

# 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: Ways and Means Committee

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BILL: CS/CS/SJR 1436

INTRODUCER: Ways and Means Committee, Government Efficiency Appropriations Committee and Senator Atwater

SUBJECT: Tax or Fee Limitations

DATE: April 24 , 2006

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Keating</u>	<u>Johansen</u>	<u>GE</u>	<u>Fav/CS</u>
2.	<u>Herring</u>	<u>Coburn</u>	<u>WM</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

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

- Increase, decrease, or eliminate a state tax or fee; or
- Result in a significant increase or decrease in spending by state government of greater than two-tenths of one percent of the portion of the state budget appropriated from the General Revenue Fund for the prior fiscal year.

This joint resolution substantially amends s. 7, Art. XI of the Florida Constitution.

## II. Present Situation:

Under s. 1, Art. XI, State Constitution, 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 that general election will take effect on 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).

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<sup>1</sup> Section 5(a), Art. XI, State Constitution.

<sup>2</sup> Department of State, Division of Elections, Election Dates, at <http://election.dos.state.fl.us/online/elecdate.shtml>.

<sup>3</sup>Section 5(e), Art. XI, State Constitution.

### **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 Constitution, which was approved in 1996, requiring any proposed amendment that imposes a new state tax or fee to be approved by at least two-thirds of the voters voting in the election in which the proposal is considered. “New state tax or fee” is defined to mean any tax or fee that would produce 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 was not in effect on November 7, 1994. 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 Constitution, which was approved in 2002, requiring the Legislature to provide by general law, prior to the holding of an election, for the provision of a statement to the public regarding 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), the role of which is to review, analyze, and estimate the financial impact of amendments proposed by initiative.<sup>4</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 Constitution, establishing a threshold of two-thirds of the voters voting in an election for approval of constitutional amendments that:

- Increase, decrease, or eliminate a state tax or fee; or
- Result in a significant increase or decrease in spending by state government of greater than two-tenths of one percent of the portion of the state budget appropriated from the General Revenue Fund 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.”

The joint resolution provides that the phrase “state tax or fee” means any tax or fee that produces or would produce revenue subject to lump sum or other appropriation by the Legislature, either for the state General Revenue Fund or any trust fund.

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<sup>4</sup> See s. 100.371, F.S.

The phrase “significant increase or decrease in spending” is defined in the joint resolution to mean an increase or decrease in spending by the state in a fiscal year including the first year of full implementation of the constitutional amendment. Such spending must be exceed two-tenths of one percent of the portion of the state budget appropriated from the state General Revenue Fund in the state fiscal year ending in the year prior to the election in which such proposed amendment or revision is considered. The determination of whether a proposed amendment or revision imposes a significant increase or decrease in spending by state government will be made and certified in accordance with general law. For a citizens’ initiative, that would be the Financial Impact Estimating Conference pursuant to s. 100.371, F.S.

The joint resolution also deletes obsolete language relating to 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 considered by the voters in the November 7, 2006, general election. 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 apply to 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, decrease, or eliminate 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 calculation of a “significant increase or decrease in spending” by state government is based on the portion of the state budget appropriated from the General Revenue Fund for the state fiscal year ending in the year prior to the election in which such proposed amendment or revision is considered. The General Appropriations Act for fiscal year 2005-06 appropriated just over \$26 billion in general revenue.<sup>5</sup> Two-tenths of one percent of the appropriated amount would be just over \$52 million.

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<sup>5</sup> 2006 Florida Tax Handbook including Fiscal Impact of Potential Changes, General Revenue Appropriations by Program Area, p. 17.

The joint resolution reduces the likelihood that voters will approve constitutional amendments that will result in increased, decreased, or eliminated taxes or that will cause significant increases or decreases in state government spending.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

Each constitutional amendment is required to be published by the Department of State in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week preceding the general election.<sup>6</sup> Costs for advertising vary depending upon the length of the amendment; however, the cost per amendment is estimated by the department to be approximately \$50,000.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

HJR 7037 is similar to SJR 1436.

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

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<sup>6</sup> Section 5(d), Art. XI, State Constitution.

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

None.

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