



Voter Guide to the Proposed Constitutional Amendments on the November 6, 2012 Ballot

On November 6, 2012, Floridians will vote on eleven proposed amendments to the Florida Constitution. This Florida TaxWatch Voter Guide is designed to provide voters with information about each of the amendments to help them cast well-informed votes. Florida TaxWatch has taken no position on the amendments, with the exception of Amendment 10, which we support.

All 11 amendments were placed on the ballot by the Florida Legislature. Since at least 1978, there have never been more amendments before the voters on a single ballot, except in 1998, when the Constitutional Revision Commission brought nine amendments, bringing the total to 13.

*Note: Ballot summaries and the section(s) amended by each measure are available at the back of this report.



Health Care Services

Amendment 1 would prohibit laws or rules that force anyone to buy health insurance. It also prohibits persons, employers and health care providers from being charged a tax or penalty for the direct purchase of health care services. It also provides that the private health market cannot be abolished.

This amendment was introduced by the Florida Legislature as a response to the federal Affordable Care Act, and particularly that act's individual mandate provision. The U.S. Supreme Court's decision to uphold the individual mandate largely renders the amendment moot, although it could prohibit the state from implementing a Massachusetts style health care system if the Affordable Care Act (ACA) were to be repealed by Congress.

Supporters claim that the ACA is an abuse of federal power and that Amendment 1 attempts to preserve personal freedom. Opponents claim it is really just political posturing and is only a non-binding referendum on the federal health care law and President Obama. They also maintain the amendment would put the Florida Constitution in conflict with federal law.



Veterans Disabled Due To Combat Injury; Homestead Property Tax Discount

Florida currently has a number of property tax exemptions for military veterans. One of these—a constitutional amendment passed by the voters in 2006—provides a property tax discount for partially or totally permanently disabled veterans who are 65 or older and who were Florida residents at the time of entering military service. The disability must be combat-related and the veteran must have been honorably discharged. The percentage of the discount is equal to the percentage of the veteran's disability.

Amendment 2 would expand the qualifications for that discount by removing the requirement that the veterans must have been a Florida resident at the time of entering the service. All qualifying veterans who moved to Florida after that would now be granted the discount.

Even prior to the 2006 amendment, Florida law provided for a total property tax exemption for totally disabled veterans. Under that law, totally disabled veterans did not have to live in Florida when they entered the service, but only on January 1 of the tax year for which the exemption is claimed. Amendment 2 would treat partially disabled veterans the same way.

In 2010, 1,206 veterans received the current discount provided under the 2006 amendment, saving an average of \$458, a statewide impact of \$553,000 (based on the average statewide millage rate). Amendment 2 would greatly expand this amendment. The Florida Department of Veteran Affairs reports that as many as 74,000 veterans could qualify for the new discount. The Revenue Estimating Conference estimates that—assuming current millage rates—this discount would be worth \$14.9 million in the first three years (FY 2013-14 to FY 2015-16) and \$7.6 million annually after that.

As is always the case with property tax exemption estimates, this does not mean that local governments will “lose” \$7.6 annually. To the extent local governments increase millage rates to make up for the lost taxable value, these savings will be transferred to other property taxpayers. Even without raising millage rates, this exemption is about one percent of the more than \$1 billion in property tax growth revenues forecast for cities and counties over the first three years the amendment would be in effect. Total property tax collections in Florida in FY 2011-12 are \$24.5 billion, with roughly half of that going to cities and counties.

This property tax exemption would create yet another wrinkle in Florida's convoluted and inequitable property tax system. However, it is a relatively small way to reward those who sacrificed while serving our country and the impact on other taxpayers would be minimal. It would also make the residency requirements for totally and partially disabled veterans equal.



State Government Revenue Limitation

Amendment 3 would replace the current revenue limit in the Florida Constitution with a more restrictive one. The current limitation, approved by the voters in 1994, limits revenue growth based on personal income growth. Actual state revenues have never exceeded the limit.

Both the current and proposed limitation only apply to state government revenues, meaning revenues of local governments and school districts would not be affected. Federal funds provided to Florida are also not covered.

The revenue limitation proposed by Amendment 3—which would be in effect beginning in FY 2014-15—would be based on the combined effects of population growth and inflation. Initially, some revenue over that limit would be allowed. During the first four years, a cushion of 4 percent, 3 percent, 2 percent and 1 percent, respectively, would be added to the growth factor. For these first four years, the limit would be the previous year's revenue adjusted for growth. After that (beginning in FY 2018-19), the revenue limit would be the amount of the revenue limit (not actual revenues) adjusted for growth.

