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.)

Prepared By: Government Efficiency Appropriations Committee

BILL: SJR 362

SPONSOR: Senator Haridopolis and Fasano

SUBJECT: State Revenue Limitation

DATE: February 21, 2005 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	Johansen	GE	**Pre-meeting**
2.			WM	
3.			RC	
4.				
5.				
6.				

I. Summary:

SJR 362 proposes an amendment to section 1(e), Article VII of the Florida Constitution. The amendment would replace the current provision limiting state revenues with an appropriations limitation which cannot exceed the prior year's appropriations, plus an adjustment for growth.

The calculation of the "adjustment for growth" is based on the average rate of growth of median household income in Florida. Provision is also made for suspension of the appropriations limitation in years in which the state experiences a financial emergency declared by the Governor **and** the Legislature approves the suspension by a three-fourths vote of the membership of each house.

This Senate Joint Resolution substantially amends section 1(e), Article VII of the Florida Constitution.

II. Present Situation:

In November 1994, the voters approved a constitutional amendment to limit state revenues. Section 1(e), Article VII of the Florida Constitution was placed before the voters by act of the Legislature (HJR 2053). It limits the amount of state revenues that may be raised in any fiscal year and this amount is increased annually by the growth in the Florida economy, as measured by total personal income. If more revenue is collected than is permitted by this limit, it may not be spent, but must be deposited in the Budget Stabilization Fund unless the Legislature, by two-thirds vote of both houses, decides to do otherwise. The revenue limit in any year is determined by multiplying the average annual growth rate in Florida personal income in the previous five years by the maximum amount of revenue permitted under the cap in the previous year.

State revenue is defined as taxes, licenses, fees, and charges for services (but not for goods) imposed by the Legislature on individuals, businesses, or agencies outside of state government. The definition of state revenues includes the proceeds of lottery ticket sales. Exempt from the limitation, either implicitly, through the definition of revenue, or explicitly, through specific exemption, are the following items:

1. lottery receipts returned as prizes;
2. balances carried forward from prior years;
3. the proceeds of sales of goods (e.g., land, buildings, surplus property);
4. funds used for debt service and other payments related to debt;
5. state funds used to match federal money for most of Medicaid (see below);
6. receipts of the Hurricane Catastrophe Trust Fund; and
7. revenues required to be imposed by amendment to the Constitution after July 1, 1994.

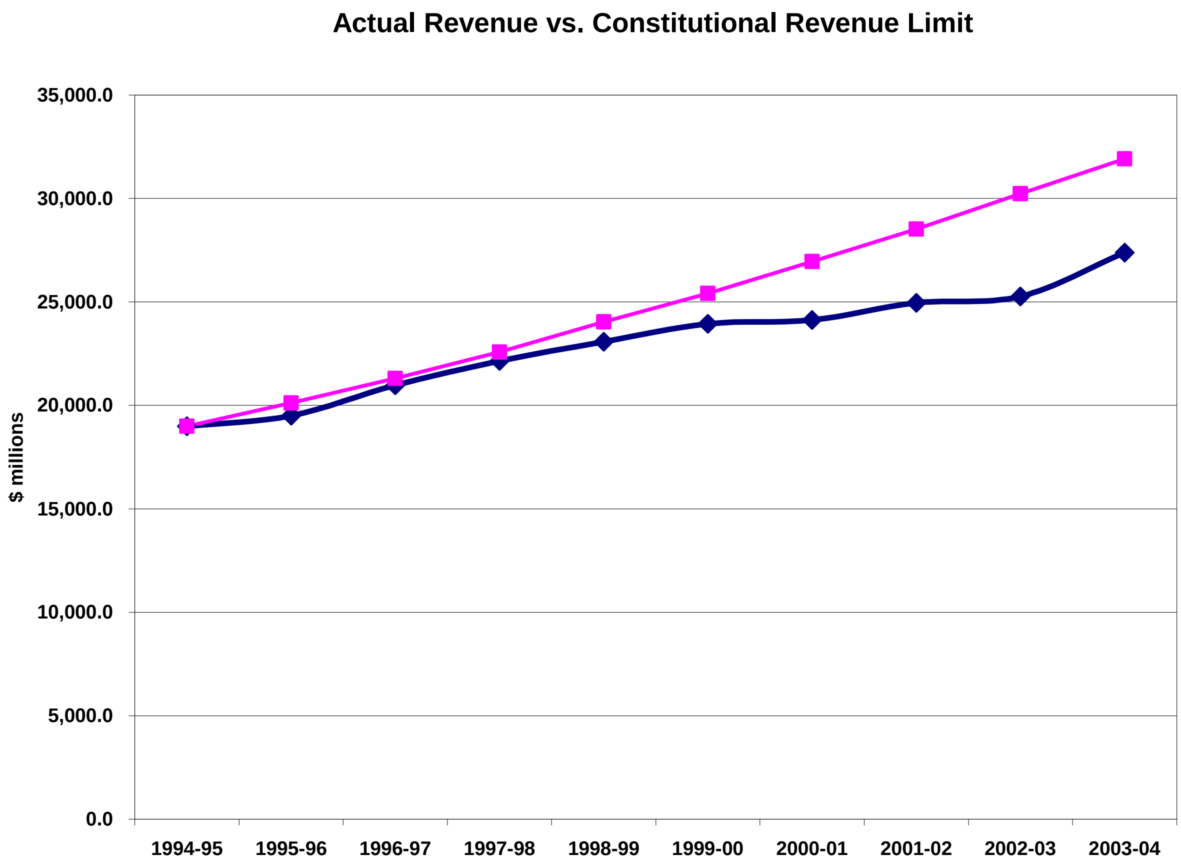
The revenues of cities, counties, school districts, and special districts are not subject to the revenue limitation. In particular, required local effort millage levied by school districts and local option taxes authorized by state law, but levied at the discretion of local governments, are not subject to the revenue limitation. However, state revenues, such as the motor fuel tax, cigarette tax and sales tax, which are levied and collected by the state and shared, in part, with local governments through a variety of statutory revenue sharing formulas, are subject to the revenue limitation.

