HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 0385 Limitation on State Appropriations
SPONSOR(S): Rep. Negron
TIED BILLS: **IDEN./SIM. BILLS:** SB 662

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Appropriations	29 Y, 17 N w/CS	Kearney	Baker
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This joint resolution proposes a constitutional amendment to accomplish two principal objectives:

- Restrain the legislature's ability to impose or increase taxes, expand a tax base or repeal an exemption from taxes by requiring that such proposals be adopted by a two-thirds vote of the membership of each house in a separate bill.

- Strengthen the constitutional limitation on the amount of revenues the state can receive.

The revenue cap would be strengthened by:

- Setting the limitation at the level of the actual revenue collections for the prior fiscal year, adjusted for growth.

- Including state revenues used to provide matching funds for the federal Medicaid program within the definition of "state revenues" subject to the limitation.

The passage of this joint resolution requires a three-fifths vote of the membership of each house of the legislature.

If approved by the voters, the effective date of this constitutional amendment will be January 10, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[X]	No[]	N/A[]
2. Lower taxes?	Yes[X]	No[]	N/A[]
3. Expand individual freedom?	Yes[]	No[]	N/A[X]
4. Increase personal responsibility?	Yes[]	No[]	N/A[X]
5. Empower families?	Yes[]	No[]	N/A[X]

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

B. EFFECT OF PROPOSED CHANGES:

1. <u>Present Situation – Limitation on Increasing Taxes</u>

The Florida Constitution contains several provisions that limit the state's ability to impose or increase taxes:

- The state cannot levy ad valorem taxes on real estate or tangible personal property.[1]

- In 1994, the voters of the State of Florida adopted a constitutional amendment that limits the amount of revenues the State can collect during a given year. The growth of revenues can not be more than the annual growth of Florida personal income averaged over the most recent five years.[2]

- Florida has a supermajority requirement for increases to the Corporate Income Tax rate. The Constitution sets the rate at five percent and states that any increase above five percent requires a three-fifths vote of the membership of each house of the legislature.[3] In 1984, the legislature increased the rate to 5.5 percent.

- The tax on intangible personal property (both on stocks and bonds and on mortgages) can not exceed two mills ($2 of tax per $1,000 of value).[4]

- When calculating the homeowner's assessed value on homesteaded property, the value can only increase at the lower rate of three percent or inflation (as calculated by the annual change in the CPI index).[5]

In conjunction with the above limitations, the Constitution also states that the legislature must pass a law to spend money from the treasury (an appropriation) and the State can not spend more than it has in revenues, for any given fiscal period.[6]

<u>Other States</u>

There are 16 states that require a supermajority vote to raise taxes. The table below gives a brief historical summary of the states that require a supermajority vote to raise taxes, the year the

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[1] Article VII, section 1(a), Florida Constitution
[2] Article VII, section 1(e), Florida Constitution
[3] Article VII, section 5(b), Florida Constitution
[4] Article VII, section 2, Florida Constitution
[5] Article VII, section 4(c), Florida Constitution
[6] Article VII, sections 1(c) & (d), Florida Constitution

requirement was adopted, whether the process was adopted as a voter initiative or legislative referendum, the vote required, and the application of the limit.[7]

The first state that enacted a supermajority provision was Arkansas (1934). Arkansas requires that all taxes except sales and alcohol be adopted with a three-fourths vote of the membership of each house of the legislature. Kentucky is the most recent state to enact the supermajority provision (2000). Kentucky requires a three-fifths vote of the membership of each house of the legislature. The three states with the most stringent vote requirements are Arkansas, Michigan, and Oklahoma. Each state requires 75 percent of the vote of the membership of each house of the legislature. Most provisions apply to taxes, though it is difficult to determine if fees, licenses, penalties, and charges are included in this definition.

Legislative Supermajority to Raise Taxes--2004

(National Conference of State Legislators, January 2004)

State	Year Adopted	Initiative or Referendum	Legislative Supermajority Vote Required	Applies To...
Arizona	1992	I	2/3	All taxes
Arkansas	1934	R	3/4	All taxes except sales and alcohol
California	1979	I	2/3	All taxes
Colorado	1992	I	2/3	All taxes (1)
Delaware	1980	R	3/5	All taxes
Florida	1971	R	3/5	Corporate income tax (2)
Kentucky	2000	R	3/5	All taxes (3)
Louisiana	1966	R	2/3	All taxes
Michigan	1994	R	3/4	State property tax
Mississippi	1970	R	3/5	All taxes
Missouri	1996	R	2/3	All taxes (4)
Nevada	1996	I	2/3	All taxes
Oklahoma	1992	I	3/4	All taxes
Oregon	1996	R	3/5	All taxes
South Dakota	1996	R	2/3	All taxes
Washington	1993	I	2/3	All taxes (5)

