

# 2018 Florida Voter Guide

to Florida's Constitutional Amendments





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**David Mann**  
Chairman of the Board of Trustees

**Dominic M. Calabro**  
President & Chief Executive Officer

Dear Fellow Voter,

I am pleased to present the 2018 Florida TaxWatch Voter Guide to Florida's Constitutional Amendments. Florida TaxWatch is honored to provide this service to the taxpayers of Florida in order to help educate voters on the issues before them on this year's ballot.

The 2018 Voter Guide details the 12 amendments on the November 6, 2018 ballot, provides a TaxWatch recommendation of which way to vote, and the reasoning for each recommendation. We have provided a notes sheet on page 44 of this Guide, where you can jot down anything you want to remember about the amendments, and take it with you to the polls.

We hope this information is useful to you. Most of all, we hope that you vote, and use this resource and other authoritative sources for information to make sound and informed decisions about these proposed amendments to the constitution of Florida.

Sincerely,

A handwritten signature in black ink that reads "Dominic M. Calabro".

Dominic M. Calabro

*President & CEO*



On November 6, 2018, Floridians will vote on 12 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.

Proposed constitutional amendments No. 1, No. 2, and No. 5, which deal with homestead property tax exemptions; limitations on property tax assessments; and requirements for imposing, authorizing, or raising state taxes and fees, respectively, have been placed on the November ballot by joint resolutions of the Florida Legislature.

Proposed constitutional amendments No. 3, and No. 4, which deal with voter control of gambling and the restoration of voting rights, respectively, have been placed on the November ballot by citizens' initiatives.

Proposed constitutional amendments No. 6, No. 7, No. 9, No. 10, No. 11, and No. 12, have been placed on the November ballot by the Constitution Revision Commission. These six proposed amendments reflect the "bundling" of 17 separate issues. The Constitution Revision Commission bundled these issues to make the ballot shorter and more efficient.

Instead of having 17 separate amendments to vote on, voters will have six.

Proposed constitutional amendment No. 13, which deals with wagering on dog racing, has been placed on the November ballot by the Constitution Revision Commission.

Proposed constitutional amendment No. 8, which bundles three public education-related issues, was challenged in court by the League of Women Voters. The lower court ruled that amendment No. 8 failed to inform voters of the chief purpose and effect of the proposal and must be removed from the ballot. The Florida Supreme Court upheld the lower court's ruling and ordered proposed amendment No. 8 to be removed from the ballot.



# AMENDMENT 1

## TITLE

### INCREASED HOMESTEAD PROPERTY TAX EXEMPTION

## PLACED BY

The Florida Legislature, HJR 7015  
(2017)

## BALLOT SUMMARY

“Proposing an amendment to the State Constitution to increase the homestead exemption by exempting the assessed valuation of homestead property greater than \$100,000 and up to \$125,000 for all levies other than school district levies. The amendment shall take effect January 1, 2019.”

## AMENDING

Article VII, Section 6 &  
Article XII, Section 37

## A YES VOTE MEANS

A homeowner that qualifies for the current homestead exemptions would be able to exempt the portion of their home’s value between \$100,000 and \$125,000 from property taxes (excluding school district levies). The maximum homestead exemption would increase from \$50,000 to \$75,000 for homes with assessed value of more than \$100,000. All non-homestead residential property and homesteads that are assessed at less than \$100,000 would not qualify for the exemption.

## A NO VOTE MEANS

Current property tax law would not change, and the maximum homestead exemption will remain at \$50,000.



## THE ARGUMENTS

### SUPPORTERS

Everybody loves a tax cut and property taxes are too high. The Legislature has cut taxes for several sessions in a row, wanting to give money back to the taxpayers. “Today’s vote is a big win for all Floridians. If passed by the voters, this additional exemption will be one of, if not the largest, tax cut in the history of Florida at \$645 million. An additional \$25,000 exemption means real money in the pockets of Florida families. For just the third time in state history the people will see real tax relief in homeownership. The average family will save enough to purchase clothes or school supplies for their children or grandchildren, catch up on bills or make another car payment, pay for healthcare or childcare, and so much more. Real savings, real money, and real relief. Today’s massive tax cut proves, once again, the Florida House will continue to fight for, and stand with, every day Floridians.”<sup>1</sup>

Because the exemption does not apply to school district levies, it will not reduce funding for Florida’s public schools.

### OPONENTS

Amendment 1 does not represent a tax cut, but a tax shift. Reductions in the taxable value of property result in higher millage rates and this tax reduction for a relatively small percentage of property owners will mean higher property taxes for everyone else. This includes all non-homestead properties, such as businesses, rental property, and non-homestead homes, as well as homestead properties that do not qualify for the exemption (under \$100,000 in assessed value.)

