



League of Women Voters of Florida
Education Fund

WOMEN
Nov. 7, 2006

Proposed amendments to the Florida Constitution

Pros and Cons

on the Amendments
to the Florida Constitution
to be voted on November 7, 2006

1 State Budget and Planning Process

Reference: Article III, Section 19

Sponsor: The Florida Legislature

Summary: Proposing amendments to the State Constitution to limit the amount of nonrecurring general revenue which may be appropriated for recurring purposes in any fiscal year to 3 percent of the total general revenue funds estimated to be available, unless otherwise approved by a three-fifths vote of the Legislature; to establish a Joint Legislative Budget Commission, which shall issue long-range financial outlooks; to provide for limited adjustments in the state budget without the concurrence of the full Legislature, as provided by general law; to reduce the number of times trust funds are automatically terminated; to require the preparation and biennial revision of a long-range state planning document; and to establish a Government Efficiency Task Force and specify its duties.

Background: This amendment was placed on the ballot by the Florida Legislature during the 2005 legislative session by a 60% vote of both the Senate and the House. This Joint Resolution proposes changes to Section 19 (State Budgeting, Planning and Appropriations Processes) of Article III (Legislature) of the State Constitution that was originally proposed in 1992 by the Taxation and Budget Reform Commission. The Taxation and Budget Reform Commission is a constitutional revision body, established by Section 6 of Article XI of the Florida Constitution in 1988. Section 19 of Article III was approved by the voters on November 4, 1992. Also, this amendment creates a government efficiency task force no later than January 2007 and every four years thereafter. The task force is composed of appointees from the



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legislature and the public and private sectors. These appointees make recommendations to improve government and reduce costs.

PRO:

- Requires joint legislative budget commission to issue long-range financial outlook annually.
- The government efficiency task force could help formalize a process of looking for ways to save money without reducing necessary services.
- The joint legislative budget commission provides for public input.

CON:

- The limited amount of non-recurring general revenue of 3 percent of total general revenue is too high (approximately \$800 million).
- Budget adjustments may be approved without the concurrence of the full Legislature.
- This issue should be addressed by statute. It is not appropriate for inclusion in the State Constitution.

3 Broader Public Support for Constitutional Amendments and Petitions

Reference: Article XI, Section 5(e)

Sponsor: The Florida Legislature

Summary: Proposes an amendment to Section 5 of Article XI of the State Constitution to require that any proposed amendment to or revision of the State Constitution, whether proposed by the Legislature, by initiative, or by any other method, must be approved by at least 60 percent of the voters of the state voting on the measure, rather than a simple majority. This proposed amendment would not change the current requirement that a proposed constitutional amendment imposing a new state tax or fee be approved by at least 2/3 of the voters of the state voting in the election in which such an amendment is considered.

Background: The five methods by which proposed constitutional amendments may be presented to the voters for approval are through proposal by the Legislature, Constitutional Revision Commission, citizens' petition initiative, Constitutional Convention, and Taxation and Budget Reform Commission (the Taxation and Budget Reform Commission is a constitutional revision body, established by Section 6 of Article XI of the Florida Constitution in 1988). Currently a proposed amendment or revision must pass by a simple majority (50% plus 1) of electors voting on the measure. However, an amendment that proposes a new tax or fee must be approved by no

less than 2/3 of electors on the measure. The 2005 legislature passed joint resolution CS/SJR 6, a proposed constitutional amendment, to be placed on the November 2006 ballot requiring passage by 60% electors voting on the measure. According to the Department of State election statistics, the following constitutional amendments adopted during the last two general elections would have failed if a 60% vote were required: voluntary universal pre-kindergarten education, reduction in class size, pregnant pigs, slot machines and amendments to Miami-Dade County Home Rule Charter. If passed, this amendment will take effect on January 2, 2007

PRO:

- Florida's Constitution is one of the easiest to amend.
- The Florida Constitution is cluttered with unnecessary amendments.
- A 60% vote broadens consensus and includes more citizens in the process.
- This will make it harder for "special interest groups" to get their issues through the legislature.

