take any questions.

5 CHAIRMAN BENSE: Commissioner Yablonski, just
6 to confirm, this is your world here, so any
7 comments?

8 MR. YABLONSKI: No, Mr. Chairman. I would
9 agree with the recommendations of the Style and
10 Drafting Committee. I sat in for a few of these
11 Style and Drafting meetings. I stayed close to
12 the conservation community as a lot of these
13 changes were discussed. I think Commissioner

14 Barnett kind of said it best when she was
15 describing Style and Drafting, part of the job
16 there is to tell a story. And the merger of these
17 two amendments essentially tells a story.

18 You know, it described a story, saying if
19 you do this, this set of rules will apply. You
20 do something else another set of rules will
21 apply. And so I agree that it definitely
22 simplifies, because I know when I was -- we
23 were presenting these issues, there would
24 always be questions about how 15 and 16 related

25 or didn't relate. I think merging answers

51

1 that.

2 CHAIRMAN BENSE: Commissioner Scott?

3 VICE CHAIR SCOTT: Yeah. Commissioner

4 Yablonski, do you have any related persons in the

5 audience today that you might want to introduce?

6 MR. YABLONSKI: Thank you, Vice Chairman

7 Scott. I have a very special person, my

8 eight-year-old daughter, Madison Yablonski. If

9 she can stand up real quick and wave to everybody.

10 (Applause.)

11 And I thank her.

12 CHAIRMAN BENSE: Congratulations.

13 MR. YABLONSKI: And she looks nothing like

14 me. She looks like her mom, who will be here

15 soon.

16 CHAIRMAN BENSE: That's great. I think today

17 is take your child to work day, so congratulations

18 to all you folks that are fortunate enough to have

19 your children with you today.

20 MR. YABLONSKI: I'm afraid she's going to

21 think I'm a professional commissioner pretty soon

22 here.

23 CHAIRMAN BENSE: I can see where that can

24 occur.

25 Okay. Commissioner Levesque has proposed,

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1 or has outlined the combining of the two

2 proposals. Are there any questions before we

3 have a motion? Any discussion on this issue?

4 Commissioner D'Alemberte, do you have any

5 questions?

6 MR. D'ALEMBERTE: No. I'd like to debate it

7 when the time comes.

8 CHAIRMAN BENSE: Okay. Why don't we have a
9 motion? Commissioner Levesque, you have a motion?

10 MS. LEVESQUE: Yes, sir. To move and adopt
11 the report and recommendation of the Styling and
12 Drafting Committee for the combined version of CS
13 for CPs 15 and 16.

14 CHAIRMAN BENSE: Okay. There's a motion. Is
15 there a second?

16 MR. HOGAN: Second.

17 CHAIRMAN BENSE: Commissioner Hogan seconds
18 the motion. Any discussion? Any debate on this

19 issue? Commissioner D'Alemberte, you're

20 recognized in debate.

21 MR. D'ALEMBERTE: Mr. Chairman, every time we

22 approve any exemption to take property off the tax

23 roll, we are really pushing the burden onto other

24 taxpayers. And at least some of the people who

25 vote on these measures may see a difference

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1 between 15 and 16. I certainly did. Indeed, I

2 see 16 as undercutting 15, for this reason.

3 In 15 we have property coming off the tax

4 roll because people have turned over property

5 conservation in perpetuity. But now with 16
6 we're going to let the Legislature, in its
7 wisdom -- I say in italics -- to decide whether
8 property that's not been dedicated for a longer
9 period of time, in perpetuity, can also come
10 off the tax roll.

11 And so if you're a land use lawyer giving
12 advice to property owners who wanted to
13 measure -- to move conservation forward, which
14 are you going to propose to them for advice?
15 And isn't there a difference between the two.

16 And rather than -- providing better
17 understanding by combining these two, I believe
18 that we undermine the very good measure of
19 No. 15 by putting 16 with it.

20 And I urge you to put each of them on the
21 ballot separately, and let's vote it up or down
22 separately. I think I may have been the only
23 negative vote on 16. There may be other people
24 out there who see the world as I do, and I'd
25 like to give them a chance at least to vote for

54

1 15 and vote against 16.

2 CHAIRMAN BENSE: Further debate? Further
3 debate? Commissioner Yablonski, you're
4 recognized.

5 MR. YABLONSKI: I appreciate Commissioner
6 D'Alemberte's comments and points there. When you
7 talk to the pros and the experts who do this for a
8 living, it's the conservation community and the
9 conservation organizations, they're -- yeah,
10 they're torn over which one's more important.
11 They see both of these as highly important and
12 working together.

25 programs in the state today that are not

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1 perpetual. There are wildlife management areas

2 that private landowners can partake in.

3 There's conservation reserve programs at the

4 federal level. These are not perpetual

5 programs, but the conservation community would

6 like to encourage landowners to participate in

7 these types of programs and older lands in

8 these types of programs.

9 I would also to the mention to the point

10 about how a land use lawyer might advise. Just

11 remember, one here is a full exemption

12 taxation. The other is an assessment benefit,

13 which is a totally different type of benefit

14 and taxation here. So, you know, it is a

15 stronger decision as you're a landowner to

16 whether, if you wanted to put your land in

17 conservation, whether to take a full tax

18 exemption, which might appeal to some

19 landowners, or to take an assessment benefit,

20 which would be a lesser tax break for a

21 lesser -- you know, for lesser encumbrance of

22 the land.

23 CHAIRMAN BENSE: Commissioner Scott in

24 debate.

25 VICE CHAIR SCOTT: Well, I wouldn't say

56

1 debate, but this was discussed extensively at the

2 Style and Drafting Committee. And initially when

3 it came up, I questioned, because I know that they

4 are potentially different. However, both of them

5 are defined -- as defined by general law, and the

6 perpetuity is very clear that it has to be

7 perpetuity, period. The rest is up -- basically,
8 the Legislature will have to consider what they're
9 going to do regarding the assessment benefit, if
10 any. Am I right about that? I think that it's
11 not self-executing in any way.

12 So, after considering and, you know, it
13 was voted to combine them, and if they're not
14 combined there's going to be two of them on the
15 ballot that, while some of our -- us that are
16 more into reading these, and certainly
17 Commissioner D'Alemberte will note there's a
18 difference, I'm wondering what, you know, what

19 the average person, what they're going to know.

20 So I just -- I guess that was our decision

21 and, you know, I would basically support the

22 request of Commissioner Yablonski to combine

23 them.

24 CHAIRMAN BENSE: Further debate?

25 Commissioner D'Alemberte.

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1 MR. D'ALEMBERTE: May I ask Commissioner

2 Scott if this might be considered in legislative

3 terms logrolling?

