

# BRIEFINGS



November 2005

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

*This report was initially released electronically before being printed in hardcopy format*

---

## **The Florida Taxation and Budget Reform Commission Set to Begin Meeting Again in 2007**

In 2007, Florida will have an important opportunity to comprehensively review Florida's state and local governments' budgeting and taxing procedures and policies. That is when the Florida Taxation and Budget Reform Commission is scheduled to be re-established. This Commission, made up of 25 private citizens, will examine our tax and spend laws and, if it deems necessary, make recommendations for change. It can offer recommendations to the Legislature, but it also has the rare ability of being able to take its proposals directly to the voters in the form of proposed constitutional amendments.

This will be the second edition of the Taxation and Budget Reform Commission (TBRC). The first one met from 1990-1992, and resulted in several changes to Florida's Constitution, largely regarding state budgeting. These include the creation of the Budget Stabilization Fund, the 72-hour review period before the state budget can be voted on, and the introduction of a performance and productivity measurement system to state government.

Eleven members of the panel will be appointed by the Governor and seven each will be appointed by the Senate President and House Speaker. No appointee can be a member of the Legislature. However, four legislators will serve as additional non-voting Commission members. Two must be Democrats and two Republicans. A Chair will be selected by the membership of the Commission.

There is no constitutional provision as to when the TBRC must begin its work and its schedule of public hearings will be set by the Chair. A two-thirds vote of the membership is required for the Commission to propose a revision to the Constitution.

The Constitution says the Commission must file any proposed constitutional revisions no later than one hundred eighty days prior to the general election in the second year following the year in which the Commission is established. However, since the Commission is established in 2007, and there are only general elections in even-numbered years, there is no general election "in the second year following the year in which the Commission is established." That was the language from the original amendment that established the Commission in 1990. However, the amendment was changed in 1998 to adopt a different timetable and established the Commission in 2007. The language about the "second year" was not changed. This creates some confusion, but it may mean the voters will have to consider the TBRC's proposals in November 2008.

---

*"Improving taxpayer value, citizen understanding and government accountability."*

---

The Commission has in its purview: the state budgetary process; the revenue needs and expenditure processes of the state; the appropriateness of the tax structure; governmental productivity and efficiency; the ability of state and local government to tax and adequately fund governmental operations and capital facilities; determine methods favored by the citizens of the state to fund the needs of the state, including alternative methods for raising sufficient revenues for the needs of the state; ways to maximize collections from existing tax sources; examine constitutional limitations on taxation and expenditures at the state and local level; and review the state's comprehensive planning, budgeting and needs assessment processes.

## **The 1990-1992 Commission**

The 1990-1992 Taxation and Budget Reform Commission took the proper approach, as recommended by Florida TaxWatch, and tackled budget reform first, before it looked at taxes. The TBRC issued its budget recommendations in February 1991 and followed that with its findings and recommendations concerning Florida's tax structure.

Legislative action on the budget recommendations during the 1991 session was disappointing and the TBRC proposed four constitutional amendments for voter consideration in November 1992. Two of those amendments passed, one failed and one was removed by the Supreme Court for appearing too confusing.

Amendment 4 contained the bulk of the Commission's constitutional proposals and it passed with an 83% vote. It dealt with budget reform and included:

1. **72-Hour Budget Review Period** – Required that copies of any appropriation bill be made public at least 72 hours before it can be voted on;
2. **Budget Stabilization Fund** – Mandated a reserve fund equal to 5% (phased-in) of total general revenue that could only be used for general revenue shortfalls and emergencies and allowed the fund to grow up to 10% of the prior year's General Revenue collections;
3. **Annual Budgeting** – Adopted an annual budget and planning process and required that annualized and non-recurring costs be included in agency budget requests;
4. **Appropriation Bill Format** - set up the current appropriation bill format and classified any bill with an appropriation as an appropriations bill for the governor's line-item veto power;
5. **Appropriation Review Process** – Required each agency to submit a planning document and supporting budget request for review by the appropriations committees of both houses of the Legislature. The review shall include a comparison of the major issues in the budget requests to those major issues included in the Governor's recommended budget;
6. **Final Budget Report** - Required a final budget report by the 90<sup>th</sup> day of the fiscal year;
7. **Trust Fund Review** - Made it harder to create trust funds by requiring a 3/5 vote of the membership of both the House and Senate, and set up a sunset process for most trust funds;
8. **State Planning Process** - Attempted to improve the state planning process (State Comprehensive Plan) by including biennial review and revision and requiring state agencies to develop plans consistent with the State Plan. It also mandated a quality management and accountability system for state government;