CON:

- In 2006, the citizen petition process required 611,000 verified signatures in 15 of the 25 Congressional Districts plus a review by the Florida Supreme Court.
- Since Florida does not have a statutory initiative process, this amendment would make it harder for Floridians' voices to be heard.
- Since 1976, 53 legislature-sponsored amendments have been on the ballot, as opposed to 27 citizen petition initiatives.
- Less than 50% of voters could determine what does not go into the Constitution.
- It is an affront to the citizen's basic right to petition their government.

4 Protect People, Especially Youth, from Addiction, Disease and Other Health Hazards of Using Tobacco

Reference: Article X, Section 27

Sponsor: Floridians for Youth Tobacco Education, Inc.

Summary: To protect people, especially youth, from addiction, disease, and other health hazards of using tobacco, the Legislature shall use some Tobacco Settlement money annually for a comprehensive statewide tobacco education and prevention program using Centers for Disease Control best practices. Specifies some program components, emphasizing youth, requiring one-third of total annual funding for advertising. Annual funding is 15% of 2005 Tobacco Settlement payments to

Florida, adjusted annually for inflation. Provides definitions. Effective immediately.

Background: Tobacco use is the single most preventable cause of death and disease, causing approximately 440,000 deaths annually in the United States. Every day an estimated 4,400 young people try cigarettes for the first time. However, since 1997 there has been a reverse to the rapid rise in smoking among youth. Health disparities exist within specific segments of the population and may be associated with gender, race or ethnicity, education or income, age, geographic location or sexual orientation. Steps are being developed to identify which groups are experiencing a higher burden of disease, an increase in tobacco use or difficulty in accessing tobacco control programs. Direct medical expenditures attributed to smoking have risen since the early 1990s and now total more than \$75 billion per year. Medicaid costs have risen substantially over the last few years and about 14% of these expenditures are related to smoking. Florida receives more than \$360 million annually from the settlement and only 1% (\$1 Million) is used for education. This legislation would increase the amount to 15% (\$54 million) of the tobacco settlement payments to Florida to fund statewide tobacco education and prevention programs. Organizations backing this amendment are: American Cancer Society, Florida Division; American Heart Association, Florida/Puerto Rico Affiliate; American Lung Association of Florida; Campaign for Tobacco Free Kids.

PRO:

- More money would be allocated and used to educate youth about the dangers of tobacco use.
- Lives could be saved by encouraging youth and others to avoid using tobacco.
- Secondhand smoke is not a mere annoyance, but a serious health hazard.
- Health costs should go down as more people refrain from smoking and there are fewer tobacco use related illnesses.

CON:

- This issue should be addressed by statute. It is not appropriate for inclusion in the State Constitution.
- Millions will be coming out of our state's general revenue budget.
- There would be less money for schools and roads.
- Regulates individual behavior.

6 Increased Homestead Exemption

Reference: Article VII, Section 6; Article XII, Section 26

Sponsor: The Florida Legislature

Summary: Proposing amendment of the State Constitution to increase the maximum additional homestead exemption for low-income seniors from \$25,000 to \$50,000 and to schedule the amendment to take effect January 1, 2007, if adopted.

Background: The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant an additional homestead tax exemption not exceeding fifty thousand dollars to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner and who has attained age sixty-five and whose household income, as defined by general law, does not exceed twenty thousand dollars. The general law must allow counties and municipalities to grant this additional exemption, within the limits prescribed in this subsection, by ordinance adopted in the manner prescribed by general law, and must provide for the periodic adjustment of the income limitation prescribed in this subsection for changes in the cost of living. Ad valorem taxes continue to be a major source of revenue for local governments in Florida; in 2002-2003, property taxes constituted 31% of county governmental revenue and 17% of municipal governmental revenue. School districts also rely upon property taxes for revenue. It is also the only taxing authority not preempted by the Florida Constitution to the state; however, it is not an unlimited source of revenue since the Constitution caps the millage rates used to assess property value.