Florida’s property tax system is already inequitable to non-homestead properties and this new exemption will exacerbate the tax shift from homestead to non-homestead property.

The exemption will help wealthier homeowners, but not lower-income property owners that need tax relief most. Landlords will pass property tax increase onto renters.

With less annual tax revenue, counties, cities and special districts may not be able to fund important local services like police and fire departments.

### ANALYSIS

There are currently two homestead exemptions in Florida—one on the first \$25,000 of a home’s assessed value (applies to all levies) and one for the value between \$50,000 and \$75,000 (does not apply to school district levies). Homesteads are also protected by Save Our Homes (SOH), which limits increases in assessed value to the lower of inflation or three percent.

Currently, homesteads assessed at under \$50,000 (after the SOH limit is applied) receive a \$25,000 exemption and homes valued over \$75,000 receive a \$50,000 exemption. This would not change if the amendment passes, but homes assessed at more than \$125,000 would have a \$75,000 exemption. Homes assessed at between \$100,000 and \$125,000 would have an exemption of \$50,000 plus each dollar of assessed value between \$100,000 and \$125,000. For example, a homestead property assessed at \$115,000 would receive an exemption of \$65,000.

The new exemption would not apply to school district levies, which make up 41 percent of the average property tax bill.

<sup>1</sup> Richard Corcoran, Speaker of the Florida House of Representatives, press release on the House passage of HJR 7015, May 2, 2017.



The tax savings for each homestead would vary across the state, depending on each location's millage rate. At the average statewide non-school millage rate (10.8 mills), the full exemption would be worth \$270 per home. This would range from an average of \$122 in Walton County to \$414 in St. Lucie County.

Only 57 percent of all Florida homesteads would benefit from the proposed homestead exemption and 45 percent would receive the full \$25,000 benefit. Only 24 percent of all properties (including non-homestead) would receive any benefit and only 29 percent of all Florida families (including those that do not own their home) would benefit.

Save Our Homes and the 2008 homestead exemption have shown that when you reduce taxable value on one segment of property owners, the total tax burden is shifted to other property owners. This is especially true during times of strong home value growth. From 2000 to 2007, the average homestead tax bill (if under SOH the whole time) fell by 1.1 percent. The average non-homestead tax bill more than doubled, increasing 116 percent. Tax growth was even higher for just non-homestead residential—151 percent. This means that the growth in total property taxes levies from \$14.3 billion in 2000 to \$30.4 billion in 2007 was borne almost entirely by property that did not qualify for SOH.

The Legislature has already passed a bill to implement Amendment 1 should it pass. The language would help temper the tax shift in the first year. The bill provides that local governments calculate millage rolled-back rates without subtracting the taxable value removed by the exemption. This will make it harder for local government to recoup lost revenue through higher millage rates—although they still can with a

supermajority vote of the governing body. It is possible for local governments to recoup some of the revenue loss in the first year with only a majority vote because they are allowed to increase the rolled back rate by the growth in Florida per capita personal income. Most importantly, the requirement to exclude A1's impact from the rolled back rate calculation is only for the first year. The following year will likely see widespread property tax increases.

Other taxes and fees could also be used to replace the lost revenue. These would apply to everyone, even those benefiting from the new homestead exemption. To the extent that local governments cannot make up the revenue, they may need to cut funding for important local services like police and fire departments.

## FISCAL IMPACT

The Revenue Estimating Conference officially adopted an “indeterminate” impact since it is unknown if the amendment will be approved by the voters. If the constitutional amendment does not pass, the impact is zero. If approved, the Conference adopted the following impact: \$644.7 million in 2019-20, \$662.5 million in 2020-21, and \$680.7 million in 2021-22. This is based on the current statewide average non-school millage rate.

The full \$25,000 exemption would provide each homestead owner with an average \$270 tax cut. Taxes on other property owners will likely increase, especially after the first year. This includes lower-priced homesteads that cannot take the exemption.



## CONCLUSION

Tax cuts are nice, but this new homestead exemption benefits the segment of property owners that needs it the least, while likely leading to tax increases on those already relatively over-burdened by Florida's property-tax system. It will result in an even larger tax shift, increasing taxes on non-homestead properties and homesteads that do not qualify for the exemption.

The proposed homestead benefits relatively few Florida families (29 percent) and property owners (24 percent). It also benefits only 57 percent of homestead owners. It will likely lead to increases on everybody else, with higher taxes on lower-income homeowners and small businesses, and increased rents for renters.