Revenue that is collected in excess of the cap must be put in the Budget Stabilization Fund (BSF) until the BSF is fully funded. The balance of the BSF is limited by the constitution to ten percent of the previous year's general revenue collections. This is expected to equal \$2.7 billion in the first year of the new limitation. Including the mandated loan repayments that are required to be repaid to the fund, the BSF now contains approximately \$1.3 billion. When the BSF is fully funded, excess revenues shall be used to reduce required local effort (RLE) local school property taxes. If RLE is eliminated, excess revenues must be returned to the taxpayers through some other means, to be determined by the legislature.

The legislature can override the vote with a supermajority vote. A three-fifths vote would allow revenues to exceed the cap, but those revenues could not be considered in calculating the cap for the next year. With a two-thirds vote, the increased revenue limitation would be used as the new base. The legislature is also allowed to bring an override proposal to the voters.

Both the current and the proposed limitation exclude the following from state revenues that are limited by the cap:

- State matching funds for Medicaid (except for funds in the Public Medical Assistance Trust Fund and optional services added by the state);
- proceeds from the state lottery returned as prizes;
- receipts of the Florida Hurricane Catastrophe Fund and Citizens Property Insurance Corporation;
- balances carried forward from prior fiscal years; and
- revenues authorized by future constitutional amendments.

The proposed amendment increases the definition of state revenues use by the current limitation by only excluding revenues used for debt service on bonds issued before July 1, 2012. Therefore, the debt service for new bond issues would be included.

After the first few years of the 1994 revenue limit, state revenues have never come close to the cap. The closet revenues came was in FY 2005-06, when revenues fueled by the housing bubble reached \$658 million under the cap. There is currently almost \$20 billion in cap room under the current revenue limitation. This is due in large part to the unprecedented reduction in revenue brought about by the latest recession. In addition, prior to the revenue tax and fee hikes passed in 2010, the legislature has cut taxes a number of times since 1999.

The new cap will certainly be more restrictive. Still, if the proposed revenue limit had been in place beginning in 1994, actual revenues would have exceeded the cap only twice--in FY 2004-05 and FY 2005-06. There would currently be more than \$12 billion in cap room.

State estimates made during the 2011 legislative session predict that state revenues in FY 2019-20 will be \$2.2 billion under the proposed revenue limitation. It is forecast the cap would allow FY 2019-20 revenues to increase by \$3.7 billion (10 percent) over the previous year's actual revenues.

Opponents have compared this amendment to Colorado's TABOR (Taxpayers Bill of Rights) law, a measure passed in 1992 that has received significant negative publicity. But there are significant differences between Amendment 3 and TABOR.

TABOR required voter approval to raise taxes or exceed the limit. It also applied to all units of government, while Amendment 3 would only apply to the state. The definition for which the TABOR revenues apply is broader than that of Amendment 3. In 2011, \$27.8 billion in state revenues were limited by Florida's current law. The state budget that year was \$70.4 billion. Amendment 3 excludes revenues used to match federal funding for Medicaid, the largest and fastest growing piece of Florida's budget.

The most important difference is that TABOR was an annual cap, meaning that each year the previous year's actual revenue was adjusted by the growth factor. The effect of this—called the “ratchet-down effect”—was that during the recession of the early 2000s, Colorado revenues could not recover from that low point. Amendment 3 is a cumulative cap, meaning that each year's allowable revenues are based on an accumulated limitation amount from year to year. A big drop in revenues only creates more cap room in future years.

Amendment 3 allows the legislature to override the cap. So, Amendment 3 really amounts to requiring a super majority vote of the legislature to pass a major tax increase. It would also discourage the legislature from spending all available windfall revenues, such as the revenues the state collected during the housing boom during 2003 through 2006. Spending that unsustainable money contributed to the tough budget cuts the state experienced when the economy turned sour.

Amendment 3 would be more restrictive than the current limitation, but it would not be draconian. Government inflation generally runs higher than the Consumer Price Index, but the exclusion of Medicaid mitigates that somewhat. If a revenue increase that exceeds population growth and inflation is needed, 60 percent of our state's legislators can vote to make the necessary changes.



Property Tax Limitations; Property Value Decline; Reduction for Nonhomestead Assessment Increases; Delay of Scheduled Repeal

Amendment 4 would take effect on January 1, 2013, and proposes:

- an additional homestead exemption for new homeowners or those who have not owned property for at least three years, equal to 50 percent of the just value of a property up to the median just value of a homestead property in that county, which phases out over five years by reducing 20 percent per year. The exemption does not apply to school levies;
- a reduction in the annual cap on assessed value increases for nonhomestead properties from the current ten percent on non-school levies to a new level of five percent and an extension of this cap through the 2022 tax year and;
- providing legislative authority to eliminate the Save Our Homes “Recapture Rule”. This rule currently provides that the assessment value of homestead property will increase by the Save Our Homes cap (three percent or inflation, whichever is less), even if the just (market) value of the property declines, as long as the assessed value is still less than the just value.