4 CHAIRMAN BENSE: Commissioner Scott, you're
5 recognized.

6 VICE CHAIR SCOTT: I don't know what that is.
7 We didn't do that in the Senate.

8 (Laughter.)

9 CHAIRMAN BENSE: You had trees instead.
10 Okay. Further discussion.

11 (No response.)

12 Okay. Without further discussion, there's
13 a motion to adopt the report of the -- the
14 report and recommendation of the Styling and
15 Drafting Committee to combine CPs 15 and 16.

16 All in favor say aye.

17 (Aye.)

18 Opposed no.

19 (No.)

20 The motion carries.

21 Why don't we -- members, can we -- why

22 don't we move back real quick like to CP6, 8,

23 and 34, where Commissioner Levesque determined

24 there was an error in the -- in some of the --

25 not the ballot language, but --

1 MS. LEVESQUE: It was in the ballot, ballot
2 summary.

3 CHAIRMAN BENSE: Yeah, the ballot summary?

4 Okay. Technically, the Styling and Drafting
5 Committee needs to meet and formally approve these
6 changes. I think you've all been sent the
7 proposed change. I don't think there's any
8 problem that any member has with this. I would
9 accept a motion to waive the rules and allow the
10 body itself to adopt this change in CP6, 8, and
11 34, assuming our wise lawyers say that that will
12 be okay.

13 MR. MCKAY: So move.

14 VICE CHAIR SCOTT: Second.

15 CHAIRMAN BENSE: Commissioner McKay moves and

16 Commissioner Scott seconds that the Commission act

17 as the -- let's frame this just right.

18 Commissioner Scott, why don't you frame

19 that a little bit?

20 VICE CHAIR SCOTT: Well, what I would was --

21 what I would say is that it's for the benefit of

22 whoever, that we have noticed -- the Chair has

23 noticed and the committee has noticed perpetual

24 meeting of the Style and Drafting Committee

25 meeting in case -- things like this and whatever

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1 else.

2 So we have reviewed this. I'm -- want

3 to -- while the Commission, you know, this one

4 we can do, but in general it's not a big deal

5 for us to meet if something comes up. But

6 we're all here, and we're noticed to meet in

7 this room, so on this particular one, I would

8 second because it's clearly a correction of

9 a -- of the title, the ballot language, to

10 conform with what we did in the body.

11 CHAIRMAN BENSE: There's a motion and a

12 second. All in favor say aye.

13 (Aye.)

14 Opposed no.

15 (No response.)

16 Did anyone -- was anyone opposed?

17 (No response.)

18 Let the records reflect -- Commissioner

19 Riley. Let the records reflect it passed

20 unanimously.

21 MS. RILEY: I just want to make sure that --

22 for the benefit -- I heard some nos in the

23 audience, that maybe the Style and Drafting can

24 just meet right now. They're here.

25 CHAIRMAN BENSE: Well --

60

1 MS. RILEY: And we can just --

2 CHAIRMAN BENSE: That's why I questioned it.

3 If it's a unanimous vote, clearly the members of

4 the Styling and Drafting Committee also approved

5 it.

6 MS. RILEY: Okay.

7 CHAIRMAN BENSE: Again --

8 MS. BARNETT: Excuse me, Mr. Chairman.

9 CHAIRMAN BENSE: Commissioner Barnett.

10 MS. BARNETT: For Commissioner Riley, we

11 kinda did meet. Mr. Goodlette showed each of us

12 the language while we were discussing other issues

13 and got a concurrence by all the members. We just

14 didn't leave our seats, but we did meet.

15 CHAIRMAN BENSE: Okay. We have adopted the

16 change in the ballot language. We now need a

17 motion to approve the -- we need a motion to

18 approve 6, 8, and 34.

19 MS. LEVESQUE: Mr. Chairman, I move to adopt

20 the report and recommendation of the Style and

21 Drafting Committee on CS for CP6, 8, and 34.

22 MR. WILKINSON: Second.

23 VICE CHAIR SCOTT: Second. Commissioner

24 Wilkinson seconded.

25 CHAIRMAN BENSE: Hold on just one second.

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1 Say it again now.

2 Members, we had a motion to allow the

3 Commission to amend the ballot summary to

4 correct the technical problems. We passed
5 that. Now we're on a motion to formally amend
6 CP6, 8, and 34. Commissioner Levesque moves,
7 Commissioner Scott seconds. All in favor say
8 aye.

9 (Aye.)

10 Opposed no.

11 (No response.)

12 Commissioner Levesque, you had a motion?

13 MS. LEVESQUE: To adopt the report and

14 recommendation of the Style and Drafting Committee

15 for CS for CP6, 8, and 34.

16 CHAIRMAN BENSE: Commission Hogan seconds.

17 Motion by Commissioner Levesque, second by

18 Commissioner Hogan to adopt the report.

19 Motion by Commissioner Levesque, second by

20 Commissioner Scott to adopt the report and

21 recommendation of the Styling and Drafting

22 Committee on CPs 6, 8, and 34. Any discussion?

23 (No response.)

24 Any debate?

25 (No response.)

1 All in favor say aye.

2 (Aye.)

3 Opposed no.

4 (No response.)

5 Okay. Let's get on to CP002.

6 Commissioner Levesque, you're recognized.

7 MS. LEVESQUE: Okay, members. CP -- CS for

8 CP02, we don't have a change sheet for this one,

9 members. Instead we have a table, a side-by-side,

10 so that you can see in each section what came to

11 us and now what we're proposing before you. And

12 so if you can take the second engrossed version
13 and the chart, and I'd like to walk you through
14 each section. Make sure everybody's got their
15 chart.

16 CHAIRMAN BENSE: Commissioner Levesque, I
17 wasn't paying attention. Where are we?

18 MS. LEVESQUE: Take the second engrossed
19 version of CS for CP2, and then this side-by-side
20 chart that's stacked together, and we're going to
21 walk through the chart --

22 CHAIRMAN BENSE: Okay.

23 MS. LEVESQUE: -- along with the second

24 engrossed version.

25 CHAIRMAN BENSE: You're recognized.

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1 MS. LEVESQUE: Okay. Members, the first
2 section of CS for CP002 is the language that
3 changes the assessments for the cap on assessments
4 for nonhomesteaded property from 10 percent to 5
5 percent. So basically on that first page of your
6 chart what we're showing is that we did not make a
7 single change to this section except for adding an
8 effective date. And that effective date was added

9 into the schedule of the proposal.