**FOR THESE REASONS, FLORIDA TAXWATCH  
RECOMMENDS A "NO" VOTE ON AMENDMENT 1.**



# AMENDMENT 2

## TITLE

LIMITATIONS ON PROPERTY TAX ASSESSMENTS

## PLACED BY

The Florida Legislature, HJR 21 (2017)

## AMENDING

Article XII, Section 27

## BALLOT SUMMARY

“Proposing an amendment to the State Constitution to permanently retain provisions currently in effect, which limit property tax assessment increases on specified nonhomestead real property, except for school district taxes, to 10 percent each year. If approved, the amendment removes the scheduled repeal of such provisions in 2019 and shall take effect January 1, 2019.”

## A YES VOTE MEANS

No change in current law. The 10 percent cap on annual non-homestead property tax assessments, which was approved by the voters in 2008 and is set to expire on January 1, 2019, will be made permanent.

## A NO VOTE MEANS

The 10 percent cap on annual non-homestead property tax assessments will expire on January 1, 2019. Beginning with the 2019 tax year, all non-homestead property will be assessed at full market value, as determined by the property appraiser, and there will be no limit to the increase in future assessments.



## THE ARGUMENTS

### SUPPORTERS

Repeal of the 10 percent non-homestead property assessment cap would result in an immediate, massive tax increase of up to \$700 million annually.

The current cap helps mitigate the multi-billion tax shift that Florida's property tax system creates. The 10 percent cap provides much less protection than the Save Our Homes cap that applies to homestead property (the lesser of 3 percent or inflation). This shift is growing even with the 10 percent cap in place; if the cap is repealed the shift will skyrocket.

Repeal of the cap would increase rents, as landlords will pass their increased taxes on to renters, further burdening a large portion of Florida families and making affordable housing an even more elusive goal in Florida.

Repeal of the cap would increase taxes on businesses, resulting higher prices, fewer jobs, reduced salaries, and a weaker economy.

The cap does not apply to school taxes so it does not impact school funding.

The potential combination of voter approval of Amendment 1, but not Amendment 2, would magnify the negative impacts of repealing the non-homestead cap.

### OPPONENTS

Florida should not have caps on the growth of property tax assessments as they limit the revenue producing capability of local governments. Repeal of this cap would provide additional revenue to fund government services.

Assessment caps can create real estate market distortions and lead to unequal tax treatment of similarly situated property owners.

This cap only benefits businesses and other non-homestead property while doing nothing for homestead property owners.

## ANALYSIS

The 10 percent cap on non-homestead property was approved by the voters in 2008. It was part of an amendment that made several changes to property taxation in Florida, including an additional \$25,000 homestead exemption, and allowing for portability of Save Our Homes (SOH) benefits. The amendment also included a scheduled repeal of the cap on January 1, 2019 (the other changes were permanent); however, the amendment also required the Legislature to place a proposed amendment on the 2018 General Election ballot to extend the cap, and the 2017 Legislature passed House Joint Resolution (HJR) 21 to do so.

If the amendment is not approved by at least 60 percent of those voting, taxpayers will lose this important protection. This does not just mean there will no longer be a cap on future assessment growth, it means that non-homestead property will suddenly be assessed at full market value.

The state estimated that if the cap is allowed to be repealed, the resultant tax increase in 2019 could be as high as \$688.1 million (at the current average statewide non-school millage rate of 10.78 mills). Using newer property tax forecasts by the Revenue Estimating Conference, Florida TaxWatch estimates the potential tax increase exceeds \$700 million.



The adoption of the non-homestead assessment was, in part, a reaction to the Save Our Homes (SOH) amendment which was passed in 1992, as well as the 2008 amendment providing an additional homestead exemption and SOH portability. SOH created an inequitable property tax system in Florida. Not only can similarly situated homeowners have very different tax bills, but SOH also shifted billions of dollars in taxes from homestead to non-homestead property. This is because SOH does not really limit total taxes, it only limits assessments on one segment of taxpayers. This is especially true during times of strong home value growth. From 2000 to 2007, the average homestead tax bill (if under SOH the whole time) fell by 1.1 percent. The average non-homestead tax bill more than doubled, increasing 116 percent. Tax growth was even higher for just non-homestead residential—151 percent. This means that the growth in total property taxes levied from \$14.3 billion in 2000 to \$30.4 billion in 2007 was borne almost entirely by non-homestead property.

The non-homestead assessment cap helps to limit the tax shift, which is still rising. Loss of the cap would escalate the growth of the shift.