State funds used to match federal funds for Medicaid are partially exempt from the revenue limitation. A portion of the state money used to match federal Medicaid funds is appropriated from the Public Medical Assistance Trust Fund (PMATF), a fund originally established to provide discretionary Medicaid programs. A tax on hospitals, some cigarette tax revenues, and an annual appropriation from the general fund provide state support for the PMATF. Since the reason for exempting Medicaid from the revenue limitation is that it is in large part a federal mandate, and since the programs funded from the PMATF were, at least initially, voluntary, the revenues of the PMATF were made subject to the revenue limitation. However, other revenues used to match federal Medicaid money were exempted from the revenue limitation. Additionally, state matching funds for future expansions of the Medicaid program voluntarily undertaken by the state after July 1, 1994, are subject to the revenue limitation.

The Constitution requires the legislature to adopt procedures necessary to administer the revenue limitation by general law; such legislation has not been enacted.

Impacts of the Constitutional Revenue Limitation

In the first few years after the adoption of the constitutional limit on revenue, actual revenue was close to the constitutional cap. Since that time, however, revenues subject to the cap have grown more slowly than personal income. Since 1999, the Florida Legislature has enacted several measures to reduce state revenue. The intangibles tax, sales and use tax, beverage tax, corporate income tax, vehicle emissions testing, health care assessments, unemployment tax, and pari-mutuel tax have all been reduced by the Legislature. Additionally, changes in federal law have caused a reduction in estate tax revenue. These changes in tax laws have contributed to the widening gap between actual revenue and the revenue limit.



Other Limitations on State Revenue and Spending

- Section 1(d), Article VII of the Florida Constitution requires that "(p)rovision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period." This provision is generally referred to as a balanced budget requirement.
- Section 7, Article XI of the Florida Constitution, which was adopted in 1996, provides that no new State tax increase or fee shall be imposed by any amendment to the constitution unless it is approved by at least two-thirds of the voters. Other constitutional amendments may be approved by a simple majority of the voters.
- Section 19(g), Article III of the Florida Constitution, adopted in 1992, created the Budget Stabilization Fund and requires that the fund be maintained at an amount equal to at least 5 percent, but not exceeding 10 percent, of the last completed fiscal year's net revenue collections for the General Revenue Fund. The amendment requires the legislature to

adopt criteria for withdrawing funds from and restoring funds to the fund, and those criteria are found in ss. 216.222 and 215.32, F.S.

- State tax revenue cannot be pledged for bonds without voter approval except for specific identified purposes.
- The Florida Constitution prohibits:
  - a state tax on real or tangible personal property, (Section 1(a), Art. VII)
  - a tax upon estates or inheritances or upon the income of natural persons who are residents or citizens of the state, in excess of the credit allowed or deducted from any similar tax levied by the United States or any state, (Section 5(a), Art. VII)
  - a tax upon the income of residents or citizens other than natural persons (i.e., corporations) in excess of 5 percent of net income unless authorized by a three-fifths vote of each house of the legislature. (Section 5(b), Art. VII)

Tax and Expenditure Limits in Other States

Twenty-eight states currently have some kind of limit on taxes or expenditures. These limits are designed to curtail growth in government spending by placing constitutional or statutory restrictions on the amount government can spend or on the amount of revenue government can raise. Generally they fall into one of the categories described below:

- Revenue limits which tie yearly increases in revenue to growth in the economy or some other type of measure such as inflation plus population;
- Expenditure limits similarly linked to economic measures;
- Appropriations limited to a percentage of the revenue estimate;
- Voter approval requirements for all tax increases over a specified amount; or
- Legislative supermajority requirements dictating either a two-thirds, three-fourths, or four-fifths majority vote in both chambers to pass a tax increase or new taxes.
- Some states have combined components of these types of limits.