10 And we found, members, that we needed to
11 provide for an effective date because if we do
12 not, the proposal becomes effective on
13 January 6th, I want to say, January 6th, after
14 the voters have approved, and Commissioner
15 Wilkinson can correct me here if I don't
16 articulate this clearly. But assessments of
17 property are based on their assessed value as
18 of January 1st.

19 And so if we did not add an effective
20 date, which we added that was January 1st --

21 and we'll get to that when we get to the
22 schedule -- then individuals that held property
23 that was nonhomesteaded would have to wait
24 another year before they got the benefit of
25 this decreased cap from 10 percent to

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1 5 percent.

2 So the only change that we made in that
3 entire first section, section four of the
4 constitution that is in CS for CP2, was adding
5 an effective date in the schedule.

6 Any questions on that, members? Okay.

7 (No response.)

8 If you turn to the second page of your

9 side-by-side, the second portion of CP2 dealt

10 with the millage cap for school purposes,

11 reducing the school millage from ten mills to

12 five. Again, we made no change to the

13 language, but we needed to -- we identified

14 that we needed to create an effective date for

15 this particular section.

16 Because we did not give it one, this

17 portion that would have reduced the school

18 district millage cap from ten to five would
19 have kicked in a full year before the actual
20 elimination of RLE. And so there would have
21 been a problem for school districts. It would
22 have exceeded a five-mill cap before there had
23 been a reduction of RLE.

24 So, again, no changes to that article VII,
25 section 9 portion of CS for CP2, but we did add

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1 an effective date into the schedule. And that
2 effective date we'll get to when we get to the

3 schedule. If memory serves, it was January 1
4 of 2010, so it would have coincided with the
5 same year as the RLE elimination.

6 Any questions, members?

7 (No response.)

8 Okay. On page 3 of the side-by-side, and
9 then if you can also refer to line 1 -- lines
10 198 and 199 of your second engrossed version,
11 this is where we are in the proposal. The
12 catch line that came to us was replacement of
13 the ad valorem property taxes set by the
14 Legislature under the Florida education finance

15 program. And in debating and discussing with

16 Style and Drafting, we felt that a more clear

17 catch line would be replacement of ad valorem

18 taxes required by the Legislature with other

19 funds for education, so that we were actually

20 capturing, not just the replacement, but the

21 clarification that the replacement had to go

22 toward education.

23 And so that was the only change that we

24 made with the catch line was that clarification

25 that funds need to go to education. Questions?

1 (No response.)

2 The next section -- the next section,

3 there were actually -- and this, members,

4 you'll be referring to lines 200 through 204 in

5 the second engrossed version. When CS for CP2

6 came to us, there were actually two different

7 dates that were implemented in the RLE

8 elimination and replacement.

9 And when Mr. Nabors and his folks came to

10 testify, they clarified what the differences

11 were between those two different effective

12 dates. One said that beginning at a certain
13 point in time -- well, you can see that in
14 paragraph A, the Legislature had to eliminate
15 early, by January 1st, 2011.

16 There was also a second portion of CP2
17 that said, beginning in 2011 and '12,
18 prospectively, the Legislature could not -- or
19 they were prohibited from requiring property
20 taxes for participation in the FEFP or any
21 successor program.

22 So there was an elimination in one section

23 and a future prohibition with a different date

24 in the second -- in a different section of CP2.

25 As the membership of Style and Drafting

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1 looked at this, we felt there could be an

2 easier way to combine both into one effective

3 date and one section. So if you look at the

4 language that we propose, that you can either

5 look at the second column of your side-by-side

6 or look at line 200 of your second engrossed

7 version, we did it all together. And let me

8 read the language.

9 "Commencing in the 2010/2011 fiscal year,

10 the Legislature shall be prohibited from

11 requiring school districts to levy an ad

12 valorem tax as Required Local Effort for

13 participation in the Florida Education Finance

14 Program or a successor program."

15 So we start the prohibition the year we

16 start the replacement swap. It's done all in

17 one section. And that's why we combined the

18 two.

19 If you turn to page 4 of your

20 side-by-side, now we're dealing with how we
21 replace the Required Local Effort. So if you
22 look at the language in the first column, we're
23 taking a whole section here in bulk; and I'm
24 going to walk through it and then -- if you let
25 me walk through it, then we can have questions.

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1 This section, members, if you refer to
2 your second engrossed version, would start on
3 line 205 and go through line 222. And
4 basically this is the section where we direct
5 the Legislature to now replace the revenue from

6 RLE through a variety of different options.

7 Those options are: The repeal of sales tax

8 exemptions; an increase of up to 1 cent of the

9 sales tax; spending reductions and revenue

10 increases resulting from economic growth; and

11 then other revenues identified and created by

12 the Legislature. We kept all of those items.

13 They were in CP2 originally.

14 The main things that I need to draw your

15 attention to, we -- if you look on -- I'm going

16 to refer to the bill. If you look on line 207

17 of CP2, we made it clear that the way the
18 Legislature replaces is through one or more of
19 the following options. When CP2 came to us --
20 and let me draw your attention to the end --
21 215, 217, and 220, all of the ends of those
22 sections end with a period, whereas before they
23 ended with a semicolon, and then there was the
24 word "or," I believe, or the word "and," that
25 kind of connected all of them.

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1 And as the Style and Drafting Committee,
2 we had a discussion of, did the semicolons and

3 the and, did that seem to require the
4 Legislature to have to do all four items when
5 the whole discussion in front of the membership
6 was that the Legislature would have the ability
7 to do any of the following, in any combination.
8 And they could do one, two, three, and not do
9 four. They could do one, three, four, and not
10 do number two.

11 So our staff, in looking at other sections
12 of the constitution, identified that the better
13 way to put this in the constitution was to say,

14 "one or more of the following options," colon,
15 and then list the four options with periods, so
16 that it was clear that the Legislature could do
17 one or the following. It could do any of
18 those.

19 Does that make sense, members? Instead of
20 having the semicolons and the "and"? We were
21 trying to clarify what we believed was the
22 intent of the membership of the Legislature
23 could do any of the following.

24 The other thing that I want to draw your
25 attention to in this section is, if you look at

1 page 5 of your side-by-side, or if you look,
2 starting on line 212 of the proposal, when we
3 are articulating what are the things that the
4 Legislature should be looking at for repeal of
5 sales tax exemptions, we clarified that there
6 were certain things the Legislature should not
7 look at for review, items like food,
8 prescription drugs, health services, charitable
9 organizations, et cetera.