## FISCAL IMPACT

The Revenue Estimating Conference officially adopted an “indeterminate” impact since it is unknown if the amendment will be approved by the voters. If the constitutional amendment is approved, the fiscal impact is zero. If not approved, the Conference adopted the following impact: property tax revenue increases of \$688.1 million in 2019-20, \$673.1 million in 2020-21, and \$669.8 million in 2021-22.

This is based on the current statewide average non-school millage rate, and was made in March 2017. Using newer property tax forecasts by the Revenue Estimating Conference, Florida TaxWatch estimates the potential tax increase exceeds \$700 million.

## CONCLUSION

The 10 percent non-homestead assessment cap, created by the voters in 2008, helped to stem the multi-billion-dollar tax shift from homestead to non-homestead properties that Florida’s property tax system currently creates. It is a relatively limited, but important, safeguard for renters, businesses, owners of vacant lands, snowbirds, and other second homeowners—and it is the only significant one they have for real property. On average, non-homestead property is taxed at 91 percent of its just value, while SOH and numerous exemptions result in homestead property being taxed on 53 percent of its value.

Loss of the non-homestead cap will result in a large tax increase of up to \$700 million annually, which would have a serious impact on Florida, decreasing disposable income, increasing rents and business costs, and exacerbating and perpetuating the existing inequities of Florida’s property tax system. There would also be no limit on the growth of future assessments on non-homestead property.

**FOR THESE REASONS, FLORIDA TAXWATCH RECOMMENDS A “YES” VOTE ON AMENDMENT 2.**



# AMENDMENT 3

## TITLE

VOTER CONTROL OF GAMBLING IN FLORIDA

## PLACED BY

Citizens Initiative, *Voters in Charge*

## AMENDING

Adds new Section 29 to Article X

## BALLOT SUMMARY

"This amendment ensures that Florida voters shall have the exclusive right to decide whether to authorize casino gambling by requiring that in order for casino gambling to be authorized under Florida law, it must be approved by Florida voters pursuant to Article XI, Section 3 of the Florida Constitution. Affects articles X and XI. Defines casino gambling and clarifies that this amendment does not conflict with federal law regarding state/tribal compacts."

## A YES VOTE MEANS

The citizens' initiative process would be the exclusive method of authorizing casino gambling in Florida, meaning the voters would have sole authority to approve casino gambling. The Legislature would no longer be able to authorize casino gaming, either through statute or by bringing a proposed constitution amendment to the ballot. The other methods to amend the Florida Constitution—the Constitutional Revision Commission, the Tax and Budget Reform Commission, and a Constitutional Convention—also could not be used to bring a casino gambling proposal to the ballot. The Legislature would retain the ability to restrict, regulate, or tax any gambling activity through general law.

## A NO VOTE MEANS

The Legislature would retain its authority to approve casino gambling through general law or by bringing a constitutional amendment to the ballot. The citizens' initiative process could still be used to authorize or ban casino gambling.



## THE ARGUMENTS

### SUPPORTERS

The people of Florida should have the final say on whether or not to legalize casino-style gambling.

Without voter control, gambling will continue to spread throughout Florida.

Voter control will keep the influence of lobbyists and special interests out of the decision on gambling.

### OPPONENTS

Legislators are elected to make these kind of decisions, they should still have that authority.

The amendment is simply a way to effectively ban gambling. Many Floridians want gambling, and casinos would be a source of new jobs, economic development, and government revenue.

Future legislatures would not be able to use casino gaming as a means to fund government services.

Voters can already bring proposed gambling amendments to the ballot.

## ANALYSIS

Despite a general prohibition against gambling in Florida law, several legal forms currently exist:

**Pari-mutuels** – Horse and dog racing was legalized in 1931, after the Legislature overrode the Governor’s veto. Jai-alai was legalized in 1935. There are now 39 licenses in Florida operating at 28 facilities (12 greyhound, 9 horse, 7 jai-alai).

**Lottery** – Voters approved the Florida Lottery in 1986 and it began operations in 1988.

**Indian Gaming** – The 1988 federal Indian Gaming Regulatory Act (IGRA) gave native tribes the right to offer any games that are legal in the state. This allowed the Seminole tribe to install video lottery

terminals. A 2010 compact between the state and the tribe gave the Seminoles exclusive authority to operate banked card games (such as blackjack) at five locations and to offer slots outside of Broward and Miami-Dade. In return, the Tribe shared revenue with the state (now approximately \$350 million annually). A new compact was agreed to by the Governor and the Tribe in 2015, but it has not been ratified by the Legislature. Attempts by the Legislature in 2017 and 2018 to create a new compact failed.

