



TAXATION AND BUDGET REFORM COMMISSION

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Staff Analysis and Economic Impact Statement

Measure: CP 50

REFERENCE:

ACTION:

Sponsor: Commissioner Levesque

1. FTC

Pre-meeting

2.

Subject: Replacement of Required Local
Effort

3.

Date: February 22, 2008

I. Summary:

Constitutional Proposal 50 eliminates the required local effort for education funding from property taxes. Potential property tax relief will begin with the property tax bills sent to property owners in November 2010.

The elimination of the required local effort for education must be replaced with other revenues beginning with fiscal year 2010-2011. The amount of revenues that must be replaced must be equal to or greater than the amount of required local effort specified in the 2008 General Appropriations Act. The revenues must be obtained through a combination of the following:

- A repeal of sales tax exemptions, which does not include the application of the sales tax to services;
- An increase of up to one percentage point in the sales tax rate;
- Reductions in state spending;
- Revenues from economic growth attributable to lower property taxes; and
- Other revenue sources created or identified by the Legislature.

This measure also reduces the maximum millage rate authorized for school purposes to 5 mills from 10 mills.

II. Present Situation:

The *2007 Florida Tax Handbook* estimates that Florida's sales tax will raise \$23,581,500,000 for fiscal year 2007-2008. The value of a 1 percent levy on the sales tax base was estimated to be \$3.9303 billion.¹

Sales Tax

¹ The Florida Senate, *2007 Florida Tax Handbook: Including the Fiscal Impact of Potential Changes*, p. 114 (2007).

Florida law provides that each sale, admission charge, storage, or rental is taxable unless the transaction is specifically exempt. Florida's general sales tax rate is 6 percent. However, there is an established "bracket system" for collecting sales tax on any part of each total taxable sale that is less than a whole dollar amount. Additionally, a discretionary sales surtax is imposed by many Florida counties. To compute the Florida sales tax rate for each county, the county imposed discretionary sales surtax rate is added to the general sales and use tax rate.²

Discretionary Sales Surtax

Under specific conditions, Florida counties are authorized to levy a discretionary sales surtax on most transactions that are subject to sales and use tax. A dealer who sells and delivers taxable merchandise or taxable services is required to collect the surtax at the rate imposed in the county where the merchandise or service is delivered. For motor vehicle and mobile home sales, the surtax rate of the county where the vehicle or mobile home will be registered is used to calculate the appropriate tax.³

Only the first \$5,000 of a single sale of tangible personal property is subject to a discretionary sales surtax if the property is sold as a single item, in bulk, as a working unit, or as part of a working unit. The \$5,000 limit does not apply to commercial rentals, transient rentals, or services.⁴

Use Tax and Consumption

Use tax complements, and is applied in the same manner as, sales tax. The use tax rate and sales tax rate are the same, including discretionary sales surtax, if applicable. Use tax is due on purchases made out of state and brought into Florida within 6 months of the purchase date. Also, if you purchase a product tax-exempt that you plan to sell at retail, but end up using it at your place of business, the "use" of the product is subject to tax. If you purchase materials that are "consumed" in a manufacturing process to create your end product, but are not part of the end product, those materials are subject to tax.⁵

The "use" component of the sales and use tax provides uniform taxation on items that are purchased outside Florida, but are used or stored in the state. If the item brought into Florida is subject to tax, a credit for lawfully imposed taxes paid to another state, a U.S. territory, or the District of Columbia is permitted. Credit is not given for taxes paid to another country.⁶

Sales Tax Exemptions

² Department of Revenue, Florida Sales and Use Tax, http://dor.myflorida.com/dor/taxes/sales_tax.html (last visited Jan. 15, 2008).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

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

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

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

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

The *Tax Handbook* estimates that the annualized receipts from the application of the state sales and use tax on service transactions for fiscal year 2007-2008 would yield \$23.4144 billion.

Required Local Effort

In accordance with s. 1011.62, F.S., the Legislature establishes in the General Appropriations Act the amount of required local effort for school districts. These funds specified by the Legislature must be collected by school districts through ad valorem taxes. The required local effort amount set by the Legislature for fiscal year 2007-2008 was \$7,909,648,521, not including other ad valorem taxes for school purposes authorized by law. Total property tax levies by local governments and taxing authorities in 2007 was \$30,990,913,506.

III. Effect of Proposed Changes:

Constitutional Proposal 50 eliminates the required local effort for education funding from property taxes. Potential property tax relief will begin with the property tax bills sent to property owners in November 2010.

The measure states that the “legislature may not require school districts to levy an ad valorem tax as required local effort for participation in the Florida Education Finance Program or successor program.” However, this statement may not preclude the Legislature from mandating an ad valorem tax for other purposes.