10 In both CS for CP2 and CS for CP50 -- that

11 was the other proposal that ended up being
12 TP'd, because we only needed to vote on one --
13 the items that are listed on lines 212 through
14 215 were included in both proposals. In CP50
15 they were included in a section on the
16 exemptions that the Legislature did not need to
17 review. In CP2 they were included in a
18 definition section of what is a sales tax.

19 And these items -- let me read them to
20 you. Sales of tangible personal property
21 purchased for resale or imported, produced or
22 manufactured in the state for export, sales of

23 real property and sales of tangible personal
24 property were included in CP2 as items that
25 were not to be defined as part of the sales

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1 tax.

2 And if you remember, right before we voted
3 on CS for CP2, I want to say it was
4 Commissioner Martinez that had identified in
5 that definition of a sales tax, we had kept in
6 inadvertently language that referred to the
7 services tax. And in clarification of taking

8 that out, this body took out that entire
9 definition section at -- with a handwritten
10 amendment right before we voted on CP2. We
11 didn't have that discussion of these items,
12 sales of tangible personal property, sales of
13 real property, and et cetera, that needed to be
14 moved somewhere else in the proposal.

15 But as a Style and Drafting Committee, we
16 believe that -- the members believe that this
17 was in the proposal in CS for CP2 because it
18 had been there in the beginning, it had been
19 there all along, and it had been in CS for CP50

20 the entire time.

21 So we put this language back in, because
22 we believe it was inadvertently -- or members
23 didn't realize it had been stricken in that
24 last amendment that took out the definition of
25 sales tax.

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1 So I want to point that language out to
2 everyone, and that's basically the description
3 of what we did in lines 205 to 222, and we can
4 take any questions on this particular section

5 if you'd like.

6 And we also worked with the sponsor, and

7 Commissioner McKay I believe would concur that

8 it was always -- those items had been in there

9 from beginning on both of those items.

10 CHAIRMAN BENSE: Any questions? Commissioner

11 Miller, you're recognized.

12 MR. RANDY MILLER: Thank you, Mr. Chair. I

13 see this as undue expansion of what we discussed

14 with passage of CP2. What you have listed here is

15 not a sales tax exemption. These are exclusions

16 that we had extensive debate in the Finance and

17 Tax Committee about not including those in any
18 review in the constitution.

19 And what you're doing here is you're
20 mixing apples and oranges by trying now to
21 bring that back in here. I don't know what
22 this means. In other words, what does the
23 wording mean when we talk about the sale of
24 real property? Does that mean that there will
25 be no sales tax on the actual transfer of the

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1 value of the land, using the price of the land?

2 That's what a sales tax would be related to
3 real property.

4 Now, if you want to talk about services
5 tax, real estate fees, legal fees for the
6 closing, fees related to the surveys, fees
7 related to the appraisal. Are you intending to
8 forever exclude those? Is that what this is
9 doing? Yes, that's what this will do.

10 CHAIRMAN BENSE: Commissioner Scott.

11 VICE CHAIR SCOTT: Let me -- as one of the
12 members of Style and Drafting, the way this now
13 reads, it says that the -- this proposal says that

14 the Legislature has all of these items: Spending
15 reductions, repeal of exemptions, sales tax, and
16 anything else. Those are the four items.

17 This particular item is -- only says that
18 in considering repeal of exemptions, they will
19 not include for this purpose of replacing the
20 RLE those items that are listed. And those
21 items include for that purpose sale of real
22 estate and intangibles.

23 And as I know, Commissioner Miller knows
24 from all of his years of experience, we don't

25 tax those items. That's all there is. There's

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1 nothing here about services. There's nothing

2 about real estate fees. There's nothing about

3 what happens to that. This is for purposes of

4 this proposal and replacing the RLE. They are

5 not to consider food and medicine and whatever

6 and sale of real estate and sale of intangibles

7 and that's -- that's the whole thing.

8 It doesn't forever write them in or do

9 anything different or do anything in the

10 constitution to change the Legislature's

11 ability to deal with that. So that's -- and
12 this was in, by the way, every proposal that
13 came up. It was in the committee proposal --
14 yes, it was. It was in the amendment that was
15 in the committee, and it was in CP50, which was
16 basically filed as a redraft of the committee
17 product.

18 And so when it got to the full Commission
19 with all the amendments -- were made and up to
20 the last minute, it was left out. And that's
21 all this is. And we can -- you can try to

22 make -- debate it further about what it means,

23 but that's -- I believe the Style and Drafting

24 Committee, I believe unanimously, will agree

25 that that's what occurred. And ...

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1 CHAIRMAN BENSE: Commissioner Miller, you're

2 recognized.

3 MR. RANDY MILLER: Can you show me where it

4 is in CP002 first engrossed? Is that wording in

5 that document?

6 VICE CHAIR SCOTT: I was -- I was told by

7 staff that it was.

8 MS. LEVESQUE: Mr. Chairman?

9 CHAIRMAN BENSE: Commissioner Levesque,

10 you're recognized.

11 MS. LEVESQUE: Commissioner Miller, as I

12 articulated, this language was in CP2 and CP50,

13 all the way through the process, until the last

14 amendment. That was a handwritten amendment

15 adopted right before CS for CP2, where the intent

16 of the membership in striking that definition of

17 sales tax was to strike the language that referred

18 to services tax. And in striking that entire

19 definition, we struck items that had been
20 discussed in the entire proposal as things that
21 shouldn't be part of the items that the
22 Legislature should use to reduce the -- to replace
23 the RLE.

24 In the version of CS for CP2, right before
25 it passed, the amendment that we adopted took

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1 out the following language: "The term sales
2 tax means, the tax on sales, use and other
3 transactions levied by the state on
4 November 4th, 2008, except that the term sales

5 tax does not include the convention development
6 tax, the local option food and beverage tax,
7 the rental car surcharge specified in the
8 following sections, or the taxation of the
9 sales of tangible personal property purchased
10 for resale or imported, produced, or
11 manufactured in the state for export, sales of
12 real property, sales of intangible personal
13 property, or sales of services."

14 And so that language we included, because
15 that was in CP50. And before we adopted CP2, I

16 asked Commissioner McKay on the record,
17 Commissioner McKay, just for clarification for
18 all members of this Commission, because my
19 intent is to withdraw CP50, that the only
20 differences between CP2 and CP50 were the
21 education hold harmless and the prospective
22 adoption of exemptions by the Legislature being
23 single subject, so that we could clarify,
24 because so many amendments were done at the
25 last minute on that day, and we knew that Style

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1 and Drafting was going to have to do a lot of

2 work CP2 because there were sections of statute
3 referenced and things that I think a lot of
4 people believed were -- shouldn't be in the
5 proposal but could be reworded in Style and
6 Drafting.

