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106 N. Bronough St. ♦ P. O. Box 10209 ♦ Tallahassee, FL 32302 ♦ (850) 222-5052 ♦ FAX (850) 222-7476

Voter Guide to the Proposed Constitutional Tax Amendments on the November 4, 2008 Ballot

On November 4, 2008, Floridians will vote on six proposed amendments to the *Florida Constitution*, four of which concern taxes and were brought to the ballot by the Florida Taxation and Budget Reform Commission (TBRC). This voter guide focuses on these four tax amendments—Amendments 3, 4, 6, and 8.

Note: Three of the amendments proposed by the TBRC—Amendments 5, 7, and 9—were removed from the ballot by the Florida Supreme Court.

Amendment 3 – Amends Article VII, Sections 3 and 4 (and Article XII)

Ballot Title:

Changes And Improvements Not Affecting The Assessed Value Of Residential Real Property

Ballot Summary (as it will appear on the November ballot):

Authorizes the Legislature, by general law, to prohibit consideration of changes or improvements to residential real property which increase resistance to wind damage and installation of renewable energy source devices as factors in assessing the property's value for ad valorem taxation purposes. Effective upon adoption, repeals the existing renewable energy source device exemption no longer in effect. (*see full text of amendment [here](#)*)

Background:

Under current law, the addition of wind-hardening improvements or renewable energy source devices is considered when property is assessed for property tax purposes. Even for a home under Save Our Homes protection, the added value is initially assessed at full value. If this amendment passes, the legislature may provide an exemption that would prohibit the consideration of these improvements. The statutory exemptions authorized under the amendment *could* apply to all residential property, not just homestead. The legislature would have to enact statutory laws to create and implement the exemptions and the amendment leaves it to the legislature's discretion to decide how broadly to apply it among residential property.

The Florida Constitution currently includes an inactive provision authorizing a statutorily created exemption for renewable energy source devices (Art. VII, Section 3(d)), which expired on December 31, 1990. In addition to providing the two new exemptions, Amendment 3 would strike that outdated language.

The potential savings to homeowners are relatively small and would vary depending on the millage rates levied on a particular property. The average total millage rate in Florida (by geographic county) is 17 mills, ranging from 7.8 mills to 21.8 mills (one mill is \$1 of tax per \$1000 of taxable value). It is estimated that the exemption would save taxpayers \$3.44 million in the first year and \$4.22 million by the third year, with most of the savings coming from wind-

hardening improvements. Based on these assumptions, the average homeowner would save \$17 in taxes per \$1,000 of added value.

Pros:

- May promote storm-hardening and renewable energy improvements.
- In addition to tax savings, storm-hardening will reduce storm damage and may help reduce insurance rates statewide. Likewise, the addition of renewable energy source devices may help reduce energy costs statewide.
- Authorizes the legislature to provide the exemption for all residential property. Since non-homestead residential property has been among the hardest hit by rising property taxes in Florida, these new tax exemptions could provide some relief to those homeowners who need it most.
- Will have little impact on local government revenues. The exemption will not reduce the amount of revenue provided by the “rolled-back rate” or the “maximum millage rate” allowed under current law.

Cons:

- Legislature does not have to provide the exemption.
- Exemption cannot apply to non-residential property, the other category hardest hit by rising property taxes in Florida.
- Exemption would likely not apply to new construction.
- Any property tax exemption that reduces taxable value on one group of taxpayers puts upward pressure on millage rates, resulting in shifting taxes to others; however, the effect from this amendment would be minimal.

Florida TaxWatch Conclusion:

Strengthening residential structures to reduce the likelihood of storm damage is critical in Florida because we cannot control when and where hurricanes occur and how strong they are when they hit, but we can control how we prepare for them. Encouraging owners to fortify their property against these natural and destructive occurrences is a legitimate public policy objective. Likewise, supporting renewable energy is an important public policy goal. The property tax incentives authorized in the amendment are reasonable ways of helping Florida achieve these important policy objectives. **Floridians should vote yes on Amendment 3.**

Amendment 4 – Amends Article VII, Sections 3 and 4 (and Article XII, Section 28)

Ballot Title:

Property Tax Exemption Of Perpetually Conserved Land; Classification And Assessment Of Land Used For Conservation

Ballot Summary (as it will appear on the November ballot):

