



TAXATION AND BUDGET REFORM COMMISSION

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Staff Analysis and Economic Impact Statement

Measure: CP 27

REFERENCE:

ACTION:

Sponsor: Commissioner Hogan

1. GPSC

Pre-meeting

2. PBPC

Subject: Taxation and Budget Reform
Commission and Government
Efficiency Task Force

3.

Date: January 10, 2008

I. Summary:

This measure proposes an amendment to the Florida Constitution to:

- Correct errors in section 6 of Article XI of the Florida Constitution, the provision creating the Taxation and Budget Reform Commission (TBRC);
- Schedule the next TBRC to convene in 2020, rather than 2027;
- Provide for future TBRCs to convene in ten year intervals, rather than 20 year intervals;
- Repeal the Government Efficiency Task Force in subsection (i) of section 19 of Article III of the Florida Constitution; and
- Provide for the function of the Government Efficiency Task Force to be performed by future TBRCs.

II. Present Situation:

The Florida Constitution may be amended through the following mechanisms:

- Joint resolution agreed to by a three-fifths vote of the membership of each house of the Legislature;
- Proposal by a Constitution Revision Commission;
- Proposal by citizen initiative petition signed by a number of voters equal to eight percent of the votes cast in the last presidential election;
- Proposal by constitutional convention; and
- Proposal by a Taxation and Budget Reform Commission.

Errors in Section 6 Article XI of the Florida Constitution

The Constitution Revision Commission (CRC) is structured similar to the Taxation and Budget Reform Commission (TBRC). The CRC is an appointed body that meets every 20 years and has the authority to propose constitutional amendments directly to the voters.

The last CRC convened from 1997-1998. One of the issues considered by the CRC was whether to abolish the TBRC process. The main concern appears to have been that the TBRC would propose the repeal of constitutional amendments proposed by the CRC.¹ The TBRC was scheduled to convene in 2000, soon after the dissolution of the 1997-1998 CRC.

Ultimately, a compromise was reached between members of the 1997-1998 CRC who wanted to abolish the TBRC and those who wanted to preserve it.² Under the compromise, the TBRC:

- Was scheduled to meet every 20 years, rather than every 10 years;
- Was scheduled to meet 10 years after each CRC convenes; and
- Could agree to constitutional amendments through a simplified voting process.

However, the compromise amendment caused technical errors in section 6 of article XI of the Florida Constitution, the provision authorizing the TBRC. The excerpt from section 6 below shows the relevant changes proposed by the last CRC underlined and stricken:

Taxation and budget reform commission.—

(a) Beginning in 2007 ~~1990~~ and each twentieth ~~tenth~~ year thereafter, there shall be established a taxation and budget reform commission

(e) The commission shall hold public hearings as it deems necessary to carry out its responsibilities under this section. The commission shall issue a report of the results of the review carried out, and propose to the legislature any recommended statutory changes related to the taxation or budgetary laws of the state. ***Not later than one hundred eighty days prior to the general election in the second year following the year in which the commission is established, the commission shall file with the custodian of state records its proposal,*** if any, of a revision of this constitution or any part of it dealing with taxation or the state budgetary process.³

The errors were created by changing the start date for the TBRC from an even year to an odd year without conforming changes to subsection (e). Thus, read literally, subsection (e) requires this TBRC to file its proposed constitutional amendments with the secretary of state 180 days before the 2009 General Election. General elections, however, are held in even years.⁴

¹ See State of Florida Constitution Revision Commission, Transcripts 185-189 (Jan. 26, 1998), <http://www.law.fsu.edu/crc/minutes/crcminutes012698.html>; State of Florida Constitution Revision Commission, Transcripts 249-262 (Feb. 24, 1998), <http://www.law.fsu.edu/crc/minutes/crcminutes022498.html>; State of Florida Constitution Revision Commission, Transcripts 183-191 (Feb 17, 1998), <http://www.law.fsu.edu/crc/minutes/crcminutes031798b.html>.

² State of Florida Constitution Revision Commission, Transcripts 183-191 (Feb 17, 1998), <http://www.law.fsu.edu/crc/minutes/crcminutes031798b.html>.