7 I asked Commissioner McKay on the record
8 for everyone, before we vote on this, are these
9 the only two differences. And he acknowledged
10 that, to the best of his knowledge, those were
11 the only differences.

12 So when Style and Drafting Committee met

13 and we were looking at all the proposals

14 together and we realized that those words were

15 stricken by an amendment to just take out

16 really the intent of taking out the words "or

17 sales of services," we believed that we should

18 include this language in for the membership

19 because we believe that's what the membership

20 thought they were voting on. That's why we did

21 it.

22 CHAIRMAN BENSE: Commissioner Turbeville.

23 MR. TURBEVILLE: Well, I just have to concur

24 with Commissioner Miller, and I do not serve on

25 the Finance and Tax Committee. I do recall the

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1 debate being exactly as Commissioner Levesque

2 discussed and recounted for us briefly a few

3 minutes ago, but it is pretty clear that the

4 language has changed from the handwritten

5 amendment that we had before us in committee that

6 day that we all adopted.

7 I believe we heard testimony, and

8 certainly there are people in the audience who

9 were part of religious or charitable

10 organizations, and that was the stated intent
11 at the time, according to my memory, of taking
12 up that handwritten amendment, so we clarified
13 what the definition of sales tax was, but also
14 we clarified the areas that the Florida
15 Legislature should look at should this pass
16 this Commission and should it become part of
17 the constitution.

18 And I'm just afraid, with these new
19 exclusions and these new areas that the
20 Legislature is now unable to address, we're
21 going to do exactly to the Florida Legislature

22 in tying their hands the kind of things that
23 people have been criticizing, and there are too
24 many exclusions and exemptions. And we're now
25 going to put those in the constitution and do

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1 it in a way that says this is a clarifying
2 amendment.

3 And again, I don't disagree with anyone's
4 interpretation of what happened at the meeting,
5 but the language is different than it was voted
6 on, and I just wanted to make that comment for

7 the record.

8 CHAIRMAN BENSE: Further debate?

9 MR. D'ALEMBERTE: Mr. Chairman --

10 CHAIRMAN BENSE: Mr. D'Alemberte, you're

11 recognized.

12 MR. D'ALEMBERTE: If it's in order, I'd like

13 to move that we sever that portion of the report

14 which suggests a change to subsection B, sub 1, in

15 order to make sure that you don't have logrolling

16 here, and that Commissioner Scott doesn't tarnish

17 his unblemished record.

18 CHAIRMAN BENSE: Before we take up that

19 motion, I want to continue on a little bit -- I'll
20 get back to it, Commissioner.

21 Commissioner Barnett, you're recognized.

22 MS. BARNETT: Thank you, Mr. Chairman. As
23 former executive director of the Department of
24 Revenue, Randy Miller knows very, very well the --
25 these issues that he has pointed out as being new

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1 issues and potential service tax issues are really
2 not new issues, and they're not service tax
3 issues. They are core components of the sales tax

4 structure that Florida has in place today. These
5 are very important aspects of our existing sales
6 tax that has provided some strength and stability
7 to the sales tax.

8 I think most people that I know agree that
9 these are very important aspects of what is
10 basically the way we fund state government
11 through a sales tax. And people may disagree
12 about whether it's a services tax or not. I
13 don't think that is for us to -- I don't think
14 we're going to come to a resolution of that
15 today. But I do believe that, from the moment

16 these proposals were filed and discussed in the
17 various committees, this language that's been
18 highlighted was in every proposal.

19 And there were lots of proposals dealing
20 with exemptions, exclusions, sales tax, and
21 every one of them included this language,
22 including, as you heard Commissioner Levesque
23 respond. And had we known that the amendment
24 that was offered would -- was taking that out,
25 I think many people on the Commission, myself

1 included, would have offered an amendment to
2 this amendment to make sure that these concepts
3 continued to be in the proposal, because they
4 are, you know, they are part of the core
5 structural integrity of our sales tax base.

6 CHAIRMAN BENSE: Okay. I think, members --
7 go ahead, Commissioner Riley. You're recognized.

8 MS. RILEY: Thank you, Commissioner Barnett,
9 for stating that, because I will agree that it was
10 always my perception here that this was in. And
11 when the newspaper called me yesterday and said
12 that there was an exemption added back in for real

13 estate, I had just started reading this
14 comparison, and I was surprised to see that it was
15 added in, because in everything that I had had
16 previously, it was in there.

17 And the fact that it was inadvertently
18 left out and that we would take it up now to
19 try to change a proposal that we have discussed
20 and debated for many, many days and hours, I
21 would be very upset about that. Personally, I
22 would not have agreed to have that removed, and
23 I would -- could not have supported that at the

24 time. So I believe it's the intent that it be
25 left in.

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1 CHAIRMAN BENSE: Okay. Members, if we could,
2 we've still got a little bit left on this -- other
3 changes left. Why don't we continue on, go
4 through all the changes, and then we'll basically
5 decide if it's a technical or substantive change
6 that has been made by Style and Drafting.
7 Commissioner -- without objection. I haven't
8 forgotten about you, Commissioner D'Alemberte. I
9 hadn't forgotten. Do you want to move on that?

10 MR. D'ALEMBERTE: I just wanted to make sure
11 that Commissioner Randy Miller had an opportunity
12 to vote on this measure --

13 CHAIRMAN BENSE: At the proper time.

14 MR. D'ALEMBERTE: -- and any other changes in
15 place.

16 CHAIRMAN BENSE: Commissioner Levesque,
17 you're recognized.

18 MS. LEVESQUE: Okay, members, if you look at
19 the side-by-side chart on page 6, that's titled,
20 The Education Hold Harmless Amount, and if you're

21 looking at your second engrossed version of the
22 bill, it's lines 223 through 231. When the
23 proposal came to us, the two main changes that we
24 made to this section were -- and I'll use the
25 lines on your bill.

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1 Line 223 and 224, in implementing the
2 section, "the amount appropriated and set." We
3 added in the words "and set" in two or three
4 different places through this paragraph,
5 because we realized through Style And drafting
6 that if you -- that the Required Local Effort

7 isn't actually appropriated in the budget. It
8 is set in the budget.

9 And if you didn't add those words "and
10 set," what we were actually telling the
11 Legislature to do is to only replace the amount
12 that's appropriated, which would not include
13 the RLE. So we added the words "and set" in
14 three different places within this paragraph
15 from 223 to 231.

