

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1741 CS PCB JU 05-05 Constitutional Revision Process/Fiscal Impact on Government  
**SPONSOR(S):** Judiciary Committee  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 2200

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Judiciary Committee	13 Y, 0 N	Thomas	Hogge
1) Ethics & Elections Committee	9 Y, 1 N, w/CS	West	Mitchell
2) Justice Council			
3)			
4)			
5)			

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### SUMMARY ANALYSIS

HJR 1741 proposes an amendment to Section 7 of Article XI of the Florida Constitution, relating to amendments or revisions. The joint resolution requires that any amendment or revision proposed that imposes a cost on state government, counties, school districts, municipalities, or special districts, collectively, greater than one-tenth of one percent of the state budget for the fiscal year ending in the year prior to the election in which such proposal is considered, must pass by at least two-thirds of those electors voting in the election in which such proposal was considered. For proposals on the 2006 general election ballot, a significant fiscal impact would be an amount in excess of \$60.5 million.

The joint resolution also amends existing language relating to the passage requirement for amendments or revisions that impose a new tax or fee to expand the two-thirds vote requirement to proposals that impose or authorize the imposition of a new tax or fee, or increase or authorize the increase of a tax or fee. The joint resolution also expands this provision to include within the definition of "new tax or fee" taxes and fees collected by counties, school boards, municipalities, and special districts.

The joint resolution does not appear to have any fiscal impact on state or local government other than those costs related to placing the joint resolution on the ballot and publishing required notices. The Department of State estimates non-recurring publication costs of approximately \$37,000 for FY 2006-07.

The joint resolution does not contain a specific effective date. Therefore, if adopted by the voters, it will take effect January 2, 2007.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Ensure lower taxes** – The very nature of this amendment would make it harder to pass unfunded mandates to the constitution that would then have to be funded by the legislature with higher taxes or cuts in services in other areas.

**Expand Individual Freedom** - by increasing the required vote to gain approval for proposals imposing a significant fiscal impact on state or local government, the joint resolution, if approved by the voters, would make it more difficult to amend the Florida Constitution.

#### B. EFFECT OF PROPOSED CHANGES:

##### Revision or Amendment to the Constitution

Amendments to Florida's Constitution can be proposed by five distinct methods: 1) joint legislative resolution, 2) the Constitutional Revision Commission, 3) citizen's initiative, 4) a constitutional convention, or 5) the Taxation and Budget Reform Commission.<sup>1</sup> Depending on the method, all proposed amendments or revisions to the constitution must be submitted to the electors at the next general election 1) held more than ninety days after the joint resolution, 2) 180 days after the report of the Constitutional Revision Commission or Taxation Budget Reform Commission, or 3) for citizen initiatives, if all the required signatures were submitted prior to February 1 of the year in which the general election is to be held.<sup>2</sup>

A proposed constitutional amendment or revision is adopted upon approval of a majority of electors voting on the proposal.<sup>3</sup> However, a new tax or fee proposed by constitutional amendment or revision must be adopted by at least two-thirds of those voting in the election in which such amendment is considered.<sup>4</sup> Below is a list of the approval percentages of some amendments proposed by initiative that might have required a two-thirds vote had this joint resolution been law.

TITLE	SOURCE	YEAR	APPROVAL PERCENTAGE
High Speed Rail	Initiative	2000	52.7%
Class Size	Initiative	2002	52.4%
Voluntary Pre-Kindergarten	Initiative	2002	59.2%
Article V – Local Funding of State Courts	Revision	1998	56.9%

##### Effect of Joint Resolution

The joint resolution proposes an amendment to Section 7 of Article XI of the Florida Constitution, relating to amendments or revisions. The joint resolution requires that any amendment or revision proposed that imposes a cost on state government, counties, school districts, municipalities, or special districts, collectively, greater than *one-tenth of one percent of the state budget for the fiscal year ending in the year prior to the election in which such proposal is considered*, must pass by at least two-thirds of those electors voting in the election in which such proposal was considered. For initiative proposals on the 2006 general election ballot, a significant fiscal impact would be an amount in excess of \$60.5

<sup>1</sup> See Art. XI, ss. 1-4 & 6, Fla. Const.

<sup>2</sup> See Art. XI, ss. 2, 5, and 6, Fla. Const.

<sup>3</sup> See Art. XI, s. 5(e), Fla. Const.

<sup>4</sup> See Art. XI, s. 7, Fla. Const.

million. The actual dollar amount of the threshold for each election is to be certified by the Financial Impact Estimating Conference created pursuant to s. 100.371(6), F.S.

Section 5 of Article XI was approved in 2002 by 78% of the voters. This is the amendment that requires the legislature to provide a statement to the voters regarding the probable financial impact of any amendment proposed by initiative. In response to this amendment the Financial Impact Estimating Conference was created to review, analyze, and estimate the financial impact of amendments. It was this revision that puts in place the ability to determine the impact of future amendments.