The effects of Amendment 4 are numerous and complex. It highlights the difficulty in trying to “fix” the numerous problems created when the Save Our Homes (SOH) amendment was implemented in 1994. Each of the changes proposed by Amendment 4 will address current inequities in Florida’s property tax laws. SOH has resulted in new homeowners facing higher taxes than they would have without SOH. It also resulted in them paying higher taxes than the owner of a similar property who has lived there for a while. The new homeowners’ exemption will help address that inequity. The smaller assessment cap for non-homestead properties will reduce the tax shift that these properties have suffered under during the SOH era. The amendment also allows the legislature to address the recapture rule, which has caused considerable consternation among homeowners who have seen their tax bill increase while their homes have lost value. However, the recapture rule has had the effect of reducing the inequitable tax shift to non-homestead properties caused by SOH. The tax shift will increase again when property values begin rising again, as forecasted starting next year. That shift will grow even faster if the recapture rule is repealed, especially if the legislature only repeals it for homestead property.

The amendment will likely have a positive economic impact, at least in the short term. A June 2012 Florida TaxWatch report—*The Fiscal and Economic Impact of Amendment 4*—found that it would create jobs, grow Gross Domestic Product (GDP), and increase personal income. Using the best available data and an advanced econometric analysis, Florida TaxWatch estimated that the passage of Amendment 4 would result in the creation of 19,483 private, non-farm jobs over the 10-year period of the analysis (2013-2022), that Florida GDP would increase by approximately \$1.1 billion, and personal income would increase by more than \$5.3 billion. The analysis also estimated that between 319,861 and 383,810 additional home sales would occur over ten years.

However, like any new property tax exemption or assessment cap, these changes can have unintended consequences. Property tax cuts that reduce taxable value tend to shift taxes to other taxpayer populations. This certainly happened under Save Our Homes (SOH) and the increased homestead exemption passed in 2008, as businesses and other non-homestead property have had billions of dollars of tax burden shifted to them. Moreover, to the extent that millage rates are higher than they would have otherwise been, the taxpayers to which the exemption or cap were targeted do not receive all of the tax relief they might expect.

Since the value of the new homestead exemption could be greater than the value of the non-homestead cap, the extent to which local governments maintain spending levels will determine whether non-homestead properties actually have a net benefit from A4.

A 5% non-homestead cap could also create some of the same type of inequities SOH create among homesteads. Since the assessment differential grows larger over time for an owner that keeps a particular property, the result could be that similarly situated taxpayers could have very different tax liabilities. Moreover, the increasing savings could create a lock-in effect, similar to the one created under SOH before portability was added. As an owner of commercial property builds a larger and larger competitive advantage over new property owners, that owner could become less likely to move or expand. This could reduce commercial real estate transactions.

Further, as more and more property tax burden is shifted to new commercial property and relocating businesses, a barrier to new business may be created.

The Revenue Estimating Conference estimates the non-homestead cap and the new homeowners exemption – which are mandated by the amendment – would be worth \$118 million the first year (FY 2013-14) and grow to \$321 million in the third year (FY 2015-16). These estimates are less than the Conference's estimates from the 2011 session which were \$157 million and \$575 million respectively. If the legislature ultimately passes legislation to repeal the recapture rule, this would add another \$92 million in the first year and \$188 million by the third. All these numbers assume current millage rates.

As is always the case with property tax exemption estimates, this does not mean that local governments will “lose” all this money. To the extent local governments increase millage rates to make up for the lost taxable value, these savings will be transferred to other property taxpayers. Local governments could also increase other revenue sources. The magnitude of the reduction in taxable value brought about by the amendment will surely place upward pressure on millage rates, so those not benefitting from the amendment will likely see higher taxes in the future than they would have otherwise. If local governments do not increase millage rates, these exemptions could impact local budgets. Although there is only a relatively small increase (\$124 million) in property tax growth revenues forecast for next year, healthier property value growth is expected to follow. Even without raising millage rates, nearly \$800 million in property tax growth revenues are currently forecast for FY 2014-15.

The changes mandated by the amendment will not affect school property taxes. Only if the legislature repeals the recapture rule would school levies be affected.

Amendment 4 highlights the difficulty of trying to “fix” the numerous problems created by the Save Our Homes (SOH) amendment. All these well intentioned changes will individually address some of those inequities, while in turn exacerbating others. Our research shows the Amendment will likely have a positive economic impact—at least in the short term—and the new homeowner’s exemption should give a boost to Florida’s struggling housing market. However, unintended consequences could have negative long-term economic effects, particularly in the commercial housing market. From a tax policy perspective, the amendment will further convolute an already messy property tax system.