16 The second change that we made was in the
17 original proposal that came to us that talked

18 about the education hold harmless amount being
19 the average historical growth for such amounts
20 during the prior two fiscal years. And the
21 consensus of the committee was it would be
22 better to specify those two years.

23 So you can see on line 229 where we
24 actually identified, during state fiscal years
25 2006/2007, and 2007/2008. And those were the

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1 only changes we made in that paragraph on the
2 education hold harmless amount.

3 Any questions?

4 (No response.)

5 Okay, members, if you go to page 7 of your

6 side-by-side, which -- The Protection of School

7 Property Taxes Outside the FEFP is the title.

8 This starts on line 232 of your bill. We

9 didn't -- the language is basically the same.

10 The only -- where are we here? I don't think

11 there were any changes in this section at all.

12 Just reworded a little bit.

13 "Nothing contained herein shall be

14 construed to replace or eliminate the

15 following," whereas when it came to us it said,
16 "Nothing contained in this section replaces or
17 eliminates." But basically it's the exact
18 language that came to us, just slightly
19 reworded.

20 If you turn to page 9 of your side-by-side
21 restrictions on creation of new sales tax
22 exemptions, and this corresponds to lines 239
23 to 245 of your legislation. I believe all we
24 did was some cleanup in the introductory
25 section, where we -- it said, when it came to

1 us, "Each law creating a sales tax exemption
2 shall contain the single subject matter of a
3 single exemption." We struck the word
4 "matter," the portion of that word "matter," so
5 that now it reads, "Each law creating a sales
6 tax exemption shall contain the single subject
7 of a single exemption."

8 And this was recommended by legislative
9 bill drafting and our staff to kind of clarify
10 the single subject matter, something that is
11 typically referred to as entire subject matter

12 of a bill, so that's the reason we struck that
13 word "matter." But no other changes were made
14 except to conform on -- it would be on line
15 244. "Or charitable initiatives or
16 organizations." When it came to us, it said
17 "institutions" instead of "organizations," but
18 "organizations" was the more appropriate word.

19 Then if you look again on page 8 in the
20 side-by-side definitions, the definition of
21 what a Required Local Effort was was taken out
22 of the proposal, because it was already
23 captured and contained in lines 232 to 238 as

24 things not being impacted. And so the
25 consensus of Style and Drafting was that

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1 definition was not necessary for the proposal.

2 If you turn to page 9 of your

3 side-by-side, it may be easier just to look at

4 your second engrossed version. Now we're in

5 the schedule of when things are effective. And

6 basically what I explained at the very

7 beginning of the meeting, if you look at your

8 second engrossed version, lines 250 to 253, we

9 needed to add in an effective date for when the
10 reduction on the assess -- the cap from 10
11 percent to 5 percent on nonhomesteaded
12 properties kicked in. And so we added that
13 effective dates in lines 250 to 253, and that
14 effective date is January 1st, 2009.

15 The second thing that we added, which on
16 your side-by-side is on page 10, but on your
17 second engrossed version is line 254 to line
18 256, was, again, an effective date for when the
19 reduction in the school district millage went
20 from ten to five, and that effective date we

21 added was January 1st, 2010, which coincides

22 with the year that the actual elimination of

23 the RLE kicks in, so that they coincide in the

24 same years.

25 And those were the changes that we made in

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1 the body of the proposal, members. And if

2 you'd like, if there are no further questions,

3 we can just move to the ballot summary and

4 review the ballot summary, if there's no more

5 questions.

6 266 to 276 of the ballot summary, we

7 worked on this, members, for a very, very long

8 time. Let me read it to you. Eliminating

9 state required school property tax and

10 replacing with equivalent state revenues to

11 fund education. Replacing state required

12 school property taxes with state revenues

13 generating an equivalent hold harmless amount

14 for schools through one or more of the

15 following options: "Repealing sales tax

16 exemptions not specifically excluded,

17 increasing sales tax rate up to one percentage

18 point, spending reductions, other revenue

19 options created by the Legislature, limiting

20 subject matter of laws granting future

21 exemptions, limiting annual increases in

22 assessment of nonhomesteaded real property,

23 lowering property tax millage rates for

24 schools."

25 And that, members, is the recommendation

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1 of the Style and Drafting Committee for ballot

2 summary that adequately identifies the chief

3 purpose and clarifies what is in the substance

4 of CS for CP2.

5 CHAIRMAN BENSE: Okay. Discussion?

6 MS. MATHIS: I have a question.

7 CHAIRMAN BENSE: Commissioner Mathis.

8 MS. MATHIS: On page 8 of the second

9 engrossed version, when you talk about the

10 paragraphs, where you change the -- from a colon

11 to a period, are you looking at capitalizing the

12 letters that start section A, B, C, and D now?

13 And my other question -- my other comment is that

14 these aren't complete sentences, if you do that.

15 CHAIRMAN BENSE: Commissioner Levesque,
16 you're recognized.

17 MS. LEVESQUE: Commissioner Mathis, we would
18 have appreciated your input on Style and Drafting.
19 This is an exact question that Commissioner
20 Barnett asked in the meeting, and staff, when we
21 made these changes, we actually referred back to
22 other sections of the constitution to see what the
23 styling structure was of those other provisions.

24 And if you -- I can have staff bring this
25 over to you. But even in the section that

1 creates us in Section 6, of the Taxation and
2 Budget Reform Commission, we followed the exact
3 same format, which was a colon that listed then
4 five, six -- three different articulations of
5 our membership and who they were appointed by.
6 They all end with a period, they all do not
7 begin with a capitalized letter, and they're
8 all not complete sentences. So we followed the
9 same structure, and we reviewed that with bill
10 drafting as well.

11 MS. MATHIS: Follow-up?

12 CHAIRMAN BENSE: You're recognized for a
13 follow-up, Commissioner Mathis.

14 MS. MATHIS: Well, I don't know that I agree
15 with incorrect grammar being continued, but I
16 understand what you said. My other issue, and I
17 don't know if this is the appropriate time, but I
18 think the section that you added between lines 212
19 and 215 are not part of what was voted on. And I
20 think it is a substantive change, and I think we
21 need to consider that substantive change as a
22 substantive change and not as a technical

23 amendment. So I would be open to supporting
24 Commissioner D'Alemberte's motion that we review
25 that, and also in support of Commissioner Miller's

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1 position on this substantive change.

2 CHAIRMAN BENSE: Okay. Commissioner Scott.

3 VICE CHAIR SCOTT: I think what's important

4 too, if we can go back to when CP2 was passed by

5 the Commission. Commissioner Levesque several

6 times mentioned, you know, there's going to be

7 some drafting, and she asked for latitude,

8 Commissioner McKay, whoever agreed with that as

9 far as Style and Drafting to -- to correct this.

