

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Government Efficiency Appropriations Committee

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BILL: CS/SJR 2200

SPONSOR: Ethics and Elections Committee and Senators Atwater and King

SUBJECT: Constitutional Amendment/State Taxes or Fees

DATE: March 31, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Babington</u>	<u>Rubinas</u>	<u>EE</u>	<u>Fav/CS</u>
2.	_____	_____	<u>RC</u>	<u>Withdrawn</u>
3.	<u>Cibula</u>	<u>Maclure</u>	<u>JU</u>	<u>Favorable</u>
4.	<u>Keating</u>	<u>Johansen</u>	<u>GE</u>	<u>Favorable</u>
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

The joint resolution establishes a threshold of two-thirds of the voters voting in an election for approval of constitutional amendments that:

- Authorize the imposition of a new state tax or fee;
- Increase or authorize the increase of an existing state tax or fee; or
- Have a “significant financial impact” greater than one-tenth of one percent of the total state budget for the prior fiscal year.

This joint resolution substantially amends Section 7 of Article XI of the Florida Constitution.

## II. Present Situation:

Under s. 1, Art. XI, State Const., the Legislature may propose an amendment of a section, one or more articles, or the whole of the State Constitution. Such amendments must be proposed in a joint resolution agreed to by three-fifths of the membership of each house of the Legislature. Amendments proposed by joint resolution are submitted to the voters at the next general election held more than 90 days after the amendment is filed with the custodian of state records.<sup>1</sup> The next general election is scheduled for November 7, 2006.<sup>2</sup> Unless stated otherwise in a constitutional amendment, amendments adopted at the next general election take effect on

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<sup>1</sup> SECTION 5(a), ART. XI, STATE CONST.

<sup>2</sup> DEPARTMENT OF STATE, DIVISION OF ELECTIONS, ELECTION DATES, at <http://election.dos.state.fl.us/online/elecdate.shtml>.

January 2, 2007.<sup>3</sup> Generally, a proposed amendment or revision must pass by a simple majority of electors voting on the measure (50 percent plus one vote).<sup>4</sup>

### **Financial Impact of Amendments**

The Florida Constitution currently has two provisions that address the financial impact of proposed amendments to the constitution. The first is s. 7, Art. XI, State Const., which was approved in 1996 by more than 69 percent of the voters voting on the measure.<sup>5</sup> Section 7, Art. XI, State Const., requires that any proposed amendment which imposes a new state tax or fee must be approved by at least two-thirds of the voters voting in the election in which the proposal is considered. Since the amendment passed, no proposal has appeared on the ballot which would have imposed a new state tax or fee. The second provision is s. 5(c), Art. XI, State Const., which was approved in 2002 by 78 percent of voters voting on the measure.<sup>6</sup> Section 5(c), Art. XI, State Const., requires the Legislature to provide by general law for the provision of a statement to the public of the probable financial impact of any amendment proposed by citizens' initiative.

Section 5(c), Art. XI, State Const., led to the creation by statute of the Financial Impact Estimating Conference (conference), whose role is to review, analyze, and estimate the financial impact of amendments proposed by initiative.<sup>7</sup> The conference is charged with creating a clear and unambiguous statement of less than 75 words in length, which appears on the ballot with the initiative below the ballot summary. The conference may also draft an initiative financial information statement, which outlines with greater detail any projected increase or decrease in revenues or costs to the state or local governments. This statement is made available through the Department of State and the supervisors of elections.

### **III. Effect of Proposed Changes:**

The joint resolution amends s. 7, Art. XI, State Const., establishing a threshold of two-thirds of the voters voting in an election for approval of constitutional amendments that:

- Authorize the imposition of a new state tax or fee;
- Increase or authorize the increase of an existing state tax or fee; or
- Have a "significant financial impact" greater than one-tenth of one percent of the total state budget for the prior fiscal year.

The approval threshold as stated in the joint resolution is "two-thirds of the voters voting in the election in which such proposed amendment or revision is considered."

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<sup>3</sup> SECTION 5(e), ART. XI, STATE CONST.

<sup>4</sup> The actual language in the Constitution provides that a proposed amendment or revision must be approved by "vote of the electors," defined as "the majority of those voting on the matter in the election." SECTION 5(e), ART. XI, and s. 12(d), ART. X, STATE CONST.