**Cardrooms** – Poker was authorized at pari-mutuel facilities (\$10 pot limit) in 1996. Limits have been raised three times and are now “no-limit.”

**Slots** – Slots were first legalized in 1935, only to be outlawed again two years later. In 2004, Florida voters narrowly (50.8 percent) approved a constitutional amendment to allow slot machines at pari-mutuel facilities in Broward and Miami-Dade Counties. There are now eight facilities offering slots. This allowed the Seminoles (due to IGRA) to install slot machines.

Clearly, there is already a considerable, and growing, amount of legalized gambling in Florida. Some of it was approved by the voters. Bringing full-scale casinos to Florida is another question, one that—at least until now—most Floridians haven’t wanted. Florida voters have rejected proposed constitutional amendments to allow casino gambling in 1978, 1986, and 1994.

But this amendment is not really about the pros and cons of casino gambling, although it is viewed by many as effectively at least a short-term ban. It is about whether the Legislature should have a say in the debate.

Florida voters already can, through the citizen’s initiative process, propose amendments to ban or authorize casino gambling. Amendment 3 would prohibit the Legislature from passing a law to authorize casino gambling, an issue it has debated for the last



several sessions without being able to come to a resolution. But it would also not allow the Legislature to bring its own plan to the voters through passage of a joint resolution. Florida TaxWatch is not aware of any other issue the Legislature is prohibited from attempting to address by bringing a proposed amendment to the ballot (unless it would violate the U.S. Constitution).

There are some questions about the possible effects of Amendment 3. The state's Financial Impact Estimating Conference, in its required Financial Impact Statement, says it is not clear if the amendment would be "prospective" or "retrospective".<sup>1</sup> If it is determined to be retrospective, it could result in any casino gambling activities already authorized (without a citizens' initiative) becoming illegal. This includes some slot machines, electronic table games, and player-banked card games.<sup>2</sup>

Another uncertainty concerns a May 2018 U.S. Supreme Court decision that says unless directly regulated by Congress, states are free to offer sports betting. This is a potential lucrative revenue source for states, including Florida. There is debate as to whether Amendment 3 would prohibit sports betting in Florida.<sup>3</sup> While casinos may not have broad public support, polls show sports betting is favored by a majority of Americans.

## FISCAL IMPACT

The Revenue Estimating Conference determined that the amendment's impact on state and local government revenues and costs, if any, cannot be determined at this time because of its unknown effect on gambling

operations that have not been approved by voters through a constitutional amendment proposed by a citizens' initiative process.

## CONCLUSION

Gambling has always been a contentious issue in Florida, as evidenced by the Legislature not being able to pass a gambling bill for several sessions. While the amendment would likely rule out casinos for the near future, public sentiment could change.

And while the amendment would make the citizens' initiative the exclusive method to bring casino gambling to the ballot, it must be remembered that the initiative process is the least transparent method to publicly vet proposed constitutional amendments. It is easy to envision a well-funded, pro-casino group getting enough signatures to bring a casino proposal to the ballot. This would still allow the special interests supporters want to keep out of the process to craft a proposal, but there would be no input or deliberation by the Legislature.

The amendment really boils down to whether or not voters trust the Legislature to decide the issue. If voters do not want the Legislature to continue efforts to authorize casinos, a better approach, although not necessarily the best one, would be an amendment to ban casino gambling. Voters would then still have the exclusive right to authorize it in the future, as proposed by Amendment 3, but the Legislature would at least be able to present voters with a plan. Keeping the Legislature completely out of any legitimate public policy debate is not what representative democracy is about.

**FOR THIS REASON, FLORIDA TAXWATCH  
RECOMMENDS A "NO" VOTE ON AMENDMENT 3.**

<sup>1</sup> Financial Impact Estimating Conference, "Complete Initiative Financial Information Statement: Voter Control Of Gambling In Florida (15-22)."

<sup>2</sup> Although slots were approved by the voters, the amendment makes a distinction between slots and electronic table games, a distinction the state says could make them illegal. The legality of player-banked (or designated player) games is still being debated, but they are being offered and the state is making revenue off them.

<sup>3</sup> South Florida Business Journal, "Supreme Court ruling on sports gambling could raise stakes for amendment vote in Florida," My 29, 2018.



