

2012 Florida Constitutional Amendment 3: State Government Revenue Limitation¹

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Preface

This document is one in a series of six fact sheets intended to provide information on proposed constitutional amendments having direct individual or government tax impacts. As some details of the proposed changes may not have been discussed due to space limitations, the series should not be considered an all-inclusive assessment of the proposed constitutional changes, and any opinions, findings, conclusions, or recommendations expressed herein are those of the author and do not necessarily reflect the views of University of Florida. These fact sheets are not intended as a replacement for personal knowledge about actual or proposed changes but are a guide to inform the public on the issues.

Introduction

In addition to 2012 being a presidential election year, Florida voters also will be asked to vote on a number of proposed amendments to their state constitution. Many voters remain either unaware or less informed regarding the effects and impacts of the proposed constitutional amendments.

Adoption of the constitutional amendment requires a vote in favor of the amendment by a minimum of 60 percent of those voting. Voters are reminded, however, that because the proposed amendments are subject to legal challenges by various individuals, groups, and organizations, they

could still possibly be removed from the ballot if challenged successfully.

The intent and purpose of this fact sheet is to present information on the proposed 2012 Florida Constitutional Amendment No. 3 in order to help voters make informed decisions on Election Day.

Proposed Constitutional Amendment 3

When people go to their polling place in November 2012, they will see information on the amendment, references to the portion of the constitution that will be altered, sponsor of the amendment, the ballot title, and the ballot summary. The information for Amendment 3 will be similar or identical to the following and the ballot title and ballot summary are direct quotes from the Florida Department of State website:

- *Proposed Constitutional Amendment: No. 3*
- *Reference: Article VII, Sections 1 And 19 & Article XII, Section 32*
- *Sponsor: The Florida Legislature*
- *Ballot Title: State Government Revenue Limitation*

1. This is EDIS document FE908, a publication of the Food and Resource Economics Department, Florida Cooperative Extension Service, Institute of Food and Agricultural Sciences, University of Florida, Gainesville, FL. Published July 2012. Please visit the EDIS website at <http://edis.ifas.ufl.edu/>
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- *Ballot Summary: This proposed amendment to the State Constitution replaces the existing state revenue limitation based on Florida personal income growth, with a new state revenue limitation based on inflation and population changes. Under the amendment, state revenues, as defined in the amendment, collected in excess of the revenue limitation must be deposited into the budget stabilization fund until the fund reaches its maximum balance, and thereafter shall be used for the support and maintenance of public schools by reducing the minimum financial effort required from school districts for participation in a state-funded education finance program, or if the minimum financial effort is no longer required, returned to the taxpayers. The Legislature may increase the state revenue limitation through a bill approved by a super majority vote of each house of the Legislature. The Legislature may also submit a proposed increase in the state revenue limitation to the voters. The Legislature must implement this proposed amendment by general law. The amendment will take effect upon approval by the electors and will first apply to the 2014–2015 state fiscal year.*

The Effects and Impacts of Amendment 3

Constitutional Amendment No. 3 would revise the method by which the state revenue limitation in any given state fiscal year is calculated. This amendment is one of the more complex of those proposed.

The proposed amendment “limits” state revenues collected beginning in FY 2014–2015 to the same amount collected in the previous fiscal year (2013–2014) with adjustments. In other words, the prior state fiscal year revenue collected determines the base state revenue for the next fiscal year. This is then multiplied by a “growth factor” and a small adjustment factor (to be phased out after state FY 2017–2018) to determine the revenue limit.

The “adjustment for growth” in the state FY revenue base, as it is referred to in the amendment, is calculated using the preceding five-year average of an inflation factor and a population growth factor. The inflation factor is defined as the percent change in the calendar year annual average Consumer Price Index-Urban (CPI-U) plus one. The population growth factor is the percent change in the state’s current population on April 1, compared to the state’s population in the prior year on April 1, plus one.

While the amendment proposes to limit state revenue growth, the term “state revenue” is not all-inclusive. According to the amendment, state revenue is defined as

“taxes, fees, licenses, fines, and charges for services imposed by the legislature on individuals, businesses, or agencies outside of state government.” Several items are excluded from the state revenue limitation and include receipts of public universities; receipts from the Florida Hurricane Catastrophe Fund and Citizens Property Insurance Corporation; revenue needed to meet bond obligations prior to July 1, 2012; revenues used to provide matching funds for the federal Medicaid program; balances carried forward from prior fiscal years; and charges for school district services, etc.

The proposed constitutional amendment necessitates that if revenue exceeds the limitation level in any year, that excess revenue is to be transferred to the state budget stabilization fund until that fund reaches the maximum amount established in the state constitution (10% of the last completed fiscal year’s net revenue collections for the general revenue fund), then be used to reduce the minimum financial effort required by school districts, but should that minimum financial effort be no longer required, the funds are then to be returned to taxpayers.