PRO:

- Increases the maximum discretionary homestead exemption for senior citizens from \$25,000 to \$50,000.
- Gives tax relief to those senior citizens whose income does not exceed \$20,000.
- Can be implemented county by county.

CON:

- If adopted by a county, there would be a negative impact upon local revenues.
- Further discriminates against renters and younger homeowners.

7 Permanently Disabled Veterans' Discount on Homestead Ad Valorem Tax

Reference: Article VII, Section 6

Sponsor: The Florida Legislature

Summary: Proposing an amendment to the State Constitution to provide a discount from the amount of ad valorem tax on the homestead of a partially or totally permanently disabled veteran who is age 65 or older who was a Florida resident at the time of entering military service, whose disability was combat-related, and who was honorably discharged, to specify the percentage of the discount as equal to the percentage of the veteran's permanent service-connected disability; to specify qualification requirements for the discount, to authorize the Legislature to waive the annual application requirement in subsequent years by general law, and to specify that the provision takes effect December 7, 2006, is self-executing, and does not require implementing legislation.

Background: This joint resolution would allow certain partially or totally disabled veterans to receive a discount from the amount of the ad valorem tax otherwise owed on homestead property. In order to qualify for this discount, the veteran must demonstrate: He or she was a Florida resident at the time of entering the military service; the disability was combat-related; and the veteran was honorably discharged upon separation from military service.

PRO:

- This joint resolution recognizes the contribution these veterans made to the country.

CON:

- Some local governments may lose some income from the lowering of property tax.
- Places a higher tax burden on non veterans.
- This should be a statute and not a constitutional amendment.

8 Eminent Domain

Reference: Article X, Section 6

Sponsor: The Florida Legislature

Summary: Proposing an amendment to the State Constitution to prohibit the transfer of private property taken by eminent domain to a natural person or private entity; providing that the Legislature may by general law passed by a three-fifths vote of the membership of each house of the Legislature permit exceptions allowing the

transfer of such private property; and providing that this prohibition on the transfer of private property taken by eminent domain is applicable if the petition of taking that initiated the condemnation proceeding was filed on or after January 2, 2007.

Background: On June 23, 2005, the United States Supreme Court issued its decision on the case of *Kelo v City of New London*, concluding that the U.S. Constitution does not prohibit the City of New London from taking private property by eminent domain for the public purpose of economic development. On June 24, 2005, Florida House Speaker Allen Bense announced the creation of the Select Committee to Protect Private Property Rights chaired by Representative Marco Rubio. The committee was charged with the task of reviewing Florida law in an effort to identify areas of ambiguity and recommend changes to ensure appropriate protections of property rights. The issue – *Under Florida law, is economic development a valid public purpose for which private property may be taken and transferred to another private entity?*

Concerns of public rights advocates center around the application of the statutory definition of “blighted area” and what many perceive as vague and inappropriate criteria in the definition. On the other hand, representatives of local government assert that the statutory criteria for slum and blight are sufficiently narrow and that the power of eminent domain is rarely exercised in the community redevelopment cortex.

PRO:

- Defines the circumstances under which a condemning authority may transfer taken private property to another private entity.
- Limits the circumstances under which government may exercise the power of eminent domain.
- Imposes “public use” requirements that are stricter than the federal baseline.

CON:

- A private property owner could prevent development that is in the public interest.
- Applies a vague definition of “blighted areas.”
- Reduces ability of the local government to increase its tax base.

NOTE: *There are only six ballot questions for the November 7, 2006 election. There is no #2 nor #5 ballot question.*

For complete texts, go to http://election.dos.state.fl.us/initiatives/pdf/2006_prop_consti_amend.pdf