³ Emphasis added.

⁴ See Art. IV, s. 5 and Art. VI, s. 5, Fla. Const.

Additionally, the change of TBRC start dates to odd years has effectively shortened the amount of time this Commission has to develop constitutional amendments. The last Commission had approximately two years and four months (January 1, 1990-beginning of May, 1992) to develop constitutional amendments. Had this Commission convened on January 1, 2007, its time to develop constitutional amendments would have been approximately one year and four months, a year less than the 1990 TBRC.

Moreover, at the end of 2007, new presiding officers were chosen for the House and Senate and a new governor took office in January, 2008. The coincidence of the start date of this Commission with the date of the appointing powers taking office may have delayed the appointment of Commission members. As a result, the time for this Commission to develop constitutional amendments may have been further shortened.

Government Efficiency Task Force

Senate Joint Resolution 2144 (2005) proposed a constitutional amendment to:

- Relax some of the restrictions on the power of the Legislature to create trust funds;
- Provide clear constitutional authority for the Legislative Budget Commission; and
- Create the Government Efficiency Tax Force.

The voters approved the constitutional amendment in 2006.

The legislative staff analysis for SJR 2144 (2005) did not contain any explanation of the impetus for the creation of the Government Efficiency Task Force. The stated purpose of the task force is to “develop recommendations for improving governmental operations and reducing costs.”⁵ Several entities fulfill functions similar to the task force. These entities include the:

- Office of Program Policy Analysis;⁶
- Office of Chief Inspector General;⁷
- Chief Financial Officer;⁸
- Executive and Legislative branches of government;⁹ and
- Council on Efficient Government.¹⁰

⁵ Art. III, s. 19(i), Fla. Const.

⁶ Section 11.513, F.S.

⁷ Section 14.32, F.S.

⁸ Section 17.325, F.S.

⁹ Section 20.051, F.S.

¹⁰ Section 287.0573, F.S.

III. Effect of Proposed Changes:

This measure proposes an amendment to the Florida Constitution to:

- Correct errors in section 6 of Article XI of the Florida Constitution, the provision creating the Taxation and Budget Reform Commission (TBRC);
- Schedule the next TBRC to convene in 2020, rather than 2027;
- Provide for future TBRCs to convene in ten year intervals, rather than 20 year intervals;
- Repeal the Government Efficiency Task Force in subsection (i) of section 19 of Article III of the Florida Constitution; and
- Provide for the function of the Government Efficiency Task Force to be performed by future TBRCs.

This provision corrects the date by which constitutional amendments proposed by TBRCs must be filed with the secretary of state, by conforming the start date of the TBRC process with the general election schedule. The correction is accomplished by scheduling future TBRCs to convene in even, rather than odd-numbered years. Accordingly, proposed TBRC amendments must be filed with the secretary of state 180 days before the general election in a general election year.

By scheduling future TBRCs to convene in even-numbered years, the measure will increase the amount of time to approximately two years and four months that TBRCs have to develop constitutional amendments. Thus, future TBRCs will have the same amount of time to develop constitutional amendments as the 1990 TBRC.

By operation of subsection (e) of section 5 of article XI of the Florida Constitution, this measure will take effect January 6, 2009.

IV. Constitutional Issues:

A. Constitutional or Legislative Matter:

Errors in constitutional amendments must be corrected through constitutional amendments. Thus, corrections to the TBRC's constitutional authority may not be made statutorily.

Constitutional provisions generally must be repealed through a constitutional amendment. The constitutional provision creating the Governmental Efficiency Task Force cannot be repealed statutorily.

B. Other Constitutional Issues:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Future TBRCs may have more time to deliberate constitutional amendments affecting the private sector on more frequent intervals.

C. Government Sector Impact:

The state will incur additional costs to fund TBRCs that convene on more frequent intervals for longer periods of time.

Under Art. XI, s. 5(d), Fla. Const., the secretary of state must publish in newspapers throughout the state proposed constitutional amendments and notice of the date of the election at which it will be submitted to the electors. According to the Department of State, the average publishing costs for citizen initiative amendments is \$60,000. However, the cost to publish lengthy amendments will exceed that amount.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.