State Courts

Amendment 5 would make a number of changes designed to increase the Legislative Branch's authority and oversight of the Judicial Branch. It would:

- Require Senate confirmation of a justice of the Supreme Court before the appointee can take office. Currently, the Governor appoints justices from a list of nominees provided by a judicial nominating commission, and these appointments are not subject to confirmation.
- Make it easier for the legislature to repeal a court rule by eliminating the current super majority vote requirement, thereby requiring only a simple majority vote of each chamber. It would also limit the re-adoption of repealed court rules.
- Make it easier for the legislature to repeal a rule of the Judicial Nominating Commissions and the Judicial Qualifications Commission by requiring a majority vote of the legislators present instead of the current requirement of a majority vote of the membership of each chamber.
- Give the Speaker of the Florida House of Representatives expanded access to confidential files involving judges accused of misconduct.

This amendment would take power from both the judicial branch and the governor and increase the power of the legislature. Proponents say this provides another check and balance for court decisions and should make the court more efficient. Opponents say this is a move to politicize the courts or even to penalize them for decisions that have been unpopular with legislators.



Prohibition on Public Funding of Abortions; Construction of Abortion Rights

Amendment 6 would prohibit the spending of public funds for any abortion or for health benefits coverage that includes abortion. The prohibition does not apply to: expenditures required by federal law; when woman suffers from a physical disorder, physical injury or illness, caused by or arising from the pregnancy itself, which would place the woman in danger of death unless an abortion is performed; or an abortion due to a pregnancy resulting from rape or incest.

Federal law already prohibits Medicaid or other Department of Health spending for abortions unless they're needed to save the life of the woman or to end pregnancies caused by rape or incest. This amendment would enshrine that prohibition in the state Constitution.

The amendment also provides that the State Constitution may not be interpreted to create broader rights to an abortion than those contained in the United States Constitution. The effect of this provision is that, if passed, the amendment would supersede court decisions which have concluded that the right of privacy under Article I, Section 23, of the Florida Constitution is broader in scope than that of the U.S. Constitution. The Florida Supreme Court has ruled that the right of privacy contained in Article I, Section 23 of the Florida Constitution confers broader abortion rights than the United States Constitution. The Court also ruled that all abortion regulations are “presumptively unconstitutional” and subject to “strict scrutiny.” If Amendment 6 is adopted, abortion regulations would no longer be presumptively unconstitutional or subject to strict scrutiny. This means that legislation such as a parental consent law, which has been ruled unconstitutional in Florida, would likely no longer be unconstitutional.

It should be mentioned that while the amendment provides that abortion rights in Florida cannot be broader than under the United States Constitution, it does not preclude the courts from interpreting Florida to have narrower abortion rights.

Proponents say that the amendment puts Florida's abortion rights at the same level as federal law. Opponents say it opens the door for more restrictive abortion rights.



Religious Freedom

Amendment 7 – Religious Freedom

Removed from ballot by Circuit Court (see Amendment 8)

Amendment 8 –

Amendment 8 would repeal a constitutional provision that currently limits the power of state and local governments to fund religious institutions. It removes the following language: *“No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.”* That language would be replaced with *“Except to the extent required by the First Amendment to the United States Constitution, neither the government nor any agent of the government may deny to any individual or entity the benefits of any program, funding, or other support on the basis of religious identity or belief.”*

This amendment renews the debate over what the current language—known as the no-aid provision or the Blaine Amendment—actually does. The 126-year old Blaine Amendment was enacted in Florida and many states as a way to prohibit the funding of proliferating Catholic schools. While perhaps originally rooted in bigotry, many feel it now protects the separation of church and state. While both the Florida and United State Constitution have similar language protecting the establishment and practice of religion, the U.S. Constitution does not contain a no-aid provision.

The current language has not yet stopped state funding of religious organizations for non-sectarian social services. Florida currently gives millions of dollars to these organizations for services such as substance abuse programs, hospice care, housing assistance, food programs for the poor, and faith-based prison programs, as well as religious hospitals and clinics that provide Medicaid services.

Supporters say this amendment is needed to protect state funding of those types of services. They point to a lawsuit brought against the Florida Department of Corrections challenging the use of state funds to support faith-based substance abuse transitional housing programs. Supporters say that all funding for non-sectarian services provided by religious organizations is at risk without the amendment.

Opponents say the amendment would actually lessen religious freedom, allow direct

subsidies of houses of worship and is actually an attempt to open the door for a school voucher program that includes religious schools.

One such program, the Opportunity Scholarship Program (OSP), was ruled unconstitutional by the Florida Supreme Court. However, while a lower court ruled that the OSP violated the no-aid provision, the Supreme Court found it unconstitutional because it violated another part of the Constitution--the free public school system provision in Article IX, Section 1. The Court found “it unnecessary to address whether the OSP is a violation of the “no aid” provision...”. Since Amendment 8 does not address the free public school provision, it is questionable as to whether the amendment would allow such a voucher program.



