Resolution of the Taxation and Budget Reform Commission

A resolution proposing an amendment to Section 1 of Article VII and the creation of a new Section 19 of Article VII of the State Constitution to limit the growth of government spending.

Be It Resolved by the Taxation and Budget Reform Commission:

That the following amendment to Section 1 of Article VII and the creation of a new Section 19 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 1. Taxation; appropriations; state expenses~~; state revenue limitation~~.--

(a) No tax shall be levied except in pursuance of law. No state ad valorem taxes shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law.

(b) Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes, as defined by law, shall be subject to a license tax for their operation in the amounts and for the purposes prescribed by law, but shall not be subject to ad valorem taxes.

(c) No money shall be drawn from the treasury except in pursuance of appropriation made by law.

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(d) Provision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period.

~~(e) Except as provided herein, state revenues collected for any fiscal year shall be limited to state revenues allowed under this subsection for the prior fiscal year plus an adjustment for growth. As used in this subsection, “growth” means an amount equal to the average annual rate of growth in Florida personal income over the most recent twenty quarters times the state revenues allowed under this subsection for the prior fiscal year. For the 1995-1996 fiscal year, the state revenues allowed under this subsection for the prior fiscal year shall equal the state revenues collected for the 1994-1995 fiscal year. Florida personal income shall be determined by the legislature, from information available from the United States Department of Commerce or its successor on the first day of February prior to the beginning of the fiscal year. State revenues collected for any fiscal year in excess of this limitation shall be transferred to the budget stabilization fund until the fund reaches the maximum balance specified in Section 19(g) of Article III, and thereafter shall be refunded to taxpayers as provided by general law. State revenues allowed under this subsection for any fiscal year may be increased by a two-thirds vote of the membership of each house of the legislature in a separate bill that contains no other subject and that sets forth the dollar amount by which the state revenues allowed will be increased. The vote may not be taken less than seventy-two hours after the third reading of the bill. For purposes of this subsection, “state revenues” means taxes,~~

~~fees, licenses, and charges for services imposed by the legislature on individuals, businesses, or agencies outside state government. However, "state revenues" does not include: revenues that are necessary to meet the requirements set forth in documents authorizing the issuance of bonds by the state; revenues that are used to provide matching funds for the federal Medicaid program with the exception of the revenues used to support the Public Medical Assistance Trust Fund or its successor program and with the exception of state matching funds used to fund elective expansions made after July 1, 1994; proceeds from the state lottery returned as prizes; receipts of the Florida Hurricane Catastrophe Fund; balances carried forward from prior fiscal years; taxes, licenses, fees, and charges for services imposed by local, regional, or school district governing bodies; or revenue from taxes, licenses, fees, and charges for services required to be imposed by any amendment or revision to this constitution after July 1, 1994. An adjustment to the revenue limitation shall be made by general law to reflect the fiscal impact of transfers of responsibility for the funding of governmental functions between the state and other levels of government. The legislature shall, by general law, prescribe procedures necessary to administer this subsection.~~

SECTION 19. State and local spending limits.--

(a) SPENDING LIMITS.--

The state, local governments, school districts, and special districts must have voter approval to exceed the fiscal year spending limits specified in this subsection.

(1)a. The spending limit for the state, a local government, and each special district is the spending authorized

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by the entity for the 2005-2006 fiscal year, adjusted annually for the percentage change in population and inflation. An adjustment to the spending limit shall be made to reflect the fiscal impact of transfers of responsibility for the funding of governmental functions among units of government.

b. The spending limit for a school district shall equal the spending authorized by the district for the 2005-2006 fiscal year, adjusted annually for the percentage change in enrollment and inflation and for property tax revenue increases approved by the voters. An adjustment to the spending limit shall be made to reflect the fiscal impact of transfers of responsibility for the funding of governmental functions between a school district and other units of government.

(2) The electors within the state, local government, school district, or special district may vote to suspend the spending limit specified by this section for up to four years. After such time, future spending limits shall be based on spending during the last fiscal year in which the spending limit was suspended.

(3) The legislature shall provide a process by law to notify each local government, school district, or special district of the applicable spending limit.

(b) AD VALOREM TAXATION REVENUE LIMIT.--

(1) The ad valorem revenue limit of a county, municipality, school district, or special district having authority to levy an ad valorem tax is the ad valorem tax revenues collected in 2006, adjusted for inflation and changes in property values due to changes, additions, reductions, or

improvements. An adjustment to the revenue limit shall be made to reflect the fiscal impact of transfers of responsibility for the funding of governmental functions among units of government.

(2) The electors within the county, municipality, school district, or special district having authority to levy a tax may vote to suspend the revenue limits specified by this subsection for up to four years. After such time, future revenue limits shall be based on the revenue during the last fiscal year in which the revenue limit was suspended.

(c) CONSEQUENCES FOR EXCESS REVENUES OR SPENDING.--

(1) A local government, school district, or special district having authority to levy an ad valorem tax shall either refund excess revenues to each applicable property owner or reduce the ad valorem taxes on each applicable property during the next fiscal year.

(2) Revenues in excess of the spending limits provided in subsection (a) which are not attributable to excess ad valorem tax revenues shall be offset by a temporary reduction in the sales tax rate, taxes on motor and diesel fuel, or reduction in another tax, fee, or toll, or other broad-based tax or fee.

(d) ELECTIONS.--

(1) Any vote authorized by this section must be held simultaneously with any other election in which the electors of the state, local government, school district, or special district, as applicable, are entitled to vote.

(2) Any ballot measure to authorize an increase in a spending limit must specify the spending increase to be authorized in dollars, the source of revenues, and changes in

tax rates, or the creation of new revenue sources as applicable and the purpose in neutral terms of the spending increase.