The amendment also proposes three different methods by which the revenue limit can be increased:

1. A two-thirds vote by both houses of the legislature is required. Unless otherwise provided within the legislation, the increased revenue limit would be used in future years to establish the state revenue limit. (Requires a 72-hour “waiting” period before a vote can be taken by the legislative houses.)
2. The state revenue limit can be increased for a single fiscal year by a three-fifths vote of the legislature. This increase would not be used to calculate maximum revenue amounts in future fiscal years. (Requires a 72-hour “waiting” period before a vote can be taken by the legislative houses.)
3. The legislature can propose a resolution to increase the revenue limitation by a three-fifths vote of both legislative bodies with the resolution voted on by Florida voters. Passage by Florida voters would require 60 percent voting for approval.

The amendment states that it will become effective upon approval and will first apply to the 2014–2015 state fiscal year.

According to analysis by state legislative staff, there is no immediate impact expected if proposed Constitutional

Amendment No. 3 is passed. Why? Staff analysis indicates that while the proposed amendment will reduce the maximum state revenue limit, growth in state revenues included in the proposed amendment will not exceed the revenue limit, at least based on estimates through state FY 2019–2020.

Florida currently has a state revenue limitation, but that limitation is based on the average annual growth rate in Florida personal income for the most recent 20 quarters. Under current law, it is estimated that the state revenue limit would be more than \$60 billion in state FY 2019–2020. With proposed Constitutional Amendment No. 3, it is estimated the state revenue limit in FY 2019–2020 would be approximately \$40 billion. However, in state FY 2019–2020, it is projected that state revenues collected, subject to this amendment, would only be about \$37–38 billion. Based on these projections, and realizing that it is extremely difficult to project revenues this far into the future, there would be no excess revenue to transfer to the state budget stabilization fund if this amendment were adopted. That does not mean, however, that the amendment will not have some sort of fiscal impact at some point in the future.

Constitutional Amendment No. 3 falls under the general category of similar legislation across the United States, often bearing the acronym of TABOR. TABOR is the short form for “Taxpayer Bill of Rights.” While many states have enacted or considered some form of state revenue limitation, the state with the most stringent program adopted is Colorado. The following quote indicates the impact of the Colorado revenue limitation effort: “Under TABOR, the state has returned more than \$2 billion to taxpayers, rather than using these funds to pay for K-12 education, higher education, transportation, public health services, public safety, and other services.” Colorado’s TABOR was so restrictive that the program was suspended for five years.

Those in favor of this amendment may feel that the only way to restrain government expenditures is to limit the amount of revenue available for the government to expend. Likewise, some in favor of the amendment may believe the only way to reduce programs that go beyond the scope of “appropriate” government involvement is by reducing the amount of funds available for government to spend, thereby forcing governments to prioritize program/service importance. A former Governor of Colorado argued that, in Colorado, revenue limits provided more influence to the taxpayer and less influence to special interest groups and suggested that this is why revenue limits should be supported.

Those who oppose this amendment might argue that the growth factor allowed in the amendment is too restrictive and does not apply to units of government. For example, the market basket of goods used to determine the CPI-U is in no way reflective of government costs for infrastructure. They also might believe the formula used to derive future revenue limits, especially in times of economic downturn, is too restrictive in limiting government revenue in future years. Concerns have been expressed that restrictive revenue limiting measures result in gaps for “safety net” programs for those individuals with low incomes and special needs.

Other factors need to be considered when determining your support for or opposition to this proposed amendment. Florida already has enacted revenue limiting requirements. This amendment further refines the revenue limiting structure. In general, the proposed amendment is more restrictive in terms of the revenue limit. However, based on current analysis, there is no expectation that the revenue limit will have any impact through FY 2019–2020.

Summary

Voters in Florida have the opportunity to change the state constitution during the 2012 general election. Adoption of the constitutional amendment requires a vote in favor of the amendment by a minimum of 60 percent of those voting.

The intent and purpose of the information contained in this fact sheet on Amendment 3 is not to tell individuals how to vote. Rather, the fact sheet is provided to help voters become more informed. Informed voters need to be more knowledgeable of the ballot issue and what they are voting on, rather than just reading a ballot title and ballot summary. Ballot titles and summaries do not inform voters in significant detail, or inform voters on policy implications of what a ye or nay vote implies. It is thought that informed voters make informed public policy decisions.

As the November election gets closer, expect to see increased information on the proposed amendments in the media and popular press, and on the Internet. Some of this information will be from groups advocating or opposing the specific amendments. Other information will be put forth by groups not associated with advocacy or opposition of the amendments. Read this information, but be aware of the source of the information and the role of the organization supplying the information.

Your challenge as a voter is to become informed, understand the issues, learn the particulars, know the stakes,

and then, by casting your ballot, make your values and preferences known.

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