Homestead Property Tax Exemption for Surviving Spouse of Military Veteran or First Responder

Amendment 9 allows the legislature to, by general law, provide property tax exemptions for surviving spouses of military veterans and first responders who were killed in the line of duty. The amendment authorizes an exemption up to the full amount of taxes due.

Florida currently has this exemption for veterans in statute. The amendment enshrines it in the constitution. The first responder exemption would be new. First responders are defined in the amendment as a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic. The legislature has passed legislation to implement the amendment if it is approved by the voters. It provides a full exemption from taxes due. The veteran or first responder must have been a Florida resident on January 1 of the year he or she died in order to qualify for the exemption. If the spouse sells the property, he or she can transfer the benefit—not to exceed the amount granted in the most recent tax roll—to the new property if it is to be the primary residence and the spouse does not remarry.

Although it is unlikely, because the amendment only authorizes the legislature to provide the exemption, future legislatures could change the exemption or even repeal it.

The revenue impact is relatively minimal. The Revenue Estimating Conference estimates this exemption will be worth \$600,000 annually, assuming current millage rates. To put that in context, even without raising millage rates, almost \$800 million in property tax growth revenues are forecast for FY 2014-15. Total property tax collections in Florida in FY 2011-12 totalled \$24.5 billion.

This property tax exemption would be another wrinkle in Florida's convoluted and inequitable property tax system. If the amendment is defeated, the current exemption for veterans' spouses would remain in statute, although its constitutional basis could be questioned. Florida has a history of providing tax exemptions for veterans; the question is whether voters believe first responders should be added as well. This could create a bit of a 'slippery slope' however, opening the door for other occupations to seek exemptions.



Tangible Personal Property Tax Exemption

Amendment 10 would allow for reduction of tangible personal property (TPP) taxes in Florida. These are the taxes businesses pay on most of their property which is not real property (land and buildings). Businesses pay TPP taxes on machinery, equipment, furniture, computers, signs, supplies, and other property.

Amendment 10 would allow for TPP tax reduction in two ways—one mandated by the amendment and one at the discretion of local governments. In addition to the current \$25,000 exemption, the amendment would exempt tangible personal property from ad valorem taxation if the assessed value is less than \$50,000. This is not a doubling of the current \$25,000 exemption. Instead, if the taxpayer has less than \$50,000 of TPP, the taxpayer owes nothing. A taxpayer that has more than \$50,000 of TPP would still only be eligible for the current \$25,000 exemption. This means the new exemption would be largely limited to small businesses, although larger businesses with multiple locations and property tax accounts could potentially qualify.

In addition, local governments would be able to offer additional TPP tax relief by ordinance. The legislature would have to enact general legislation to set the parameters (which has not been done yet) and then it would be up to the governing body of the local government to decide whether or not to offer the exemption.

The amendment would save businesses \$20.1 million and 156,000 accounts (nearly half of existing accounts) would be exempt from the tax. In addition, local government would be able to offer additional TPP reductions by ordinance, giving them a tool to help attract new investment and jobs to their areas. The legislature would have the ability to offer, though statute, additional types of TPP tax relief, which could allow local governments to target specific industries.

In the summer of 2011, Florida TaxWatch convened a Tangible Personal Property Task Force to examine the effect of repealing or reducing the tax. The Task Force found that reducing TPP taxes could lead to significantly promoting capital investment and job creation in Florida. This is especially true in the areas of manufacturing and the state's Qualified Targeted Industries—those industries the state most wants to attract. These types of industries are not captive and often taxes play a large role in location decisions. In addition, economic simulation modeling performed by Florida TaxWatch shows that exempting manufacturing and targeted industry businesses already located in Florida would provide a significant increase in private sector jobs and GDP.

The TPP tax discourages investment and high value, capital intensive business growth in the state. Property taxes have become businesses' largest tax expense and Florida's property tax burden is higher than most states. Billions of dollars in the tax burden have already been shifted to businesses property taxes due to the Save Our Homes Initiative.

Also, the Task Force found that many taxpayers believe that the TPP tax is costly for Florida businesses to comply with and for government to administer, that there is a lack of uniformity in its application to taxpayers in different areas of the state, and that the current system allows for significant tax avoidance. For more information see the Florida TaxWatch *Report and Recommendations of the Florida Tangible Personal Property Tax Task Force*.

Amendment 10 would provide a boost to Florida's small businesses by not only freeing them from paying TPP taxes, but also from the time consuming, complex and costly process of filing. It would also provide a valuable tool for local governments to use—at their discretion--to help attract new investment and jobs to their areas.



