Florida’s Ineffective Constitutional Revenue Limit

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Florida citizens may be surprised to learn that the state Constitution has a revenue limit. This surprise is certainly understandable, since the current limit has been ineffective in constraining the growth of government. In order to understand the need for a Taxpayer Protection Amendment in Florida, it is first important to understand the flaws in the existing revenue limit.

Florida passed a revenue limit in 1994. Faced with the threat of a citizen initiative to enact a constitutional tax and spending limit, the legislature placed a constitutional amendment on the ballot to limit the growth in state revenue. Florida’s revenue limitation specifies that the revenue cap increases each year by the average annual growth rate in Florida personal income over the previous five years. This revenue limit has not constrained the growth of state revenue and spending because of several loopholes in the design of the limit.[1]

The most important loophole is linking the limit to the growth of personal income. In effect, this is no limit because it locks state appropriations in as a share of income. In periods of rapid economic growth, this limit permits a rapid growth in revenue and spending. A more effective limit is one based on the rate of inflation and population growth.

The revenue cap uses as its base the previous year’s cap, even if current revenues are well below the cap. In the early 1990s the Florida economy entered a recession in which revenues fell below the cap. Since then the cap has been increasing at a rate well above actual revenue growth, rendering the cap completely ineffective as a constraint on the growth in revenue and spending. To be effective, the limit should be the previous year’s cap or the previous year’s revenues, whichever is less.

Another loophole is that the limit does not cover all revenues. The amendment specifies which revenues are included and which are exempt from the cap. The cap applies only to “own source” revenues, and not to revenues received from the federal government. The cap also exempts

Revenues necessary to meet the requirements of state bonds, revenues used to provide matching Funds for Medicaid, revenues used to pay lottery prizes, receipts of the

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[1] Barry W. Poulson and Randall Holcombe, “Empowering Florida’s Taxpayers,” Backgrounder Number 47, The James Madison Institute, November 2005, pp.13-14.

Hurricane Catastrophe Fund, balances carried forward from prior years, local government taxes, fees, and charges, and revenues required to be imposed by constitutional amendments after 1994. When the cap was initiated, about 82 percent of net revenues were covered under the cap.[2] More recently, however, less than 76 percent of net revenues were covered.[3] Even though the cap is substantially less than total expenditures, the percentage of those net revenues covered by the cap shows a downward trend over the years. The cap should apply to a very broad measure of revenue and spending.

Finally, the existing cap applies only to state revenue and spending. It is especially important in Florida to apply an effective tax and spending limit at the local level as well as the state level. It is at the local level where the sharpest increases in tax burdens have occurred, and where there is the greatest pressure for reforms to provide property tax relief and reduce property tax rates.

There are some positive features of Florida's revenue cap. Revenues in excess of the limit are to be transferred to the Budget Stabilization fund until that fund reaches 10 percent of the previous year's revenues, after which excess revenues are to be refunded to taxpayers. The Legislature can increase revenues beyond the cap only by a two-thirds vote of both houses. Such an increase must be offered in a separate bill that contains no other subject, and that specifies the dollar amount of the increase. Unfortunately, because the limit has been ineffective as a constraint on the growth in revenue and spending, these positive features of the limit have never been triggered.[4]

Florida has enacted several other amendments to the Constitution that are designed to constrain the growth of government. The Constitution prohibits Florida from imposing an income tax. Several amendments to the Citizen's Initiative Act are designed to constrain the growth of government. One is the requirement of a supermajority, two third, vote of the legislature to add a new state tax or fee to the Constitution. Another provision eliminates the single subject rule for citizen initiatives to limit the power of government to raise revenue.

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[2] Ibid p.12.
[3] Ibid
[4] Op. Cit. "Empowering Florida's Taxpayers," pp.13-14.