

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 437 w/CS Protecting the Fiscal Integrity of the State
SPONSOR(S): Johnson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Ethics & Elections</u>	<u>4 Y, 3 N</u>	<u>Mitchell</u>	<u>Randle</u>
2) <u>Procedures</u>	<u>17 Y, 14 N w/CS</u>	<u>Mitchell</u>	<u>Randle</u>
3) <u>Finance & Tax</u>	<u></u>	<u>Overton</u>	<u>Diez-Arguelles</u>
4) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

HJR 437 proposes an amendment to article II, s. 3 of the State Constitution to specify that the appropriations power is exclusively a legislative power and to prohibit other branches of government from appropriating funds or directing the appropriation of funds by the Legislature or requiring the Legislature to increase any particular tax, fine, or fee.

The Joint Resolution also proposes an amendment to article XI, s. 3 of the State Constitution to require that amendments proposed by initiative must be revenue-neutral. The Joint Resolution provides that each amendment proposed to the state constitution by initiative petition, if it requires the expenditure of funds, shall provide for the imposition of additional taxes, fines, or fees sufficient to fund the implementation of the amendment, including the cost of imposing such additional taxes, fines, or fees.

If approved by three-fifths vote of each house, the proposed amendment will appear on the November 2004 ballot. Additionally, the Joint Resolution should be read in conjunction with article XI, s. 7, which requires a 2/3 vote to approve constitutional amendments creating taxes or fees. If, in compliance with the amendment as proposed, an initiative provided for "tax or fee which would produce revenue subject to...appropriation" (article XI, s. 7) to pay for the initiatives expenditure mandates, then that amendment would require a 2/3 vote to become part of the Florida Constitution. The combined effect of the two provisions would then be that if a future amendment requires an appropriation it would have to include taxes sufficient to cover the appropriation AND require a 2/3 approval of voters.

The proposed amendment to article XI, s. 3, also limits the responsibility of the Legislature to pay for implementation of future initiative amendments to the extent of the revenues provided by the amendment. The Legislature is also permitted to decide which expense item in an amendment should be funded if sufficient revenues are not provided.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0437b.ft.doc
DATE: April 12, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Following the 2002 election, a fiscal impact statement must be provided for each amendment proposed by initiative petition that is placed on the ballot.¹ For proposed amendments that appeared on the 2002 ballot, such a statement was not required or made available to the voters of Florida. One citizen-initiated amendment in particular was the subject of much controversy because of the possible cost of implementation. Florida's Amendment to Reduce Class Size, amending article IX, s.1 of the Florida Constitution, could possibly cost the taxpayers of Florida several billion dollars to implement by 2010. The Legislature is currently studying the issue and trying to determine how to pay for the cost of implementation, either through an increase in taxes or revenues, or a reduction in other programs.

The Joint Resolution proposes an amendment to article II, s. 3, that clarifies the Legislature is the sole determiner of the propriety of revenues and sufficiency of appropriations necessary to comply with constitutional provisions. It expressly negates any power over taxing and spending that may be asserted by the judicial or executive branches of government, excepting only the Governor's veto authority in article III, sec. 8, and the power to address mid-year shortfalls provided in Article IV, s. 13. The amendment also expressly authorizes a delegation by the Legislature to transfer funds within a branch or agency.

The proposed amendment to article XI, s. 3, requires amendments proposed by initiative to provide revenues to pay for any expenditures required by the amendment. The Joint Resolution provides that each amendment proposed to the state constitution by initiative petition, if it requires the expenditure of funds, shall provide for the imposition of additional taxes, fines, or fees sufficient to fund the implementation of the amendment, including the cost of imposing such additional taxes, fines, or fees. This new requirement is exempted from the single subject rule otherwise governing amendments that are proposed by initiative.

The proposed amendment to article XI, s. 3, also limits the responsibility of the Legislature to pay for implementation of future initiative amendments to the extent of the revenues provided by the amendment. The Legislature is also permitted to decide which expense item in an amendment should be funded if sufficient revenues are not provided.

¹ HJR 571 requires the Legislature to provide by general law for the provision of an economic impact statement to the public prior to a vote on an amendment of the Florida Constitution proposed by initiative. The Legislature will most likely implement this requirement during the 2003 session.

The Joint Resolution does not lessen the mandate of amendments such as the recent "class-size" or high speed rail" amendments presently in the constitution. The Joint Resolution will only apply to future proposed amendments.

The Joint Resolution should also be read in conjunction with article XI, s. 7, which requires a 2/3 vote to approve constitutional amendments creating taxes or fees. If, in compliance with the amendment as proposed, an initiative provided for "tax or fee which would produce revenue subject to...appropriation" (article XI, s. 7) to pay for the initiatives expenditure mandates, then that amendment would require a 2/3 vote to become part of the Florida Constitution. The combined effect of the two provisions would then be that if a future amendment requires an appropriation it would have to include taxes sufficient to cover the appropriation and require a 2/3 approval of voters.

C. SECTION DIRECTORY:

N/A since Joint Resolutions do not have sections.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: Section 5, Article XI, Florida Constitution, requires that each proposed amendment to the Constitution be published in a newspaper of general circulation in each county two times prior to the general election. The Division of Elections estimated that the cost of compliance would be approximately \$58,767.²

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

² According to the Division of Elections, the exact cost of publication depends on the length of each advertisement. The Division figure is a 2002 estimate – publishing costs may have increased since that estimate was completed.

1. Applicability of Municipality/County Mandates Provision: N/A

2. Other: None.

B. RULE-MAKING AUTHORITY: N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A strike-all amendment to the bill was adopted by the Committee on Procedures at its April 10, 2003 meeting. The original bill exempted the legislature from implementing a constitutional amendment if increased taxes were required for implementation, or the amendment adversely affected other legislative budget priorities.

The proposed ballot title and summary in the original bill read as follows:

BALANCING FISCAL PRIORITIES

Proposes an amendment to Section 3 of Article XI of the State Constitution to provide that the Legislature shall only be required to implement a constitutional amendment proposed by initiative or to continue to implement a constitutional amendment previously adopted through the initiative process if the amendment does not require an increase in taxes and the Legislature determines that implementation will not adversely affect the implementation of other state priorities.