Notes:

1. Tax increases automatically sunset unless approved by the voters at the next election.
2. Constitution limits corporate income tax rate to 5 %. A 3/5 vote in legislature is needed to surpass 5%. If voters are asked to approve a tax hike, it must be approved by 60% of those voting to pass.
3. Tax and fee increases voted on by legislature in odd-numbered years.
4. If governor declares an emergency, legislature can raise taxes by 2/3 legislative vote; otherwise, tax increases over approximately $70 million must be approved by a vote of the people.
5. Tax increases producing revenue that do not exceed the spending limit must be approved by 2/3 legislative vote; tax increases that produce revenue over the limit must receive2/3 approval by legislature and voters.

2. Effect of Proposed Changes – Limitation on Increasing Taxes

This joint resolution proposes a constitutional amendment that would limit the legislature's ability to impose a tax, expand a tax base, increase a tax rate, or repeal a tax exemption, by requiring that such proposals be adopted by a two-thirds vote of the membership of each house of the legislature in a separate bill for that purpose only.

[7] National Conference of State Legislators, January 2004

3. Present Situation – Revenue Cap

In 1994, Florida voters approved a constitutional amendment designed to limit the growth of state revenues. State revenues collected for any fiscal year are limited to those revenues constitutionally permitted in the prior fiscal year, plus an adjustment for growth. Art. VII, s. 1(e), Fla. Const. This adjustment for growth is based on the average growth rate in Florida personal income for the most recent 20 calendar quarters multiplied by the state revenues allowed for the prior fiscal year. This constitutional provision specifies that Florida personal income is determined by the legislature, from information available from the United States Department of Commerce or its successor.

State revenues calculated under this subsection 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 will be increased. The vote may not be taken less than seventy-two hours after the third reading of the bill. "State revenues" are defined as taxes, fees, licenses, and charges for services imposed by the legislature on individuals, businesses, or agencies outside state government. Art. VII, s. 1(e), Fla. Const. However, "state revenues" do 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 (except 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.

Any state revenues collected for any fiscal year in excess of this limitation must be transferred to the budget stabilization fund until the fund reaches the maximum balance specified in Art. III, s. 19(g), Fla. Const., after which the money must be refunded to taxpayers as provided by general law.

4. Effect of Proposed Changes – Revenue Cap

The joint resolution strengthens the constitutional limitation on the revenues the state is authorized to collect in two fundamental ways. The limitation would be set at the level of the actual revenue collections for the prior fiscal year, minus any amounts actually collected in excess of the allowed level for the prior year, adjusted for growth in Florida personal income. The current provision limits revenue collections at the level of the previous year's <u>allowed</u> collections, adjusted for growth in Florida personal income. Adjustments are not currently made to reflect actual revenue collections.

The joint resolution includes state funds used for the federal Medicaid program within the "state revenues" subject to the limitation. These revenues are excluded from the existing limitation. Since

Medicaid spending is the fastest growing segment of the state budget, omitting these revenues has allowed the revenue limitation to easily outpace state spending. The amendment also adds charges for goods to the definition of state revenues that are either included or excluded from the limitation.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

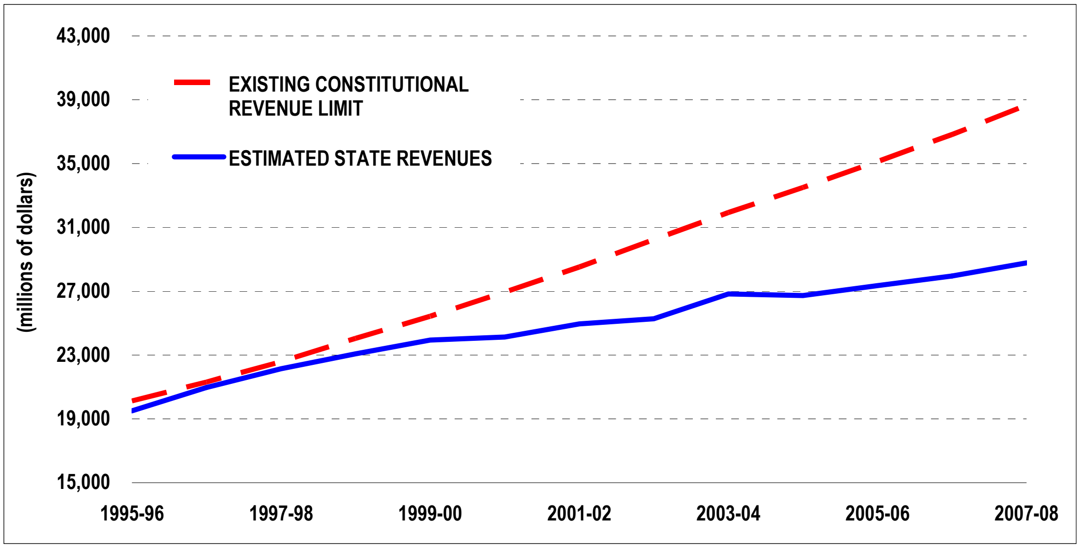
None

D. FISCAL COMMENTS:

The provisions of this joint resolution will restrain the ability of state government to raise taxes and receive revenues.