9. **Gubernatorial Authority for Revenue Shortfalls** - Gave the Governor and Cabinet authority to make budget cuts to balance the budget; and
10. **Educational Capital Outlay** - Expanded the use of Public Education Capital Outlay (PECO) money to maintenance, restoration and repair of existing educational facilities.

Amendment 5, mandating that a **Taxpayer Bill of Rights** be provided in state law, also passed overwhelmingly with more than 90% of the vote. This had been recommended by the legislatively-created Taxpayers Bill of Rights Task Force, chaired by Florida TaxWatch, in 1990. After failing to pass one in 1990 and 1991, the 1992 Legislature passed a Bill of Rights prior to the vote on the amendment. The Bill of Rights lists all rights and remedies available to taxpayers in one place in the statutes, in clear and understandable language.

The only amendment to fail was Amendment 6, which would have allowed cities and counties to levy up to a **1% local option sales tax with voter approval**.

Another amendment which would have subjected government leaseholds to ad valorem taxation was removed from the ballot by the Supreme Court.

### **The 1990-1992 Commission Made Several Major Tax Recommendations That Were Not Pursued By Legislature**

Although only one significant recommendation dealing with tax structure made it to the ballot and failed, the 1990-1992 Taxation and Budget Reform Commission recommended some far-reaching changes to the state's tax structure. When the Commission released its second report, it contained several significant recommendations, some aimed at the Legislature and some placed on the Commission's "constitutional calendar." These were to be debated in future meeting for possible inclusion in the TBRC's package of proposed amendments.

However, these recommendations were not embraced by the Legislature, and the Commission either decided against them or could not muster the votes needed to take them to the voters.

The following is a summary of the Commission's original tax recommendations. It was the stated intent of the TBRC that any changes should be done in a revenue neutral manner.

- Remove the prohibition against a state personal income tax from the constitution.
- Eliminate most sales tax exemptions and begin taxing professional, insurance and personal service transactions.
- Abolish the corporate tax exemptions for subchapter S corporations and partnerships.
- Expand the definition of utilities subject to the gross receipts tax.
- Urge the Legislature to *examine* whether the current system of multiple business taxes should be replaced with a single comprehensive business tax based on value added.
- Increase the allowable non-voted capital improvement millage levied by schools districts.

- Provide more revenue raising options for local governments.
- Remove the referendum requirement to enact the local option infrastructure sales tax and remove the limitations on its use.
- Change the homestead exemption to exempt 50% of the first \$50,000 of value to have all homesteads pay at least some property taxes.

### **Implementation of Budget Recommendations Was a Mixed Bag**

The Commission made numerous other recommendations, some of which have been implemented (in some fashion) in the years after it dissolved. For example, the Commission recommended a constitutional state revenue limit tied to personal income growth but did not submit a proposed amendment. The 1994 Legislature responded to recommendations by Florida TaxWatch and key members of the 1990-1992 TBRC, such as Vice Chairman Tom Slade, and passed a resolution to require such a limitation, and the voters approved it that November.

Many others were not enacted, such as having the legislative branch budget be subject to the same appropriations process requirements as the rest of state government. Even with Amendment 4's adoption, there were several related recommendations that were not part of the actual amendment and were left to the Legislature to implement. Some have not been implemented and for others, implementation fell short of the Commission's intent.

