

STORAGE NAME: h0689.frc.doc

DATE: April 6, 2001

HOUSE OF REPRESENTATIVES
FISCAL RESPONSIBILITY COUNCIL
ANALYSIS

BILL #: HJR 689

RELATING TO: Limitation on Legislative Power to Impose or Increase Taxes

SPONSOR(S): Representative Wallace

TIED BILL(S): None

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

- (1) FISCAL POLICY & RESOURCES YEAS 8 NAYS 5
- (2) JUDICIAL OVERSIGHT YEAS 6 NAYS 3
- (3) FISCAL RESPONSIBILITY COUNCIL
- (4)
- (5)

I. SUMMARY:

HJR 689 would put before the electorate a proposal to amend Art. VII, s. 1(d), Florida Constitution, to limit the power of the Legislature to impose or increase a tax, fee, penalty, or fine, expand the base of a tax, or repeal an exemption to a tax, fee, penalty or fine. The proposal would prohibit the Legislature from imposing a tax, fee, penalty, or fine, expanding the base of a tax, increasing the rate of a tax, or repealing an exemption to a tax, fee, penalty or fine, unless such legislation is enacted in a separate bill. The Legislature would have to enact such a bill by a three-fifths vote of the membership of each house.

This requirement would not apply to the "reclassification of criminal activity or the enactment of laws the result of which is to impose an already enacted fee, penalty, or fine to additional conduct."

The fiscal impact of the proposed constitutional amendment is indeterminate.

Since the joint resolution proposes a constitutional amendment, it must be approved by three-fifths of the membership of each chamber. If adopted by the voters of the State at the next general election, this amendment to the Florida Constitution would take effect January 1, 2003.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

B. PRESENT SITUATION:

Article VII, section 1(c), of the Florida Constitution, provides that “no money shall be drawn from the treasury except in pursuance of appropriation made by law.” Article VII, section 1(d), of the Florida Constitution, provides that the Legislature shall by law make provision for raising sufficient revenue to “defray the expenses of the state for each fiscal period.” To this end, the Legislature has enacted various taxes and fees to fund the state’s programs and activities. Additionally, the Legislature has enacted penalties and fines for instances of civil or criminal violations of the Florida Statutes or administrative rules.

The only constitutional restraint on the State’s ability to raise revenue is that which is found in Article VII, section 1(e), of the Florida Constitution. The section limits the growth of state revenues in any year to that which was authorized in the prior fiscal year plus an adjustment for growth. The legislature enacts an annual appropriation bill to authorize expenditures by the State government.

In some cases, the constitution requires a supermajority vote before the Legislature can act. For example, Article III, section 7, Florida Constitution, requires a two-thirds vote of members voting before a bill can be passed without readings on three separate days. Article III, section 8, Fla. Const., permits the Legislature to override the Governor’s veto with a two-thirds vote of each house.

Approval of a joint resolution requires a vote of three-fifths of the membership in each house. See Art. XI, s. 1, Florida Constitution. See also Art. V, s. 2, Florida Constitution (requiring 2/3 vote of the membership to repeal court rules); Art. VII, s. 18, Florida Constitution (requiring 2/3 vote of the membership to impose certain mandates on local governments).

Florida has a requirement that each bill contain a single subject. See Art. III, s. 6, Florida Constitution. Appropriations bills or bills creating trust funds must be for that purpose only. See Art. III, ss. 12, 19(f), Florida Constitution.

C. EFFECT OF PROPOSED CHANGES:

HJR 689 would put before the electorate a proposal to amend Art. VII, s. 1(d), Florida Constitution, to limit the power of the Legislature to impose or increase a tax, fee, penalty, or fine, or repeal an exemption to a tax, fee, penalty or fine. The proposal would prohibit the Legislature from imposing a tax, fee, penalty, or fine, expanding the base of a tax, increasing the rate of a tax, or repealing an exemption to a tax, fee, penalty or fine, unless such legislation is enacted in a separate bill. The Legislature would have to enact such a bill by a three-fifths vote of the membership of each house.

This requirement would not apply to the “reclassification of criminal activity or the enactment of laws the result of which is to impose an already enacted fee, penalty, or fine to additional conduct.”

If adopted by the voters of the State at the next general election, this amendment to the Florida Constitution would take effect January 1, 2003.

D. SECTION-BY-SECTION ANALYSIS:

See Section II.C. Effect of Proposed Changes

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The impact on the state’s fiscal efforts is indeterminate.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

A mandates analysis is unnecessary to an analysis of a proposed constitutional amendment.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

A mandates analysis is unnecessary to an analysis of a proposed constitutional amendment.

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

A mandates analysis is unnecessary to an analysis of a proposed constitutional amendment.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

The joint resolution contains a proposal to amend the Florida Constitution. If adopted by the voters at the next general election, it would take effect on January 1, 2003.

Art. XI, s. 1, Florida Constitution, provides that a constitutional amendment may be proposed by joint resolution of the Legislature. Final passage in the House and Senate requires a three-fifths vote of the membership in each house while passage in a committee requires a simple majority vote. If the joint resolution is passed in this session, Art. XI, s. 5, Florida Constitution, provides that that the proposed amendment would be placed before the electorate at the 2002 general election. Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, must be published in one newspaper of general circulation in each county in which a newspaper is published.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The substance of the proposed constitutional amendment is to limit the imposition of a tax, fee, penalty, or fine, the expansion of a tax base, the increase of a rate of a tax, fee, penalty, or fine, or the repeal of an exemption from a tax, fee, penalty, or fine. The ballot summary, however, refers to the "repeal of taxes, fees, penalties, and fines."

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

Staff Director:

David M. Greenbaum

Greg Turbeville

AS REVISED BY THE COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

Staff Director:

L. Michael Billmeier

Lynne Overton

AS FURTHER REVISED BY THE FISCAL RESPONSIBILITY COUNCIL:

Prepared by:

Staff Director:

Joe McVaney

David K. Coburn

STORAGE NAME: h0689.frc.doc

DATE: April 6, 2001

PAGE: 5