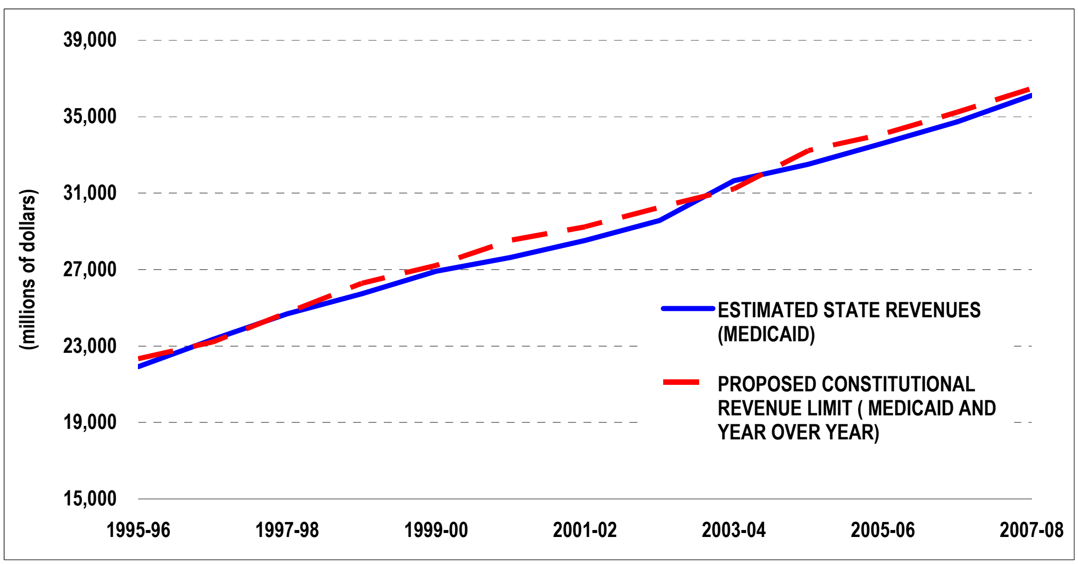
The limitation adopted by the voters in 1994 has not worked as a meaningful limitation on the states' revenue collections. For example, under the existing limitation the state would be able to receive over $6.7 billion more than expected in fiscal year 04-05 and not trigger the limitation's provisions. In the current fiscal year, 03-04, the state could receive and additional $5 billion without triggering the limitation. The two graphs on the following page depict the difference between growth in revenues versus the existing limitation cap (top graph) and versus the proposed limitation (bottom graph). If the changes proposed in this joint resolution had been in effect since 1994, the limitation would have been triggered in fiscal years 96-97 and 03-04.

Current Revenue Limitation



Section 1, Article VII of the Florida constitution, places a limit on the rate of growth in state revenues, limiting such growth to no more than the growth rate in Florida personal income. In any year, the revenue limit is determined by multiplying the average annual growth rate in Florida personal income over the previous five years by the maximum amount of revenue permitted under the limitation in the previous year. In the first fiscal year of the limitation (1995-96), the limit was based on actual revenues in fiscal year 1994-95. Currently, revenues used to pay debt service, lottery prizes, and Medicaid expenditures are subtracted from the calculation of state revenues.

Proposed Revenue Limitation



The proposed constitutional amendment makes two fundamental changes to the existing revenue limitation: (1) The revenue limit would be determined by multiplying the average annual growth rate in Florida personal income over the previous five years by the previous year's state revenues; and (2) Revenues associated with debt service and lottery prizes would continue to be subtracted from the calculation of state revenues; however, revenues associated with Medicaid expenses would not be subtracted from state revenues.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds; does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not reduce the percentage of a state tax shared with counties or municipalities.

B. RULE-MAKING AUTHORITY:

NONE

C. DRAFTING ISSUES OR OTHER COMMENTS:

NONE

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The original House Joint Resolution repealed the existing constitutional revenue limitation and replaced it with a limitation on state appropriations. The Committee on Appropriations adopted a Committee Substitute amendment, the substance of which is discussed in the body of this analysis.