The adopted Amendment 4 called for a quality management and accountability system for state government. The Commission intended this to mean a performance measurement system that was integrated with the budget process. Some progress has been made with developing performance measures but much more must be done to make it meaningful. It also was meant to include programs recommended by Florida TaxWatch such as a Productivity Enhancement Program, where a unit of government can voluntarily develop a plan to delete positions, with salary savings shared with remaining employees, purchases of productivity enhancing tools, and the state.

In a 1993 report, Florida TaxWatch was critical of the implementation of the Commission's budget reform amendment. Much was left to the Legislature and unfortunately the 1992 Legislature chose not to fund the TBRC, so it was not available to help draft legislation and promote its passage and successful implementation.

### **What's In Store for the 2007 Edition of the TBRC?**

The Commission's scope is quite broad, and anything relating to taxing and spending may be on the table.

## ***Taxation***

As the last one did, the new Commission may consider major changes to the tax system, including such political hot potatoes as the personal income tax, the services tax and taxing Subchapter S corporations.

Certainly, the question of sales tax exemptions will come up, depending on what happens to the ill-advised proposed constitutional amendments that would sunset most exemptions and constitutionally impose taxes on most services unless repealed by the Legislature (gathering petition signatures now and could go before the voters in 2006).

Florida TaxWatch would like the Commission to pay special attention to tax issues that affect the competitiveness of Florida businesses and their employees, and promote healthy economic growth in the state. Long sought sales tax exemptions for business inputs, such as machinery and equipment and research and development, are examples. Similarly, changes to the corporate income tax code, such as single (or enhanced) sales factor apportionment, could be examined.

Other tax-related issues that may be debated include:

- The ability of local governments to raise taxes
- Repeal/revision of Save Our Homes and changes to the homestead exemption
- The Streamlined Sales Tax Initiative and taxation of remote sales
- Local government impact fees
- Whether to restrict the taxation of new technologies, particularly Voice Over Internal Protocol (VOIP)
- Strengthening the state's revenue limitation
- Instituting a spending/revenue limitation for local government taxpayers

## ***Budgeting***

On the spending side, here are some potential issues:

- Improving the state's performance and productivity measurement system and its integration in the budgeting process to improve government efficiency and effectiveness
- Privatization/outsourcing for real, long-term taxpayer benefits
- Education funding and educational performance and productivity

- Growth management funding
- Improving long-range planning
- The role of the Governor and the Legislative Budget Commission in the budget process
- Limiting the use of non-recurring revenue to fund recurring programs and expenses
- Mandating the inclusion of cost saving measures in the Governor's recommendations and Legislature's enacted General Appropriations Act
- Requiring an annual report card on government productivity
- Prohibiting inappropriate Trust fund "raiding"
- Creation of statutory processes for prioritizing local projects within a program area, including follow-up accountability measures

## **Conclusion**

Today, Florida and its government are different than in 1990. The state has more than five million more citizens. The first Commission was formed after a decade that saw the Legislature raise taxes every year, leading to a near-tripling of the state budget within ten years. The budget grew from \$7.8 billion in 1980 to \$23.2 billion in 1990. This Commission will be coming into an environment where the Legislature has not only been avoiding tax increases, but also cutting taxes. This does not mean state spending has not been growing—the 2005-06 state budget came in at \$65 billion, \$7 billion more than the year before. In 1990, many felt that Florida's tax system was unreliable. In recent years, the robust growth in state revenue (even with tax cuts) tells a different story. A lot of taxpayer focus has shifted to local governments.

Still, some things never change. Taxpayers are worried about the growing cost of government and many say that government isn't always the best steward of public funds.

Florida TaxWatch recommends that this Commission follow the lead of the 1990 Commission and focus on spending and budget reform first. This way the Legislature has a chance to begin to embrace and implement its budget reform recommendations as the Commission begins to consider the tax structure. The Legislature should also provide funding for the Commission in the year following its constitutional proposals to be available to work with lawmakers on implementation.

Florida TaxWatch will be very involved with the work of the next Taxation and Budget Reform Commission. We have already begun our work to develop recommendations for the Commission's consideration. In the months leading up to the start of the TRBC's meetings, Florida TaxWatch will be releasing reports on issues facing the Commission and will continue to offer any input and assistance as it carries on its deliberations.