Additional Homestead Exemption; Low-Income Seniors Who Maintain Long-Term Residency on Property; Equal to Assessed Value

Florida's Constitution currently allows cities and counties to provide by ordinance an additional homestead exemption of \$50,000 for anyone 65 years or older whose household income does not exceed \$20,000, adjusted annually by inflation. Amendment 11 would allow cities and counties to provide a total property tax exemption for some low-income seniors. In addition to being 65 and having household income of less than \$27,030 (the original \$20,000 adjusted for inflation), the property must be worth less than \$250,000 and the owner must have maintained the property for at least 25 years.

While the current low income senior exemption can be adopted by a simple majority of the governing body, this new exemption would require a supermajority (majority plus one) vote. Both exemptions only apply to the tax levy of the city or county providing the amendment.

It should also be noted that under the Homestead Property Tax Deferral Act, all senior homesteaders may defer property taxes that exceed three percent of household income, so long as tax deferrals and other liens do not exceed 85-percent of assessed value and the primary mortgage does not exceed 70 percent. Deferred tax and interest up to seven percent are due when the property is sold.

The new exemption offered under Amendment 11 would first apply to the 2014 tax roll. The Revenue Estimating Conference estimates that if all jurisdictions were to adopt the new exemption, it would be worth \$9.1 million in FY 2014-15 and \$9.4 million in FY 2015-16. Of course, it is not known how many cities or counties will adopt the new exemption or when. The current low income senior exemption has been adopted by 59 counties and 237 cities.

Again, this property tax exemption would be another wrinkle in Florida's convoluted property tax system. However, Florida has a history of trying to ease the property tax burden on seniors. This amendment allows counties and cities to decide if the exemption is right for them.



Appointment of Student Body President to Board of Governors of the State University System

In short, Amendment 12 is about whether or not the Student Body President of Florida State University should have the opportunity to serve as the student member of the Board of Governors (BOG).

The BOG is a 17-member board that, along with the legislature, is the governing body for the State University System (SUS). The BOG's duties include:

- Accounting for the expenditure of state funds;
- Submitting a legislative budget request for each SUS institution;
- Adopting strategic plans;
- Approving, reviewing, and terminating degree programs;
- Governing admissions to SUS institutions; and
- Complying with and enforcing all applicable local, state, and federal laws.

The BOG is made up of 14 Governor appointees, the Commissioner of Education, the chair of the Advisory Council of Faculty Senates, and the Florida Student Association (FSA) president. Florida State University is the only one of the state's 11 universities that is not a member of the FSA.

Amendment 12 would remove the FSA President from the BOG membership and replace it with the chair of the council of student body presidents, which the amendment requires the BOG to organize. The council would consist of all the student body presidents of the SUS.

The amendment contains nothing about the duties or activities of the council.

The Ballot Summaries

-- As they will appear on the November ballot --

Amendment 1 – Health Care Services

Amends Article I, Sections 28

Ballot Summary:

Proposing an amendment to the State Constitution to prohibit laws or rules from compelling any person or employer to purchase, obtain, or otherwise provide for health care coverage; permit a person or an employer to purchase lawful health care services directly from a health care provider; permit a health care provider to accept direct payment from a person or an employer for lawful health care services; exempt persons, employers, and health care providers from penalties and taxes for paying directly or accepting direct payment for lawful health care services; and prohibit laws or rules from abolishing the private market for health care coverage of any lawful health care service. Specifies that the amendment does not affect which health care services a health care provider is required to perform or provide; affect which health care services are permitted by law; prohibit care provided pursuant to general law relating to workers' compensation; affect laws or rules in effect as of March 1, 2010; affect the terms or conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing a person or an employer for paying directly for lawful health care services or a health care provider for accepting direct payment from a person or an employer for lawful health care services; or affect any general law passed by two-thirds vote of the membership of each house of the Legislature, passed after the effective date of the amendment, provided such law states with specificity the public necessity justifying the exceptions from the provisions of the amendment. The amendment expressly provides that it may not be construed to prohibit negotiated provisions in insurance contracts, network agreements, or other provider agreements contractually limiting copayments, coinsurance, deductibles, or other patient charges.

Amendment 2 – Veterans Disabled Due To Combat Injury; Homestead Property Tax Discount

Amends Article VII, Section 6 and Article XII, Section 32

Ballot Summary:

Proposing an amendment to Section 6 of Article VII and the creation of Section 32 of Article XII of the State Constitution to expand the availability of the property discount on the homesteads of veterans who became disabled as the result of a combat injury to include those who were not Florida residents when they entered the military and schedule the amendment to take effect January 1, 2013.

Amendment 3 – State Government Revenue Limitation

Amends Article VII, Sections 1 and 19 and Article XII, Section 32

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.