Requires Legislature to provide a property tax exemption for real property encumbered by perpetual conservation easements or other perpetual conservation protections, defined by general law. Requires Legislature to provide for classification and assessment of land used for conservation purposes, and not perpetually encumbered, solely on the basis of character or use. Subjects assessment benefit to conditions, limitations, and reasonable definitions established by general law. Applies to property taxes beginning in 2010. (*see full text of amendment [here](#)*)

Background:

Amendment 4 would provide an incentive for landowners to keep their property in conservation by offering reduced ad valorem taxes on the property. The proposal arose out of two separate measures considered by the TBRC. One proposal was to provide a full exemption from all property taxes for land dedicated for conservation purposes in perpetuity. The other proposal was to provide a “classified use” designation, similar to the current one for agriculture, to give property tax relief to land used in conservation for the period of time that such land is used for that purpose. Such land would be assessed solely on the basis of character or use instead of “highest and best use.” This means it would be taxed on its value as conservation land, not its value on the open market. The TBRC chose to combine these two measures into one constitutional amendment.

Unlike Amendment 3, Amendment 4 *requires* the legislature to grant the exemptions. However, the conditions, limitations, and definitions to implement the amendment will be left to the legislature. These exemptions (if passed in November) will apply to property taxes beginning in 2010. The fiscal impact of this amendment is not known.

Pros:

- Amendment 4 will likely increase the amount of land dedicated for conservation, meaning more Florida land will be kept in its natural state.
- The legislature is required to grant the exemptions.
- This proposal is a constitutionally sound way of addressing one of the problems associated with requiring property to be assessed at its “highest and best use.”

Cons:

- Potential for abuse exists. This issue must be addressed by legislature in the implementing statutes.
- Does not require public access to land receiving exemption.
- To the extent that reductions in taxable value result in higher millage rates, some shifting of tax burden will occur.

Florida TaxWatch Conclusion: Amendment 4 will likely increase the amount of land dedicated for conservation, which is a legitimate public policy objective. As with any proposal, the devil will be in the details. How effective this will be depends in large part on implementation by the legislature. The two different tax preferences should provide an incentive for an owner to dedicate the land “in perpetuity” instead of simply claiming the classified use status. The legislature must also ensure that the implementing law limits abuses to the extent

possible and that only those who truly deserve it enjoy the tax preference. **Floridians should vote yes on Amendment 4.**

Amendment 6 – Amends Article VII, Section 4 (and Article XII)

Ballot Title:

Assessment Of Working Waterfront Property Based Upon Current Use

Ballot Summary (as it will appear on the November ballot):

Provides for assessment based upon use of land that is used predominantly for commercial fishing purposes; land used for vessel launches into waters that are navigable and accessible to the public; marinas and drystacks that are open to the public; and water-dependent marine manufacturing facilities, commercial fishing facilities, and marine vessel construction and repair facilities and their support activities, subject to conditions, limitations, and reasonable definitions specified by general law. (*see full text of amendment [here](#)*)

Background:

Florida's property tax system has shifted billions of dollars in tax burden from homestead to non-homestead property. The properties that have been hurt the most are those that have seen their assessments increase the most. This situation is magnified when the property is assessed at its "highest and best use," instead of at the value of its current use. Amendment 6 addresses the bigger issue of "highest and best use" for one particular class of property – working waterfronts. Under the definition provided in the proposal, working waterfronts include commercial fishing facilities, marinas, drystacks, boat ramps, and other water-dependent businesses, such as boat manufacturers. The proposal requires that these properties be assessed based on their current use instead of their "highest and best use."

The economic viability of working waterfronts has been hampered as development interests increasingly encroach upon or buy such properties and convert them to residential properties, such as high-rise condominiums or high-end retail properties. This widespread conversion increases property values and, therefore, property taxes of the surrounding land, which has put many such businesses at risk. The situation creates a vicious cycle in which high taxes help drive working waterfronts to convert to their "highest and best use," further increasing property value while reducing the amount of property operated as working waterfronts. The disappearance of such waterfront operations reduces the public access to waterfronts and is changing the nature of Florida's beach communities that are so central to the identity of Florida and to its tourism-based economy.

The amendment mandates these properties be assessed at the value of their current use instead of the value of the "highest and best use," but the conditions, limitations, and definitions to implement the amendment will be left to the legislature. The proposal, if approved by voters, will first apply to the affected properties in the 2010 tax year.