# AMENDMENT 4

## TITLE

VOTING RESTORATION AMENDMENT

## PLACED BY

Citizens Initiative,  
*Floridians for a Fair Democracy, Inc.*

## AMENDING

Article VI, Section 4

## BALLOT SUMMARY

"This amendment restores the voting rights of Floridians with felony convictions after they complete all terms of their sentence including parole or probation. The amendment would not apply to those convicted of murder or sexual offenses, who would continue to be permanently barred from voting unless the Governor and Cabinet vote to restore their voting rights on a case by case basis."

## A YES VOTE MEANS

After completing all the terms of their sentence, people convicted of felonies would have their eligibility to vote automatically restored. This does not include those convicted of murder or felony sex crimes.

## A NO VOTE MEANS

Current law is unchanged. People convicted of felonies still have to wait a minimum of five years before applying to appear before the governor and Cabinet to have their voting rights restored. The governor and Cabinet would continue to have the sole authority to determine whether a person convicted of a felony is allowed to vote again.



## THE ARGUMENTS

### SUPPORTERS SAY

The U.S. District Court has determined that Florida's current process for restoring voters' rights is unconstitutional, and the current system has no legal guidelines for how the decisions of the Clemency Board (Cabinet) are to be reached.

After felons have paid their debt to society, they deserve a second chance and should be able to become members of that society, which includes being able to vote.

Restoration of voting rights leads to reduced recidivism, which lowers taxpayer costs, increases employment and improves the economy.

Florida is one of only four states that permanently bars felons from voting.

Florida's current policy disenfranchises almost 1.5 million Floridians from voting.

The current process takes far too long to get a hearing and there is currently a waiting list of 10,000.

The current process is a relic from the Jim Crow era.

### OPponents SAY

The amendment is too broad. Except for murderers and sexual felons, it would be a blanket, automatic restoration for all criminals.

This new system would not consider whether the crime was violent or non-violent (other than murder/rape); if the felon is a one-time or career criminal, the post-release conduct of the felon, or any other consideration specific to an individual crime or felon.

The current system lets each case be decided on its individual merits.

10 percent of Florida's adult voting population currently may not vote due to the current law. The amendment would create a large voting block of criminals.

## ANALYSIS

Florida's restriction on felon voting dates back to the state's original 1838 Constitution, which gave power to the General Assembly to exclude from voting any criminal, including those convicted of misdemeanor. The 1868 Constitution was amended to expressly exclude felons from voting. This was largely re-enacted in the 1968 Constitution. In 2007, the Governor and Cabinet streamlined the process and 150,000 ex-felons had their voting rights restored over the next four years. In 2011, the process was made stricter, including a five to seven-year mandatory wait before ex-felons could apply. Felons whose applications were rejected by the Cabinet could reapply in two years. Under the new rules, 30,000 felons have applied and 3,000 have had their voting rights restored. There is a waiting list of more than 10,000 applications and the Board of Executive Clemency (Governor and Cabinet) and between 400-500 felons have their rights restored each year.

In February 2018, a U.S. District Court ruled Florida's process for the restoration of voting abilities for felons unconstitutional, saying it violated the First Amendment and the Fourteenth Amendment. The Clemency Board appealed the ruling and the Eleventh Circuit Court of Appeals issue a stay on the lower court's ruling.

According to a 2016 study,<sup>1</sup> Florida has over 1.6 million people unable to vote because of felony convictions. This is 28 percent of the nationwide total of 6.1 million. Florida's "disenfranchised rate" of 10.4 percent of the

<sup>1</sup> The Sentencing Project, "6 Million Lost Voters: State-Level Estimates of Felony Disenfranchisement", October 6, 2016.



state's voting populations is the highest in the nation. Florida's rate for African-Americans is 21.4 percent, the second highest in the nation.

Florida is one of four states (with Iowa, Kentucky, and Virginia) where convicted felons do not regain the right to vote unless a state officer or board restores an individual's voting rights.<sup>2</sup> If Amendment 4 is approved, Florida would join 19 other states that restore the right to vote after prison time, parole, and probation are completed. There are 14 states that restore voting rights upon completion of a prison sentence and four that restore voting rights upon completion of prison and parole time. Seven states have systems where certain felons, based on the type or number of crimes committed, regain the right to vote. Two states have no restrictions, even allowing felons to vote while in prison.<sup>3</sup>

Proponents of Amendment 4 have stated that it will reduce recidivism re-incarceration of someone who has been released. The League of Women Voters of Florida analysis of Amendment 4 states that studies "have shown that recidivism rates drop about 30% if a person has their voting rights restored."<sup>4</sup> While recent data somewhat supports this, it likely overstates the real impact. Of the 2,971 felons that had their rights restored from 2011-2017, less than one percent (45) have returned to Florida Department of Corrections custody as of June 4, 2018<sup>5</sup>. The recidivism rate for all Florida felons exceeds 30 percent after four years after

release<sup>6</sup>. This 30 percent difference is remarkable, but the low recidivism rate for felons with restored rights is based on data from the current system, where the Board judges each application on its own merits. These are likely better candidates to stay out of prison than the general felon population. Of the 30,672 felons that had their rights restored in 2009 and 2010, under the prior streamlined process, 25.5 percent had returned to custody over to custody by 2015 (five or six years). This is still below the five-year general recidivism rate, which exceeds 35 percent.