Amendment 4 – Property Tax Limitations; Property Value Decline; Reduction for Nonhomestead Assessment Increases; Delay of Scheduled Repeal

Amends Article VII, Sections 4 and 6 and Article XII, Section 27, 32 and 33

Ballot Summary:

(1) This would amend Florida Constitution Article VII, Section 4 (Taxation; assessments) and Section 6 (Homestead exemptions). It also would amend Article XII, Section 27, and add Sections 32 and 33, relating to the Schedule for the amendments. (2) In certain circumstances, the law requires the assessed value of homestead and specified nonhomestead property to increase when the just value of the property decreases. Therefore, this amendment provides that the Legislature may, by general law, provide that the assessment of homestead and specified nonhomestead property may not increase if the just value of that property is less than the just value of the property on the preceding January 1, subject to any adjustment in the assessed value due to changes, additions, reductions, or improvements to such property which are assessed as provided for by general law. This amendment takes effect upon approval by the voters. If approved at a special election held on the date of the 2012 presidential preference primary, it shall operate retroactively to January 1, 2012, or, if approved at the 2012 general election, shall take effect January 1, 2013. (3) This amendment reduces from 10 percent to 5 percent the limitation on annual changes in assessments of nonhomestead real property. This amendment takes effect upon approval of the voters. If approved at a special election held on the date of the 2012 presidential preference primary, it shall operate retroactively to January 1, 2012, or, if approved at the 2012 general election, takes effect January 1, 2013. (4) This amendment also authorizes general law

to provide, subject to conditions specified in such law, an additional homestead exemption to every person who establishes the right to receive the homestead exemption provided in the Florida Constitution within 1 year after purchasing the homestead property and who has not owned property in the previous 3 calendar years to which the Florida homestead exemption applied. The additional homestead exemption shall apply to all levies except school district levies. The additional exemption is an amount equal to 50 percent of the homestead property's just value on January 1 of the year the homestead is established. The additional homestead exemption may not exceed an amount equal to the median just value of all homestead property within the county where the property at issue is located for the calendar year immediately preceding January 1 of the year the homestead is established. The additional exemption shall apply for the shorter of 5 years or the year of sale of the property. The amount of the additional exemption shall be reduced in each subsequent year by an amount equal to 20 percent of the amount of the additional exemption received in the year the homestead was established or by an amount equal to the difference between the just value of the property and the assessed value of the property determined under Article VII, Section 4(d), whichever is greater. Not more than one such exemption shall be allowed per homestead property at one time. The additional exemption applies to property purchased on or after January 1, 2011, if approved by the voters at a special election held on the date of the 2012 presidential preference primary, or to property purchased on or after January 1, 2012, if approved by the voters at the 2012 general election. The additional exemption is not available in the sixth and subsequent years after it is first received. The amendment shall take effect upon approval by the voters. If approved at a special election held on the date of the 2012 presidential preference primary, it shall operate retroactively to January 1, 2012, or, if approved at the 2012 general election, takes effect January 1, 2013. (5) This amendment also delays until 2023, the repeal, currently scheduled to take effect in 2019, of constitutional amendments adopted in 2008 which limit annual assessment increases for specified nonhomestead real property. This amendment delays until 2022 the submission of an amendment proposing the abrogation of such repeal to the voters.

Amendment 5 – State Courts

Amends Article V, Sections 2, 11 and 12

Ballot Summary:

Proposing a revision of Article V of the State Constitution relating to the judiciary. The State Constitution authorizes the Supreme Court to adopt rules for the practice and procedure in all courts. The constitution further provides that a rule of court may be repealed by a general law enacted by a two-thirds vote of the membership of each house of the Legislature. This proposed constitutional revision eliminates the requirement that a general law repealing a court rule pass by a two-thirds vote of each house, thereby providing that the Legislature may repeal a rule of court by a general law approved by a majority vote of each house of the Legislature that expresses the policy behind the repeal. The court could readopt the rule in conformity with the public policy expressed by the Legislature, but if the Legislature determines that a rule has been readopted and repeals the readopted rule, this proposed revision prohibits the court from further readopting the repealed rule without the Legislature's prior approval. Under current law, rules of the judicial nominating commissions and the Judicial Qualifications Commission may be repealed by general