<sup>5</sup> FLORIDA DEPARTMENT OF STATE, DIVISION OF ELECTIONS, NOVEMBER 5, 1996 GENERAL ELECTION: OFFICIAL RESULTS, at <http://election.dos.state.fl.us/elections/resultsarchive>.

<sup>6</sup> FLORIDA DEPARTMENT OF STATE, DIVISION OF ELECTIONS, NOVEMBER 5, 2002 GENERAL ELECTION: OFFICIAL RESULTS, at <http://election.dos.state.fl.us/elections/resultsarchive>.

<sup>7</sup> See s. 100.371, F.S.

The joint resolution provides that the phrase “existing state tax or fee” shall mean any tax or fee that provides revenue subject to lump sum or other appropriation by the Legislature, either for the State general revenue fund or any trust fund, which tax or fee is in effect at the time of the election at which the proposed amendment or revision is considered.

The phrase “significant financial impact” is defined in the joint resolution to mean an amount greater than one-tenth of one percent of the total state budget for the state fiscal year ending in the year prior to the election in which such proposed amendment or revision is considered. The dollar amount for establishing a significant financial impact shall be determined pursuant to general law.

The joint resolution also deletes obsolete language relating to an amendments appearing on the ballot for the November 8, 1994 general election.

The joint resolution, if passed by a three-fifths vote of each house of the Legislature, will be voted on in the November 7, 2006, general election.<sup>8</sup> If approved by a majority of those voting on the measure, the provisions of the joint resolution will take effect on January 2, 2007. The provisions of the joint resolution will not impact other proposed amendments submitted to voters in the November 7, 2006, general election.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

The joint resolution requires that any proposed amendment or revision that would increase or authorize the increase of an existing state tax or fee, the revenues from which are collected in a trust fund, must be approved by at least two-thirds of the voters voting in the election in which the proposal is considered.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

The phrase “total state budget” as used in the joint resolution is not defined in the resolution or existing law. The joint resolution, however, provides that “the dollar amount for establishing a significant financial impact shall be determined pursuant to general law.” These provisions may mean that the calculation of significant financial impact is

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<sup>8</sup> A single amendment or revision to the Constitution, however, can be submitted to the voters in a special election, provided each house of the Legislature so requires by a law enacted by an affirmative three-fourths vote. SECTION (5)(a), ART. XI, FLA. CONST.

based on the size of the general appropriations act from the prior year. The general appropriations act for fiscal year 2004-2005 appropriated just over \$58 billion.<sup>9</sup> One-tenth of one percent of the appropriated amount would be just over \$58 million.

The joint resolution reduces the likelihood that voters will approve constitutional amendments that will result in new taxes or tax increases or cause the redistribution or reallocation of government spending or services.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

Each constitutional amendment is required to be published in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week preceding the general election. Costs for advertising vary depending upon the length of the amendment; however, the cost per amendment is estimated to be approximately \$37,000.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Several amendments have passed in recent years which would have failed under the higher threshold for passage provided in the joint resolution. These amendments include:

	Approval percentage
• 2002 Class Size:	52.4% <sup>10</sup>
• 2002 Voluntary Pre-K:	59.2% <sup>11</sup>
• 2000 High-Speed Rail:	52.7% <sup>12</sup>
• 1998 Local Option for Selection of Judges and Funding of State Courts:	56.9% <sup>13</sup>

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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<sup>9</sup> Section 35, ch. 2004-268, L.O.F., shows that the Legislature appropriated \$58,036,663,978 from all funds for fiscal year 2004-2005.

<sup>10</sup> DEPARTMENT OF STATE, DIVISION OF ELECTIONS, NOVEMBER 5, 2002 GENERAL ELECTION: OFFICIAL RESULTS, at <http://election.dos.state.fl.us/elections/resultsarchive>.

<sup>11</sup> *Id.*

<sup>12</sup> DEPARTMENT OF STATE, DIVISION OF ELECTIONS, NOVEMBER 7, 2000 GENERAL ELECTION: OFFICIAL RESULTS, at <http://election.dos.state.fl.us/elections/resultsarchive>.

<sup>13</sup> DEPARTMENT OF STATE, DIVISION OF ELECTIONS, NOVEMBER 3, 1998 GENERAL ELECTION: OFFICIAL RESULTS, at <http://election.dos.state.fl.us/elections/resultsarchive>.

## **VIII. Summary of Amendments:**

None.

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