The state's Financial Impact Estimating Conference looked at voting rights restoration and recidivism and found that that available data was not sufficient to make accurate comparisons of recidivism rates. It did find that while the Department of Correction's recidivism rates continue to steadily increase, recidivism begins to level out by the second or third year after receiving civil rights restoration. One peer-reviewed study was cited that found that Felons living in states with permanent disenfranchisement were 10 percent more likely to recidivate than those living in states without these restrictions.<sup>7</sup>

Reducing recidivism can improve public safety and save taxpayer dollars by reducing crime and prison populations.

2 Ballotpedia. "Convicted felons voting laws."

3 National Conference of State Legislatures, "Felon Voting Rights," November 28, 2017

4 League of Women Voters of Florida, "Amendment 4 - Voting Restoration Amendment",

5 Florida Commission on Offender Review, annual "Clemency Action Report," multiple years,

6 Florida Department of Corrections, Bureau of Research and Data Analysis, received October 6, 2016, reported in the Financial Impact Estimating Conference's Complete Initiative Financial Information Statement Voting Restoration Amendment.

7 Guy Padraic Hamilton-Smith & Matt Vogel, The Violence of Voicelessness: The Impact of Felony Disenfranchisement on Recidivism, 22 BERKELEY LA RAZA LAW JOURNAL. 407, 408-10 (2012)



## FISCAL IMPACT

The precise effect of this amendment on state and local government costs cannot be determined, but the operation of current voter registration laws, combined with an increased number of felons registering to vote, will produce higher overall costs relative to the processes in place today. The impact, if any, on state and local government revenues cannot be determined. The fiscal impact of any future legislation that implements a different process cannot be reasonably determined.

## CONCLUSION

Florida current process makes it difficult for a felon who has completed his or her sentence to receive a timely resolution of their petition for the restoration of their voting rights.

The ban on felons' voting rights is an outdated relic from the past and it puts Florida out of step with the vast majority of states.

Florida TaxWatch has made many recommendations aimed at reducing recidivism and non-violent prison populations and helping ex-offenders become contributing members of society. These outcomes can result in benefits for taxpayers, the economy and public safety. The restoration of some felons' voting rights is consistent with that goal. While evidence of voting rights restoration's effect on recidivism is incomplete, it stands to reason that the more completely an ex-offender can be integrated back into society, the more likely it is that person will become a productive citizen instead of returning to prison.

**FOR THESE REASONS FLORIDA TAXWATCH  
RECOMMENDS A "YES" VOTE ON AMENDMENT 4.**



# AMENDMENT 5

## TITLE

SUPERMAJORITY VOTE REQUIRED TO IMPOSE, AUTHORIZE, OR RAISE STATE TAXES OR FEES

## PLACED BY

Florida Legislature, HJR 7001 (2018)

## BALLOT SUMMARY

"Prohibits the legislature from imposing, authorizing, or raising a state tax or fee except through legislation approved by a two-thirds vote of each house of the legislature in a bill containing no other subject. This proposal does not authorize a state tax or fee otherwise prohibited by the Constitution and does not apply to fees or taxes imposed or authorized to be imposed by a county, municipality, school board, or special district."

## AMENDING

Article VII, Section 19

## A YES VOTE MEANS

Approval of two-thirds of the membership of both the House and the Senate would be constitutionally required for the Legislature to pass a bill to enact a new tax or fee or increase an existing one. This would require 80 votes in the House and 27 in the Senate. In addition, a bill enacting a new tax or fee, or increasing an existing one could contain no other subject. The law does not apply to local government taxes or fees.

## A NO VOTE MEANS

Current law would not change and the Legislature could continue to enact new taxes or fees, or increase existing ones, with a simple majority vote.



## THE ARGUMENTS

### SUPPORTERS SAY

It should be harder to raise taxes than cut them.

It would ensure there was a broad consensus that new revenue is needed, and that the proposed tax or fee increase is the right way to get it.