(e) ENFORCEMENT.--Taxpayers have standing to enforce entitlement to a refund or a temporary reduction of a tax, fee, or toll, or the right to vote on the suspension of a spending or revenue limit. The prevailing party in an enforcement action is entitled to reasonable attorney's fees and costs.

(f) EMERGENCY BUDGET AND STABILIZATION FUND.--The state, local governments, school districts, and special districts shall maintain a budget stabilization fund to provide funds for uses directly relating to a state of emergency declared by the governor or for use when revenues are less than the applicable spending limit. The budget stabilization fund for the state shall be the budget stabilization fund provided in Subsection 19(g) of Article III.

(1) In fiscal years in which revenues exceed the spending limits provided in subsection (a) or revenue limit in subsection (b), one-third of the excess revenues shall be deposited into the applicable budget stabilization fund. However, deposits may not exceed ten percent of the spending limit for the prior fiscal year, unless a greater percentage is approved by the electors of the state, a local government, school district, or special district, as applicable.

(2) If the governor declares a state of emergency in accordance with general law:

a. Funds may be withdrawn from the state budget stabilization fund and state spending may exceed the limit provided in subsection (a) for use in responding to the emergency as provided by law.

b. Funds may be withdrawn from a budget stabilization fund of a local government, school district, or special district and the spending limit may exceed the limit provided in subsection (a) upon a three-fifths vote of the governing body of the unit of government.

(3) If the revenues for the state, a local government, school district, or special district are less than the spending limit, withdrawals from the applicable cash reserve fund may be made to permit spending up to the applicable spending limit:

a. Upon a bill approved by a three-fifths vote of each house of the legislature; or

b. Upon a three-fifths vote of the governing body of the local government, school district, or special district.

(g) VOTER APPROVAL OF NEW OR INCREASED TAXES OR FEES.--

(1) A majority of the electors of a unit of government must approve new taxes or increases in tax rates that take effect after November 4, 2008. The duration of a new tax or increased tax rate under this subsection shall not exceed four years.

(2) Two-thirds of the electors of a unit of government must approve new user fees. The duration of a new user fee under this subsection shall not exceed four years.

(3) The legislature shall provide a process by law to permit the electors to approve assessments for neighborhood improvements that may be amortized over a period not to exceed ten years.

Any additional revenues authorized by this subsection shall be excluded from the spending and revenue limits under subsections (a) and (b).

(h) DEFINITIONS.--As used in this section, the term:

(1) “Bonds” means any form of multi-fiscal year indebtedness, including non-recourse, limited tax general obligation bonds, or limited liability bonds.

(2) “Inflation” means the percentage change in the United States Department of Commerce Bureau of Economic Analysis Price Index for State and Local Government Consumption Expenditures and Gross Investment or successor index.

(3) “Population” means the number of state residents, excluding members of the armed forces stationed out of state as determined by the United States Bureau of Census.

(4) “Revenue” means taxes, fees, licenses, and charges for services imposed on individuals, businesses, or another unit of government. However, revenue does not include:

a. Receipts of the Florida Hurricane Catastrophe Fund;

b. Revenues from gifts, donations, or grants, or revenues from another unit of government;

c. Revenues received from the sale of property or legal damages awards;

d. Pension contributions by employees or pension fund earnings;

e. Revenues from the proceeds of bonds;

f. Revenues that are necessary to meet the requirements set forth in documents authorizing the issuance of bonds prior to January 1, 2009;

g. Revenues representing the direct cost of operating the lottery authorized by Section 15 of Article X;

h. Revenues representing the direct cost of providing electric, water, wastewater, gas, or other utility services; and

i. Revenues from the issuance of licenses and permits to the extent that the revenues do not exceed the cost of issuing the licenses or permits and the services provided to the licensees and permit-holders.

(5) “Spending” means all expenditures, except:

a. Expenditures of the receipts of the Florida Hurricane Catastrophe Fund;

b. The payment of pensions for employees from an employee pension fund;

c. Expenditures of revenues from gifts, donations, or grants, or revenues from another unit of government;

d. Expenditures of funds received from the sale of property or legal damages awards;

e. Expenditures of the proceeds of bonds;

f. Expenditures of revenues that are necessary to meet the requirements set forth in documents authorizing the issuance of bonds prior to January 1, 2009;

g. Expenditures of funds for the direct cost of operating a lottery authorized by Section 15 of Article X;

h. Expenditures of funds for the direct cost of providing electric, water, wastewater, gas, or other utility services;

i. Expenditures of revenues from local government impact fees that have a reasonable connection or rational nexus between the need for additional capital facilities and the growth in population generated by a subdivision and a reasonable connection or rational nexus between the expenditures of the funds collected and the benefits accruing to a subdivision;

j. Expenditures of funds not to exceed the actual costs to issue licenses and permits and to provided services to the licensees and permit-holders;

k. Refunds of excess tax revenues; and

l. Emergency expenditures authorized by paragraph (f)(2).

(6) “Tax” means an involuntary collection of funds that does not necessarily relate to any benefit bestowed by government on a taxpayer.

(7) “Unit of government” means a special district, school district, municipality, county, or the state.

(8) “User fee” means a voluntary payment based on direct, measurable consumption of publicly provided goods and services.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTIONS 1 AND 19

STATE AND LOCAL SPENDING LIMITS.--This proposed amendment to the State Constitution generally limits the spending increases by the state and other units of government to the rate of inflation and population or student enrollment changes. Ad valorem revenue increases are generally limited to the rate of inflation plus changes in property values due to changes, additions, reductions, or improvements. Voters may approve the suspension of the spending and revenue limits or new or additional revenues temporarily.