10 So the -- on any -- let's take one of the

11 others we've already done. If you change the

12 date, you know, you could say, well, that's

13 substantive. But that was the intent of what

14 we were doing. And if you changed when

15 something -- when the RLE prohibition takes

16 effect, so on. So I think -- I think that -- I

17 can see the point that you would make about

18 this being substantive, but if it's

19 substantive, somebody wants to change it, then

20 it should be, like, an amendment.

21 And I don't see this being any different

22 than many of the other things that we have

23 changed in these proposals, and it is certainly

24 within the -- the clear intent of what the

25 Commission passed and the work product that

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1 came all the way through.

2 Say it's a scrivener's error but that's

3 really what it is, and I think everybody knows

4 that. It was never debated. It was never

5 intentionally left out. We made an amendment

6 that was not proper. Commissioner Martinez
7 brought up the issue about this subparagraph,
8 and at the last minute the whole paragraph was
9 struck when it shouldn't have been.

10 So that's -- I really suggest that it is
11 not in the sense that you're using it
12 substantive, and if somebody wants to change
13 the substantive, they could do that another
14 way.

15 CHAIRMAN BENSE: Commissioner Miller, you're
16 recognized.

17 MR. RANDY MILLER: Mr. Chair, what concerns
18 me, if you look at the ballot summary on the back,
19 we're talking about sales tax exemption. You're
20 not talking about exclusions. It's clearly -- and
21 Commissioner Scott knows we had a lot of debate in
22 the Finance and Tax Committee about the difference
23 between sales tax exemptions and sales tax
24 exclusions.

25 And clearly, when you put this language in

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1 relating to intangible taxes, relating to the
2 sale of real property, you're in exclusions;

3 you're not in exemptions. And I think it is
4 substantive change that the Styling and
5 Drafting Committee has done. You keep
6 referring back to CP50. What's the status of
7 CP50 today?

8 CHAIRMAN BENSE: It's -- that's a TP.

9 MR. RANDY MILLER: TP'd. So if you want to
10 debate that, we can bring that back up, but this
11 is not what we voted on.

12 CHAIRMAN BENSE: Further input.

13 VICE CHAIR SCOTT: Mr. Chairman, if I might

14 proceed.

15 CHAIRMAN BENSE: Commissioner Scott, you're

16 recognized.

17 VICE CHAIR SCOTT: You would agree, though,

18 that this was in there all the way through in all

19 of those proposals?

20 MR. RANDY MILLER: I would agree we had a lot

21 of discussion about the difference and that our

22 committee, Finance and Tax, made a conscious

23 decision not to include any exclusions or anything

24 that would go into the constitution.

25 VICE CHAIR SCOTT: And -- but this particular

1 provision, whether you call it -- whether it's
2 exclusion or exemption, and I know that there's --
3 what difference would that make with the basic
4 intent being that for purposes of replacing this
5 state money you -- the repeal of exemptions or
6 whatever wouldn't include these items?

7 So, you know, so I think, with all due
8 respect, I think we're, like, kind of trying
9 to, like, sort of pick one little thing here
10 that's basically a technical drafting issue,

11 considered along with the fact that

12 Commissioner Levesque as the chair of the

13 committee clearly said that what's going to

14 happen is basically what happened here, that

15 we're going to have to, you know, clean this

16 up. So ...

17 CHAIRMAN BENSE: Commissioner Riley.

18 MS. RILEY: Yes. Thank you, Chairman. I

19 would say that if we leave this out, that is a

20 substantive change. If we leave this out, it's a

21 substantive change, because it was intended to be

22 in there. We didn't debate about whether it would

23 be taken out, and I want you to remember the
24 exclusion, excluding sales tax on property is
25 different than excluding the services of selling

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1 property.

2 So this -- you're mixing -- you're the one
3 that's mixing it up, and this is what it was
4 really intended to be, and I appreciate the
5 fact that Style and Drafting has corrected
6 this.

7 And, Chairman, if I may, can I ask

8 Commissioner Miller, does he have a problem

9 with that?

10 CHAIRMAN BENSE: I think he does,

11 Commissioner Riley.

12 (Laughter.)

13 MR. RANDY MILLER: I do think I do.

14 CHAIRMAN BENSE: I don't think you have to

15 ask him. I think he's let us know that.

16 Commissioner McKay, you're recognized.

17 MR. MCKAY: Mr. Chairman, thank you. I think

18 we're -- Commissioner Miller is doing a -- an

19 excellent job of trying to mask his true intent.

20 And Commissioner Miller, in opposing the -- the
21 inclusion of this language, is in fact arguing for
22 a review of services taxes it would seem to me.

23 And I don't think that's what -- while, as one
24 member of this Commission I think that would be a
25 great idea to review all exclusions on a

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1 one-by-one basis, as I've been on the record many
2 times in support of it, in this case I can't agree
3 with my good friend Commissioner Miller's attempt
4 to lead us down that path because that would be

5 disingenuous.

6 The -- there was a scrivener's error, and

7 it was the clear intent that -- we can bring up

8 Mr. Nabors, who's been drafting this from the

9 very beginning, ahead of anybody else, can

10 bring up Mr. Nabors to state that this was in

11 the original proposal, this was in Commissioner

12 Levesque's proposal, everybody was on the

13 record as saying that there was no substantive

14 differences except for the two that

15 Commissioner Levesque stated.

16 And so this is a road we're about to

17 travel down, not for the purpose of trying to
18 improve the tax system in the State of Florida
19 and follow the lead of many, including
20 Dr. Fishkind, that say that this will bring
21 great benefits to Florida's economy and provide
22 more stability of the tax system, we're about
23 to travel down a road that will, in fact,
24 sabotage that, and that's just not what we want
25 to do here.

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1 CHAIRMAN BENSE: Okay. Commissioner Miller.

2 MR. RANDY MILLER: Yes, sir. Thank you. All

3 I'm suggesting here is that the language that we

4 have before us unduly expands the language

5 originally passed in CP2. Quite simply, if you

6 adopt this language, we don't know what the term

7 means, the sales of real property. We do have an

8 idea it may mean real estate fees, commissions; it

9 may mean legal fees. It may -- you know, we don't

10 know what that is.

11 So -- and the intangible side, brokerage

12 fees, so what you're telling the Legislature,

13 if this passes, you have set up a prohibition

14 again in the constitution saying -- tying their
15 hands to be able to tax services as was done in
16 1987. So if you pass this, in all deference to
17 my good friend Commissioner McKay, you are
18 absolutely forever tying their hands. They
19 cannot make it pass.

