

STORAGE NAME: h0723.er

DATE: April 7, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ELECTION REFORM
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 723

RELATING TO: Referenda on Taxation

SPONSOR(S): Representative Wallace

STATUTE(S) AFFECTED:

COMPANION BILL(S): SB 622(i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) ELECTION REFORM

(2)

(3)

(4)

(5)

I. SUMMARY:

HB 723 prohibits the holding of any referendum that proposes either a new tax, an increase in the rate of an existing tax, or the removal of an exemption at any election other than a general election.

This bill does not appear to have a significant fiscal impact on state or local governments.

HB 723 has an effective date of July 1, 1997.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Article XI, Section 5 of the Florida Constitution provides that a proposed amendment to or revision of the constitution by joint resolution, initiative petition or report of revisions commission or constitutional convention or taxation and budget reform commission be held at the general election. However, counties do currently hold local tax referendums at elections other than a general election, but the cost of such elections is then borne by the local officials and not the state. If a referendum related to tax is to be submitted to voters at a special election certain public notice requirements must be met. [s. 100.342, F.S. (1995)].

Section 100.342, F.S., provides that in any special election or referendum not otherwise provided for, at least 30 days notice must be given by publication in a newspaper of general circulation in the county, district, or municipality, as the case may be. The publication must be made at least twice, once in the fifth week and once in the third week prior to the week in which the election or referendum is to be held. If there is no newspaper of general circulation in the county, district, or municipality, the notice must be posted in no less than five places within the territorial limits of the county, district, or municipality.

Under the provisions of s. 100.101, F.S., a special election or special primary election must be held in the following cases:

- 1) If no person has been elected at a general election to fill an office which was required to be filled at such general election;
- 2) If a vacancy occurs in the office of state senator or member of the state house of representatives;
- 3) If it is necessary to elect presidential electors, by reason of the offices of President and Vice President both having become vacant;
- 4) If a vacancy occurs in the office of member from Florida of the House of Representatives of Congress; and
- 5) If a vacancy occurs in nomination.

An exception is provided by law that if in any state or county office required to be filled by election a vacancy occurs during an election year by reason of the incumbent having qualified as a candidate for federal office pursuant to s. 99.061, F.S., no special election is required. [s. 100.111(2)(a), F.S. (1995)].

Section 100.351, F.S., provides that whenever an election is held under a referendum provision of an act of the Legislature, the election officials of the governmental unit in which the election is held must certify the results to the Department of State, which must enter such results upon the official record of the act requiring such election on file in the office of the Department of State.

Section 100.211, F.S., authorizes the board of county commissioners or the governing authority of any district or municipality to call a bond referendum under the election code. In the event any referendum is called to decide whether a majority of the electors participating are in favor of the issuance of bonds in the county, district, or municipality, the board of county commissioners, or the governing authority of the municipality or district must, by resolution, order the bond referendum to be held in the county, district, or municipality and shall give notice of the election in the manner prescribed by s. 100.342, F.S..

Section 100.261, F.S., provides that whenever any bond referendum is called, it is lawful for any county, district, or municipality to hold such bond referendum on the day of any state, county, or municipal primary or general election, or on the day of any election of such county, district, or municipality for any purpose other than the purpose of voting on such bonds. If such bond referendum is held concurrently with a regularly scheduled election, the county, district, or municipality shall only pay its pro rata share of election costs directly related to the bond referendum. However, nothing in this section prohibits the holding of a special or separate bond referendum.

The Florida Election Code, chapters 97 through 106, governs the conduct of elections in this State. Under the "Municipal Home Rule Powers Act" (Chapter 166, F.S.), municipalities may exercise their authority to provide such regulation to municipal elections as deemed appropriate, except those areas thereof specifically preempted to state or county government by general law or the Constitution.

Section 100.031, F.S., provides that a general election be held in each county on the first Tuesday after the first Monday in November of each even-numbered year.

B. EFFECT OF PROPOSED CHANGES:

This bill would require any referendum that proposes a new tax, an increase in the rate of an existing tax, or removal of an exemption to be submitted to voters at a general election (even-numbered year) rather than a primary or special election.

Any provision of the Florida Election Code which is not made specifically applicable to municipalities may be adopted by the municipality in its discretion. Any amendment to the code which has not been subsequently adopted by the municipality might, in certain instances, be inapplicable to a municipal election. [See generally, DE 077-37, *Application of Election Code to Municipal Election Chapters 97-106, F.S.* (December 20, 1977)]. According to the Division of Elections in DE 077-37, in the absence of an express adoption of all or part of the state election code by a municipality in the exercise of its home rule power, the following provisions of the Florida Election Code apply to municipal elections: Chapter 97, Chapter 98, s. 99.012, ss. 100-201-.351, s. 100.361. s. 101.031, s. 101.041, s. 101.121, s. 101.635, s. 101.75, Chapter 104 and Chapter 106, F.S.

As stated previously, costs associated with holding local tax referendums at elections other than a general election are borne by the local officials and not the state. These costs vary county by county. On the other hand, local governmental units holding tax referendums concurrently with a regularly scheduled election, such as a general

election, pay only their pro rata share of election costs directly related to the referendum.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not applicable.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Not applicable.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Not applicable.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

Not applicable.

(2) Who makes the decisions?

Not applicable.

(3) Are private alternatives permitted?

Not applicable.

(4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Indeterminable at this time.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

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3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill is exempt from the mandates provision of the Florida Constitution because it is an elections law.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

None.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

None.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON ELECTION REFORM:

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