law enacted by a majority vote of the membership of each house of the Legislature. Under this proposed revision, a vote to repeal those rules is changed to repeal by general law enacted by a majority vote of the legislators present. Under current law, the Governor appoints a justice of the Supreme Court from a list of nominees provided by a judicial nominating commission, and appointments by the Governor are not subject to confirmation. This revision requires Senate confirmation of a justice of the Supreme Court before the appointee can take office. If the Senate votes not to confirm the appointment, the judicial nominating commission must reconvene and may not renominate any person whose prior appointment to fill the same vacancy was not confirmed by the Senate. For the purpose of confirmation, the Senate may meet at any time. If the Senate fails to vote on the appointment of a justice within 90 days, the justice will be deemed confirmed and will take office. The Judicial Qualifications Commission is an independent commission created by the State Constitution to investigate and prosecute before the Florida Supreme Court alleged misconduct by a justice or judge. Currently under the constitution, commission proceedings are confidential until formal charges are filed by the investigative panel of the commission. Once formal charges are filed, the formal charges and all further proceedings of the commission are public. Currently, the constitution authorizes the House of Representatives to impeach a justice or judge. Further, the Speaker of the House of Representatives may request, and the Judicial Qualifications Commission must make available, all information in the commission's possession for use in deciding whether to impeach a justice or judge. This proposed revision requires the commission to make all of its files available to the Speaker of the House of Representatives but provides that such files would remain confidential during any investigation by the House of Representatives and until such information is used in the pursuit of an impeachment of a justice or judge. This revision also removes the power of the Governor to request files of the Judicial Qualifications Commission to conform to a prior constitutional change. This revision also makes technical and clarifying additions and deletions relating to the selection of chief judges of a circuit and relating to the Judicial Qualifications Commission, and makes other nonsubstantive conforming and technical changes in the judicial article of the constitution.

Amendment 6 – Prohibition on Public Funding of Abortions; Construction of Abortion Rights

Amends Article I, Sections 28

Ballot Summary:

This proposed amendment provides that public funds may not be expended for any abortion or for health-benefits coverage that includes coverage of abortion. This prohibition does not apply to an expenditure required by federal law, a case in which a woman suffers from a physical disorder, physical injury, or physical illness that would place her in danger of death unless an abortion is performed, or a case of rape or incest. This proposed amendment provides that the State Constitution may not be interpreted to create broader rights to an abortion than those contained in the United States Constitution. With respect to abortion, this proposed amendment overrules court decisions which conclude that the right of privacy under Article I, Section 23 of the State Constitution is broader in scope than that of the United States Constitution.

Amendment 7 – Religious Freedom

Removed from ballot by Circuit Court (see Amendment 8)

Amendment 8 – Religious Freedom

Amends Article I, Section 3

Ballot Summary:

Proposing an amendment to the State Constitution providing that no individual or entity may be denied, on the basis of religious identity or belief, governmental benefits, funding or other support, except as required by the First Amendment to the United States Constitution, and deleting the prohibition against using revenues from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.

Amendment 9 – Homestead Property Tax Exemption for Surviving Spouse of Military Veteran or First Responder

Amends Article VII, Section 6 and Article XII, Section 32

Ballot Summary:

Proposing an amendment to the State Constitution to authorize the Legislature to provide by general law ad valorem homestead property tax relief to the surviving spouse of a military veteran who died from service-connected causes while on active duty or to the surviving spouse of a first responder who died in the line of duty. The amendment authorizes the Legislature to totally exempt or partially exempt such surviving spouse's homestead property from ad valorem taxation. The amendment defines a first responder as a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic. This amendment shall take effect January 1, 2013.

Amendment 10 – Tangible Personal Property Exemption

Amends Article VII, Section 3 and Article XII, Section 32

Ballot Summary:

Proposing an amendment to the State Constitution to: (1) Provide an exemption from ad valorem taxes levied by counties, municipalities, school districts, and other local governments on tangible personal property if the assessed value of an owner's tangible personal property is greater than \$25,000 but less than \$50,000. This new exemption, if approved by the voters, will take effect on January 1, 2013, and apply to the 2013 tax roll and subsequent tax rolls. (2) Authorize a county or municipality for the purpose of its respective levy,

and as provided by general law, to provide tangible personal property tax exemptions by ordinance. This is in addition to other statewide tangible personal property tax exemptions provided by the Constitution and this amendment.

Amendment 11 – Additional Homestead Exemption; Low-Income Seniors Who Maintain Long-Term Residency on Property; Equal to Assessed Value

Ballot Summary:

Proposing an amendment to the State Constitution to authorize the Legislature, by general law and subject to conditions set forth in the general law, to allow counties and municipalities to grant an additional homestead tax exemption equal to the assessed value of homestead property if the property has a just value less than \$250,000 to an owner who has maintained permanent residency on the property for not less than 25 years, who has attained age 65, and who has a low household income as defined by general law.

Amendment 12 – Appointment of Student Body President to Board of Governors of the State University System

Amends Article IX, Section 7

Ballot Summary:

Proposing an amendment to the State Constitution to replace the president of the Florida Student Association with the chair of the council of state university student body presidents as the student member of the Board of Governors of the State University System and to require that the Board of Governors organize such council of state university student body presidents.

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