20 CHAIRMAN BENSE: Commissioner Barnett. And,

21 members, after I hear from Commissioner Barnett,

22 I'm going to rule on whether this is substantive

23 or technical.

24 Commissioner Barnett, you're recognized.

25 MS. BARNETT: Thank you, Mr. Chairman. I

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1 just wanted to point out that -- that, one, the
2 sale of real property is really not included in
3 the sales tax statute. That, you know, Chapter
4 212, which is the sales tax, deals with tangible
5 personal property. That's the basis of our sales
6 tax.

7 There is -- I think I said this already,
8 but reasonable minds may differ about what a
9 sale of property is, but I believe the record
10 of this Commission, as well as the

11 long-standing and I would suggest universal
12 understanding of the sale of real property that
13 has existed in the state does not give the
14 implication that this is a services tax in
15 disguise, nor it is an intangible services tax
16 for the sale of intangibles.

17 It simply does not do that. And these
18 issues, and particularly the one on the sale of
19 tangible personal property for resale, that is
20 a core structural issue of the sales tax. It
21 is -- without that the tax itself, in many

22 people's mind, would be called into question.

23 And there's a lot of history on all of these

24 proposals, none of which support the

25 interpretation that Commissioner Miller is

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1 giving to it. But who knows what a court may

2 do if it ever got there, but none of the

3 history of it nor the record of this Commission

4 support that.

5 CHAIRMAN BENSE: And we'll do two more.

6 Commissioner Story and Commissioner D'Alemberte.

7 Commissioner Story, you're recognized.

8 MS. STORY: Mine is more a technical
9 question. I'm not here to say whether this should
10 be in there or not. But, similar to what
11 Commissioner Barnett brought up, one of the things
12 that hit me when we first were being educated on
13 this was the difference in exemptions and
14 exclusions. And I wonder -- I would feel more
15 comfortable, given the fiscal impact of potential
16 changes. The Florida tax handbook does list
17 exemptions separately from exclusions, and I don't
18 know where these fall.

19 And I -- as a technical matter, whichever

20 way we go, I think Commissioner Barnett's

21 point, if we include this as an exemption when,

22 in fact, it is classified as an exclusion,

23 there could be problems. So either way it

24 goes, I think it would -- I would like to know

25 which category these fall in, and I don't know.

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1 CHAIRMAN BENSE: Commissioner D'Alemberte.

2 MR. D'ALEMBERTE: Mr. Chairman, I had the

3 benefit of having advice from a distinguished tax

4 local government lawyer in the audience, and

5 there's some question in my mind about whether
6 this language we're talking about extends on in
7 the future, or is it the language that just guides
8 the Legislature in the first year of replacement.
9 And my counselor says it's to guide the
10 Legislature in the first year of replacement. If
11 that's the case, I don't have any problem with
12 this.

13 CHAIRMAN BENSE: Commissioner Miller.

14 MR. RANDY MILLER: If you look in the tax
15 handbook -- we have a copy down there, you will --

16 if you want to see the fees related to the sale of
17 real property, go over to professional services.
18 The first one is real estate. Represents about
19 \$813 million. That is commissions. I mean, that
20 is what we're talking about. So you do have an
21 issue here that these are not exemptions. They
22 are not exemptions.

23 CHAIRMAN BENSE: Okay, members, I've been
24 jotting notes as we've gone through this. The
25 question is whether -- and I had some prepared

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1 remarks. The question is whether the report and

2 recommendations of the Styling and Drafting
3 Committee contain substantive changes, which would
4 require 17 votes for adoption.

5 Specifically at issue seems to be the
6 exceptions from the repeal of sales tax
7 exemptions. I've heard the explanation of
8 Chairman Levesque and the members of the
9 Styling and Drafting Committee, and I've
10 listened to others. And it's my opinion that
11 the changes address and correct an inadvertent
12 omission, and are, therefore, technical in

13 nature. So we will be voting on a technical

14 change, much like we voted earlier.

15 Okay. Having said that, we are now to the

16 point of we need a motion to actually approve

17 this particular issue. Commissioner Levesque,

18 you're recognized.

19 MS. LEVESQUE: Mr. Chairman, I move to adopt

20 the report and recommendations of the Style and

21 Drafting Committee on CS for CP02.

22 CHAIRMAN BENSE: Is there a second?

23 MR. MCKAY: Second.

24 CHAIRMAN BENSE: Commissioner McKay seconds.

25 Discussion, debate? I suspect we'll have

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1 a lot more discussion and debate as we get to

2 the actual final vote on this, but I'm

3 certainly willing to listen to it now.

4 (No response.)

5 Okay. No discussion, debate. All in

6 favor say aye.

7 (Aye.)

8 Opposed no.

9 (No.)

10 The motion -- the motion by Commissioner

11 Levesque to adopt the report and recommendation

12 of the Styling Commission -- Styling and

13 Drafting Committee on CP002 passes.

14 Okay. How are you doing, Danielle? You

15 need a break? You're okay? All right.

16 MR. RANDY MILLER: Mr. Chair, when are we

17 going to break for lunch?

18 (Laughter.)

19 CHAIRMAN BENSE: You ready for a break?

20 MR. RANDY MILLER: I am.

21 CHAIRMAN BENSE: Let's take a -- why don't we

22 take a 30-minute break. We'll come back about ten

23 till one. Lunch break. Let's take a lunch break.

24 MS. BARNETT: Mr. Chairman?

25 CHAIRMAN BENSE: Commissioner Barnett?

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1 MS. BARNETT: One o'clock maybe? I'm not --

2 CHAIRMAN BENSE: One o'clock will be fine.

3 MR. RANDY MILLER: Mr. Chairman? Will this

4 room be secured so we can leave our stuff here?

5 CHAIRMAN BENSE: We don't have a sergeant

6 here, so we will just have to assume that it will

7 be secured.

8 (Lunch recess was taken.)

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CERTIFICATE OF REPORTER

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6 STATE OF FLORIDA)

7 COUNTY OF LEON)

8

9 I, LISA D. FREEZE, Notary Public, certify

10 that I was authorized to and did stenographically

11 report the proceedings herein, and that the transcript

12 is a true and complete record of my stenographic notes.

13 I further certify that I am not a relative,

14 employee, attorney or counsel of any of the parties,

15 nor am I a relative or employee of any of the parties'

16 attorney or counsel connected with the action, nor am I

17 financially interested in the action.

18 WITNESS my hand and official seal this 24th

19 day of April, 2008.

20

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23

LISA D. FREEZE, RPR, NOTARY PUBLIC

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