Most studies conclude that state limits have not been as effective as proponents envisioned because of the ease with which state governments can circumvent the limits. Some fiscal policy experts agree that voter approval and supermajority requirements place tighter constraints on state governments than traditional revenue and expenditure limits.

III. Effect of Proposed Changes:

If approved by the voters, this resolution would limit the total appropriations of state funds in a fiscal year to the appropriations for the prior fiscal year plus an adjustment for growth, effective for the state fiscal year beginning July 1, 2007. “State appropriations” do not include any portion of state appropriations spent or to be spent from receipt of federal funds. The “adjustment for growth” is a percentage equal to the average annual rate of growth in median household income in Florida over the most recent five years, as reported by the United States Department of Commerce or its successor. State revenues collected for any fiscal year in excess of the appropriations limitation must be transferred to the budget stabilization fund until the fund reaches its maximum balance (10 percent of the last completed fiscal year’s net revenue collections for the General Revenue Fund) and thereafter must be refunded to taxpayers as provided by general law. The term "state revenues" includes General Revenue and trust fund receipts, but does not include federal funds received by the state.

The appropriations limitations may be suspended in any fiscal year in which the governor declares a state financial emergency **and** in which the legislature by a three-fourths vote of the membership of each house concurs in a separate bill that contains no subject other than suspension of the state appropriations limit for that fiscal year.

The existing limitation on state revenue is deleted from the Florida Constitution, effective January 1, 2007.

Technical Considerations

Calculating the level of appropriations allowed under this amendment presents several difficulties. Median household income is reported by the Department of Commerce with a lag of greater than a year. When the legislature is creating the budget, it would have to rely on estimates of the allowable growth. Appropriations for the "immediately preceding fiscal year" contain spending authority which will never be exercised. Further, appropriations may change after the legislative session, but before the end of the fiscal year.

In many instances appropriations are not a meaningful measure of state government activity because the same funds may be appropriated more than once. The state must balance its budget, but appropriations in a given fiscal year can diverge from the revenues supporting the appropriations for many reasons.

Likely Impacts of the Proposed Constitutional Amendment

This amendment would likely, over time, result in a dramatic reduction in the size of state government. For example, since 1972, state appropriations (not including federal funds) have grown by an average annual rate of approximately 9 percent, almost exactly the growth rate in the Florida economy. Median household income has grown by an average annual rate of 6 percent. The primary reason for this lower growth rate is that median household income does not reflect growth in Florida population. If this constitutional limitation had taken effect in 1972, state appropriations in 2004 would have been limited to approximately $12.7 billion, less than one-third their actual level. (This assumes that the budget grew by its maximum allowable amount every year.)

This amendment could actually result in appropriations growing more slowly than median household income over time, because each year's limit is calculated off the previous year's appropriations. If appropriations were less than the allowable maximum in a given year (in a recession, for example) that lower level is the basis for next year's limit.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

This joint resolution does not specifically address taxes and fees, but it does mandate that state revenues collected for any fiscal year in excess of the appropriations limitation must be transferred to the budget stabilization fund until the fund reaches its maximum balance (10 percent of the last completed fiscal year's net revenue collections for the General Revenue Fund) and thereafter must be refunded to taxpayers as provided by general law. It is unclear how this provision would be operationalized. In any year, appropriations can dramatically exceed revenues. For example, the Department of Transportation's budget contains spending authority (appropriations) for projects spanning numerous years. However, the expenditures (and the revenues to support them) associated with those appropriations will take place in future years.

B. Private Sector Impact:

This resolution would limit the growth of services provided by the state. Beneficiaries of these services and businesses that provide services under contract to the state would be directly affected. Slower growth in state infrastructure—transportation, public safety, education and workforce training, among others—would affect the state's business climate.

C. Government Sector Impact:

This resolution, if adopted by the voters, would force state government to slow the rate of increase in expenditures, and would reduce the size of government relative to the state's economy, unless the limitation were suspended by a three-fourths vote of the legislature during an emergency declared by the Governor..

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.