*ARTICLE XI SECTION 6. Taxation and budget reform commission.--*

*(a) Beginning in 2007 and each twentieth year thereafter, there shall be established a taxation and budget reform commission composed of the following members:*

*(1) eleven members selected by the governor, none of whom shall be a member of the legislature at the time of appointment.*

*(2) seven members selected by the speaker of the house of representatives and seven members selected by the president of the senate, none of whom shall be a member of the legislature at the time of appointment.*

*(3) four non-voting ex officio members, all of whom shall be members of the legislature at the time of appointment. Two of these members, one of whom shall be a member of the minority party in the house of representatives, shall be selected by the speaker of the house of representatives, and two of these members, one of whom shall be a member of the minority party in the senate, shall be selected by the president of the senate.*

*(b) Vacancies in the membership of the commission shall be filled in the same manner as the original appointments.*

*(c) At its initial meeting, the members of the commission shall elect a member who is not a member of the legislature to serve as chair and the commission shall adopt its rules of procedure. Thereafter, the commission shall convene at the call of the chair. An affirmative vote of two thirds of the full commission shall be necessary for any revision of this constitution or any part of it to be proposed by the commission*

*(d) The commission shall examine the state budgetary process, the revenue needs and expenditure processes of the state, the appropriateness of the tax structure of the state, and governmental productivity and efficiency; review policy as it relates to the ability of state and local government to tax and adequately fund governmental operations and capital facilities required to meet the state's needs during the next twenty year period; determine methods favored by the citizens of the state to fund the needs of the state, including alternative methods for raising sufficient revenues for the needs of the state; determine measures that could be instituted to effectively gather funds from existing tax sources; examine constitutional limitations on taxation and expenditures at the state and local level; and review the state's comprehensive planning, budgeting and needs assessment processes to determine whether the resulting information adequately supports a strategic decision making process.*

*(e) The commission shall hold public hearings as it deems necessary to carry out its responsibilities under this section. The commission shall issue a report of the results of the review carried out, and propose to the legislature any recommended statutory changes related to the taxation or budgetary laws of the state. Not later than one hundred eighty days prior to the general election in the second year following the year in which the commission is established, the commission shall file with the custodian of state records its proposal, if any, of a revision of this constitution or any part of it dealing with taxation or the state budgetary process.*

**This Briefings was written by Kurt R. Wenner, Senior Research Analyst, under the direction of Mary Lou Rajchel, Senior VP for Research & Development.**

**Michael Jennings, Chairman; Dominic M. Calabro, President, Publisher and Editor; Steve Evans, Chief Operating Officer.  
Florida TaxWatch Research Institute, Inc.**

**© Copyright Florida TaxWatch, November 2005**

*For a copy of the Briefings, please call:  
(850) 222-5052*

*OR*

*Write TaxWatch at: P.O. Box 10209  
Tallahassee, FL 32302*

*OR*

*Access and download the report at:  
[www.floridatxwatch.org](http://www.floridatxwatch.org) where this Briefings was  
initially released before being printed in hardcopy format.*

*The Florida TaxWatch Board of Trustees is responsible for the general direction and oversight of the research institute and safeguarding the independence of the organization's work. In his capacity as chief executive officer, the president is responsible for formulating and coordinating policies, projects, publications and selecting the professional staff. As an independent research institute and taxpayer watchdog, the research findings and recommendations of Florida TaxWatch do not necessarily reflect the view of its members, staff or distinguished Board of Trustees, or Executive Committee and are not influenced by the positions of the individuals or organizations who directly or indirectly support the research.*

*Florida TaxWatch Values:*

*◆ Integrity ◆ Productivity ◆ Accountability ◆ Independence ◆ Quality Research*



**[www.floridatxwatch.org](http://www.floridatxwatch.org)**

106 N. Bronough St.  
P.O. Box 10209  
Tallahassee, FL 32302

NON-PROFIT ORG.  
U.S. POSTAGE  
PAID  
TALLAHASSEE, FL  
Permit No. 409