

Constitutional Revision 10: Local and Municipal Property Tax Exemptions and Citizen Access to Local Officials Deserves the Voters' Approval

Florida TaxWatch endorses the public's approval of Revision 10 addressing local and municipal tax exemptions and citizens' access to local officials; the ballot language is noted in the box below.

BALLOT LANGUAGE

REVISION 10

Article VII, s. 3(a),(f) and (g), Article VIII, s. 7

LOCAL AND MUNICIPAL PROPERTY TAX EXEMPTIONS AND CITIZEN ACCESS TO LOCAL OFFICIALS

Broadens tax exemption for governmental uses of municipal property; authorizes legislature to exempt certain municipal and special district property used for airport, seaport, or public purposes; permits local option tax exemption for property used for conservation purposes; permits local option tangible personal property tax exemption for attachments to mobile homes and certain residential rental furnishings; removes limitations on citizens' ability to communicate with local officials about matters which are the subject of public hearings.

This amendment covers several issues under general topics:

◆Communication with Officials

One directly involves citizens' ability to communicate with their local elected representatives. It does away with the court-imposed ban on constituents having conversations with their local elected officials on matters scheduled for a public hearing, such as zoning.

This amendment would increase citizen access to officials and prevent confusion among officials as to whether they are permitted to talk to a constituent about a particular topic.

Allowing citizens to contact local government officials outside of public meetings about pending issues is fundamental to free society. In effect the revision will reverse state court decisions that have substantively restricted the right of citizens to petition their government. The revision to the constitution is shown in the following box:

LOCAL GOVERNMENT

SECTION 7. Ex parte communications.--The people shall have the right to address a local government public official without regard to ex parte communications considerations, in a manner consistent with ethics laws.

The Constitutional Revision Commission noted: "Under the Constitution, the state and counties are immune from taxation, while municipalities are exempt only to the extent their property is used exclusively for public purposes. That exemption has been narrowly defined by the courts, and the Legislature has had little success in resolving these differences in tax treatment." To redress this problem, changes to the constitution are noted in the following:

SECTION 3. Taxes; exemptions.

(a) All property owned by a municipality and used ~~exclusively~~ by it for governmental or municipal ~~or public~~ purposes shall be exempt from taxation. All property owned by a municipality not otherwise exempt from taxation or by a special district and used for airport, seaport, or public purposes, as defined by general law, and uses that are incidental thereto, may be exempted from taxation as provided by general law. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law from taxation.

(f) A county or municipality may be authorized by general law to grant ad valorem tax exemptions for real property used for conservation purposes as defined by general law.

(g) In addition to any other exemption granted to tangible personal property, a county may exempt all appurtenances and attachments to mobile home dwellings that are classified as tangible personal property and all appliances, furniture, and fixtures classified as tangible personal property which are included in single-family and multi-family residential rental facilities that have ten or fewer individual housing units, as provided by general law. The general law shall require the adoption of the exemption on a county-option basis and may specify conditions for its application.

◆ Tax Exemptions

This aspect of the amendment, addresses equity in tax treatment among the various levels of government. The proposed revision is designed to remove some of the disparity by broadening the tax exemption for municipally owned property. It also allows the Legislature to grant tax exemptions for other municipal and special district property used for airports, seaports, or public purposes as it deems appropriate.

The revision also affords two opportunities for private tax relief.

First, it authorizes counties and cities to grant property tax exemptions for lands used for conservation. The conservation tax exemption would allow the government to conserve sensitive lands by giving private landowners an incentive to preserve their property from development. This policy is better than forcing governments to buy the land in order to conserve it. Alternatives to purchase and government ownership will bring environmental preservation closer to the norms and options of a free market based democracy. Any time a government can find an alternative to a taking of property, it steps back from the seduction of state capitalism which allows special interests to utilize the resources of government to avoid the communities real market forces. And more importantly, this avoids the potential injustice that can be associated with a forced taking.

Second, it authorizes counties to grant tax exemptions. It allows local governments the option of exempting attachments to mobile homes from tangible personal property tax as well as authorizes counties to grant tax exemptions for tangible personal property (attachments, furnishings, fixtures and small rental housing complexes of 10 or less units).

The authorization for tangible personal property tax exemption would allow counties to grant exemptions where the cost of collecting the tax would exceed the actual amount collected. When the cost of a tax exceeds the actual collection of tax revenues, the efficacy of the tax is questionable.

The broadened tax exemption eases the disparity of tax treatment among different government entities. The current local tax structure results in inequities between cities, counties and state government; this would level the playing field. The greater the effort to provide simplicity and equity in government operations and taxing policy the greater is the public's confidence in government.

Arguments against this amendment include:

▶ Local governments already have too much discretion in granting tax exemptions. Such exemptions should be restricted to property used exclusively for governmental purposes, and not be used for activities that can be carried out by the private sector. Expanding tax exemptions erodes our already-narrow local tax base.

***Florida TaxWatch Response:** The granting of exemptions for purposes of efficiency, effectiveness, fairness or any other valid community objective is an act of government that is based on a dynamic pragmatism needed in the fast-moving world of the modern*

era. Such acts are not without principles and should not be dismissed because they diminish governments access to the peoples' money.

▶ Eliminating tangible personal property tax for mobile home and rental property owners would further diminish the ability to collect tax revenues needed for vital public services.

Florida TaxWatch Response: *When the cost of a tax is greater than the monies it collects or it is impossible to collect fairly or efficiently, reason demands that the tax should be eliminated and other more dependable and fair tax sources used to support government's activities.*

▶ Re-zoning proceedings are quasi-judicial in nature. Contact of public officials by anyone outside of public meetings could prejudice their decisions and violate standards of due process. This revision allows special interests and their lobbyists to influence public officials off the record.

Florida TaxWatch Response: *No rule to limit special interest and communication on public issues should be so restrictive to inhibit the normal dialogue between an elected official and the citizens he or she serves. The narrow restriction placed by the courts' interpretation of current law has generated such an inhibition on communication relative to public issues. Such restriction will not make inappropriate influence or communication less likely. In fact they may give us the false assurance that all safeguards are in place and neglect the pursuit of other measures to assure ethical conduct.*

Florida TaxWatch recommends voter approval of Constitutional Revision Ten.

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