The elimination of the required local effort for education must be replaced with other revenues beginning with fiscal year 2010-2011. The amount of revenues that must be

⁷ The Florida Senate, 2007 Florida Tax Handbook: Including Fiscal Impact of Potential Changes

⁸ *Id.* at 118.

replaced must be equal to or greater than the amount of required local effort specified in the 2008 General Appropriations Act. The revenues must be obtained through a combination of the following:

- A repeal of sales tax exemptions, which does not include the application of the sales tax to services;
- An increase of up to one percentage point in the sales tax rate;
- Reductions in state spending;
- Revenues from economic growth attributable to lower property taxes; and
- Other revenue sources created or identified by the Legislature.

This measure expressly states that it does not mandate the repeal of exemptions for: food; prescription drugs; health services; and residential rent, electricity and heating fuel. These items refer to categories of exemptions, as opposed to specific exemptions identified by statute. These exemptions likely correspond to nearly the full revenue impact of the exemptions categorized as “household items” in the *Tax Handbook*. Viewed broadly, the categories of exempt exemptions may refer to the items described as excerpted from the *Tax Handbook* below.

Line No.	Exemption	Revenue Impact (in \$ m)	Type
17	Rent charges paid by certain long term occupants.	4.0	Household
18	Rent charges paid by certain full-time students.	33.1	Household
19	Rent charges paid by active military personnel.	32.0	Household
20	Rent charges paid by permanent residents.	1,259.2	Household
21	Charges for rent in certain mobile home parks.	3.3	Household
22	Rent charges for living accommodations in migrant labor camps	13.1	Household
99	Groceries purchased for human consumption.	2,651.5	Household
100	Food purchased with food stamps.	1.2	Household
101	Prescription drugs.	896.0	Household
102	Non-prescription drugs.	199.0	Household
103	Eyeglasses and other corrective lenses.	44.3	Household
104	Medical supplies and products such as syringes and prosthetics.	114.8	Household
160	Charges for hospital meals and rooms.	603.2	Household
161	In-facility meals purchased by residents of homes for the aged.	22.2	Household
162	Purchases of power & heating fuels by residential households.	2,178.9	Household
200	Nonprofit cooperative hospital laundries.	0.1	Business
207	Complimentary food items.	0.8	Business
208	Food or beverages donated to nonprofit organizations.	<u>0.3</u>	Organization
		8,057.0	

The maximum amount of revenue that may be gained by the repeal of all non-structural sales tax exemptions is \$12.3403 billion.⁹ The most that the Legislature will be able to recover from the non-exempt exemptions to offset the required local effort is slightly more than \$4 billion.

⁹ The *Tax Handbook* states that some exemptions overlap. As a result the repeal of all exemptions would generate less than \$12.3403 billion.

This measure also reduces the maximum millage rate authorized for school purposes in Article VII, section 9 of the Florida Constitution to 5 mills from 10 mills.

By operation of Article XI, section 5 of the Florida Constitution, this measure takes effect January 6, 2009.

IV. Constitutional Issues:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

This Constitutional Proposal will shift a substantial portion of the funding for public schools from local property taxes to state revenue sources.

B. Private Sector Impact:

This constitutional proposal will likely result in lower property taxes and higher sales taxes and may reduce state spending for services outside of the public school system. The measure gives the Legislature broad authority to identify or create “other revenues” to replace the required local effort. The impact of the exercise of this authority on the private sector is unknown.

C. Government Sector Impact:

The required local effort set by the Legislature tends to increase. The measure requires the elimination of required local effort in the 2010 General Appropriations Act. However, the minimum amount of revenues that must be generated to replace the required local effort is the amount specified in the 2008 General Appropriations Act. Funding for education will likely decrease, if the Legislature only replaces the minimum amount of funds.

This measure authorizes the Legislature to reduce spending in areas outside of the public school system to make funds available for education.

Local school districts may become less relevant and less influential as the state revenues funding education increase relative to local revenues.

Subsection 5(d) of Article XI, Fla. Const., requires the Department of State to publish proposed constitutional amendments in newspapers throughout the state. The Department of State estimates that the average cost to publish constitutional amendments is \$60,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

This measure directs the Legislature to eliminate “required local effort for all school districts under the Florida Education Finance Program, or its successor in function.” If this measure is approved by the voters, the term “required local effort” likely will be repealed from the statutes. With the elimination of “required local effort” from the statutes, the use of the term required local effort in this measure will become obsolete.

Instead of referring to “required local effort” and “Florida Education Finance Program,” the Commission may wish to refer to the principles embodied in those concepts. Perhaps, the principle in this measure could state that the Legislature may not require school districts to levy an ad valorem tax as a condition for eligibility for state funds. Alternatively, the principle may be that the state is primarily responsible for funding public schools, rather than school districts, except for discretionary and voter-approved taxes that do not result in a violation of the uniformity requirement of Article IX, section 1(a) of the Florida Constitution.