The joint resolution also amends existing language relating to the passage requirement for amendments or revisions that impose a new tax or fee to expand the two-thirds vote requirement to proposals that impose or authorize the imposition of a new tax or fee, or increase or authorize the increase of a tax or fee. The joint resolution also expands this provision to include within the definition of "new tax or fee" taxes and fees collected by counties, school boards, municipalities, and special districts. The joint resolution also deletes obsolete language in this section of the state constitution relating to items on the November 8, 1994 ballot.

The joint resolution does not contain a specific effective date. Therefore, if adopted by the voters, it will take effect January 2, 2007.<sup>5</sup>

### **Appearance on the Ballot**

If enacted, the proposed constitutional amendment will appear on the November 2006 ballot as follows:

#### **EXTRAORDINARY VOTE TO AMEND CONSTITUTION TO INCREASE OR IMPOSE TAXES, FEES, OR SIGNIFICANT FISCAL IMPACT**

Proposes an amendment to Section 7 of Article XI of the State Constitution to require approval by at least two-thirds of the voters of any proposed amendment or revision to the State Constitution imposing or authorizing imposition of any new tax or fee, increasing or authorizing an increase in any existing tax or fee, or imposing a significant fiscal impact on the state, counties, school districts, municipalities, or special districts; to delete a provision limiting application of such voting requirement to only state taxes or fees; to expand the definition of the term "new tax or fee" to include revenue-producing exactions for counties, municipalities, school districts, and special districts; and to define the term "significant fiscal impact" to be any amount in excess of one-tenth of one percent of the total state budget for the state fiscal year ending in the year prior to the general election in which such proposed amendment or revision is considered.

### **C. SECTION DIRECTORY:**

The legislation is a joint resolution proposing a constitutional amendment and, therefore, does not contain bill sections. The joint resolution proposes to amend Section 7 of Article XI of the Florida Constitution, relating to amendments and revisions.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

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<sup>5</sup> Art. XI, s. 5(e), Fla. Const., provides: "If the proposed amendment or revision is approved by vote of the electors, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision."

The joint resolution does not appear to have any impact on state revenues.

2. Expenditures:

**Non-Recurring**

**FY 2006-07**

Department Of State, Division of Elections

Publication Costs

\$37,000 (General Revenue)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The joint resolution does not appear to have any impact on local government revenues.

2. Expenditures:

The joint resolution does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

While this proposal does not have a direct economic impact on the private sector, requiring a higher voting threshold for proposed amendments and revisions that have a significant fiscal impact on state or local government may affect the likelihood of success of such future proposals. See Effect of Proposed Changes for results of amendments with possible fiscal impact on state or local government proposed by initiative in the past.

D. FISCAL COMMENTS:

The Florida Constitution requires publication of a proposed amendment or revision to the constitution in one newspaper of general circulation in each county in which a newspaper is published, once in the tenth week and once in the sixth week immediately preceding the week in which the election is held.<sup>6</sup> The Department of State estimates that the non-recurring cost of compliance would be approximately \$37,000 in FY 2006-07.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision relates only to general bills and therefore would not apply to this joint resolution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The joint resolution does not raise the need for rules or rulemaking authority or direct an agency to adopt rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

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<sup>6</sup> See Art. XI, s. 5(c), Fla. Const.

Amendments or revisions to the Florida Constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the Legislature.<sup>7</sup> Passage in a committee requires a simple majority vote. If the joint resolution is passed in this session, the proposed amendment would be placed before the electorate at the 2006 general election, unless it is submitted at an earlier special election pursuant to a law enacted by an affirmative vote of three-fourths of the membership of each house of the Legislature and is limited to a single amendment or revision.<sup>8</sup> 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.<sup>9</sup>

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

An amendment was adopted to this PCB in the Judiciary Committee on March 10, 2005. The amended version of the PCB differs from the original PCB in that the amended PCB:

- Amends existing language in Article XI, section 7, relating to the passage requirement for amendments or revisions that impose a new tax or fee to expand the two-thirds vote requirement to proposals that impose or authorize the imposition of a new tax or fee, or increase or authorize the increase of a tax or fee;
- Expands existing language in Article XI, section 7, relating to the passage requirement for amendments or revisions that impose a new tax or fee to include within the definition of "new tax or fee" taxes and fees collected by counties, school boards, municipalities, and special districts.

This analysis is drawn to the amended PCB.

#### **Ethics & Elections Committee**

An amendment was adopted in the Ethics & Elections Committee on April 13, 2005, that clarifies the amendment to apply to proposals with an impact **greater** than one-tenth of one percent of the total state budget.

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<sup>7</sup> See Art. XI, s. 1, Fla. Const.

<sup>8</sup> See Art. XI, s. 5(a), Fla. Const. The 2006 general election is on November 7, 2006.

<sup>9</sup> See Art. XI, s. 5(c), Fla. Const.