Pros:

- Provides tax relief to properties that have experienced some of the largest property tax increases in the state.

- Should slow the reduction in public access to the state’s waterfronts.
- Promotes the continued viability of some businesses that are central to Florida’s economy and identity.

Cons:

- More types of coastal properties could have been included, such as “mom and pop” hotels, restaurants, and retail stores.
- To the extent that reductions in taxable value result in higher millage rates, some shifting of tax burden will occur.

Florida TaxWatch conclusion. The “highest and best use” issue is a complex one. However, it is not always fair, nor always in the state’s best interest, to encourage property to convert to its “highest and best use,” especially in the case of property that is as central to the identity and economy of Florida as waterfronts. Florida TaxWatch finds this proposal is a good approach to target property tax relief to those who really need it. While more types of properties could have been included in this type of property tax relief, working waterfronts deserve to be at, or near, the top of the list. **Floridians should vote yes on Amendment 6.**

Amendment 8 – Amends Article VII, Section 9

Ballot Title:

Local Option Community College Funding

Ballot Summary (as it will appear on the November ballot):

Proposing an amendment to the State Constitution to require that the Legislature authorize counties to levy a local option sales tax to supplement community college funding; requiring voter approval to levy the tax; providing that approved taxes will sunset after 5 years, and may be reauthorized by the voters. (*see full text of amendment [here](#)*)

Background:

Amendment 8 would authorize counties to ask voters to approve a sales tax increase to supplement funding of the community college that serves their residents. There are 28 community colleges in Florida’s system, serving 800,000 students. Besides student tuition, fees, and other college revenue, community colleges are funded with state appropriations, primarily state general revenue and Lottery proceeds. This amendment would allow local taxpayers to help fund their local institution. If a local option sales tax were proposed, it would have to be approved by a referendum of voters in the county. Nine of the 28 community colleges serve one county, but the others serve multiple counties—as many as five. For multiple-county colleges, all counties served would have to approve the tax.

The amendment does not specify or limit the amount of the sales tax increase that may be proposed. It does mandate that the tax would expire in five years, but can be reauthorized by the voters.

The current state sales tax rate is 6%. Local option sales taxes currently vary by county from 0% to 1.5%, meaning the highest combine rate in the state is 7.5%. Statewide, a 1% local option

sales tax could raise \$3.3 billion. This estimate varies significantly from county to county, ranging from \$426 million in Miami-Dade to \$316,000 in Liberty County.

In 1992, the voters of Miami-Dade County approved a referendum authorizing a local sales tax increase to benefit Miami-Dade College. The tax expired in 1994.

Pros:

- Tax increase would only take effect if approved by the voters.
- Could increase funding for a vital segment of Florida's education system.

Cons:

- Could increase sales taxes; Florida already has one of the highest sales tax rates in the nation.
- Could create unequal opportunities and access based on county of residence.
- Community colleges serving multiple counties may find it difficult to get all county commissions and voters to approve the tax.

Florida TaxWatch Conclusion:

A highly skilled workforce is imperative to the state's economic viability. A 2006 Florida TaxWatch study found that Florida's community colleges have provided an impressive return on investment to the state and have contributed much to the quality of life for Florida's citizens. However, the landscape of Florida postsecondary education continues to change, and the demands placed on the system continue to escalate. This proposal would provide another source of funding that would only occur if there were significant support for it among the voters. Another safeguard is that, without voter reauthorization, the tax would expire in five years.

Floridians should vote yes on Amendment 8.

This *Briefing* was written by Kurt R. Wenner, Director of Tax Research.

**David A. Smith, Chairman; Dominic M. Calabro, President, Publisher and Editor;
Steve Evans, Chief Operating Officer.**

Florida TaxWatch Research Institute, Inc.

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Florida TaxWatch's research recommends productivity enhancements and explains the statewide impact of economic and tax and spend policies and practices on citizens and businesses. Florida TaxWatch has worked diligently and effectively to help state government shape responsible fiscal and public policy that adds value and benefit to taxpayers.

This diligence has yielded impressive results: in its first two decades alone, policymakers and government employees implemented three-fourths of Florida TaxWatch's cost-saving recommendations, saving the taxpayers of Florida more than \$6.2 billion -- approximately \$1,067 in added value for every Florida family, according to an independent assessment by Florida State University.

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