History has shown that a supermajority vote threshold is usually achieved when the Florida Legislature raises taxes or fees.

The current revenue limit in the Florida Constitution is too weak to provide any real protection for Florida taxpayers and a supermajority vote requirement would be a simpler more effective taxpayer protection.

In times of a budget shortfall, a supermajority requirement would increase the likelihood that unnecessary spending is addressed before taxpayers are asked to pay more.

### OPPONENTS SAY

It would make it too hard for the Legislature to raise taxes and provide sufficient funding for education and other necessary government services.

Unnecessary exemptions and tax loopholes would become enshrined in law.

Legislators need flexibility to respond to a changing economic environment.

The amendment does not include a provision that would allow for tax increases in times of emergencies.

Florida taxes are already low enough.

The Legislature has cut taxes every year since 2009, even without a supermajority requirement.

## ANALYSIS

The concept of a supermajority vote to raise taxes is not new to Florida. The Constitution already requires a proposed constitutional amendment to create a new state tax or fee to be approved by not fewer than two-thirds of the voters voting in the election. In addition, the Legislature is prohibited from raising the corporate income tax rate above the current rate of 5.5 percent without a three-fifths vote of the membership of each chamber of the Legislature. The Legislature also requires supermajority votes for local governments to raise many of their limited array of tax options. Several local option sales, motor fuel, and tourist development taxes require a supermajority vote of the local governing body (or referendum) to enact. A two-thirds vote of a local governing body is also required to levy a property tax millage rate that exceeds the rolled-back rate and a unanimous vote is required to exceed the rolled-back rate by more than 10 percent. A majority plus one vote is required to increase local business taxes in certain circumstances.

Most states (31) have some form of state revenue, appropriation, and/or tax limitation.<sup>1</sup> This includes 15 states that require a supermajority vote of the Legislature to raise taxes.<sup>2</sup> There are requirements of three-fifths (5 states), two-thirds (7 states), and three-fourths (3 states). There are also two states that require a vote of the people to raise taxes.<sup>3</sup>

1 National Association of State Budget Officers, "Budget Processes in the States," Spring 2015.

2 Florida Legislature, Bill Analysis, HJR 7001, January 9, 2018 and National Conference of State Legislatures, "Supermajority Vote Requirements to Pass the Budget," November 2017

3 One of these states—Missouri—requires a vote of the people for tax increases that exceed 1 percent of state revenue. For smaller tax increases, a simple majority of the Legislature is required.



Florida TaxWatch has been recommending a higher standard to pass tax increases since 1995. Our recommendation has been a 60 percent threshold, which is not as strict as the one proposed in Amendment 5.

History has shown that when revenue increases are needed, the Legislature can muster enough support for super-majority approval. The last major state tax increase was in 2009. In response to the Great Recession and the resulting drop in revenues, the Legislature passed three major tax/fee increases, totaling more than \$2 billion. These were a \$1.00 per-pack tax increase on cigarettes and a 60-cent surcharge on other tobacco products, multiple increases to motor vehicle-related taxes and fees, and multiple court-related fee increases. The Senate voted unanimously for all three bills. There were dissenting votes in the house, but all of these would have passed with a three-fifths requirement. One bill—the motor vehicle tax increases—would have fallen just short of a two-thirds vote.

Another analysis by Florida TaxWatch showed that even back when significant state tax increases were more common, most of them would have passed with a supermajority vote.<sup>4</sup>

Florida TaxWatch's recommended super-majority requirement does not apply to every fee increase—like Amendment 5 does—but mustering enough votes to pass minor fee increases should not be an insurmountable obstacle either. While significant tax increases have been rare in the Legislature's recent history, in virtually every session a few bills pass that create a minor new fee or result in a relatively small

increase in taxes or fees. There have been 10 of these over the last three sessions and all would have passed with a supermajority vote requirement. Half of the bills received unanimous votes in both chambers.

## FISCAL IMPACT

The Revenue Estimating Conference officially adopted a “zero” impact since it is dependent on future legislative action. It would create a new constraint on the Legislature's ability to enact, authorize or increase state taxes and fees. Other research has shown that states with strict supermajority requirements levy taxes at a nearly identical level as other states, on average.<sup>5</sup>

## CONCLUSION

Even though there has not been a major state tax increase since 2009 and the Legislature has instead cut taxes in every session since then, the constitutional imposition of a well-crafted supermajority requirement is still an important taxpayer safeguard. It would ensure that a broad consensus is reached before Floridians are required to contribute more of their hard-earned money to support a bigger state government. A supermajority vote requirement not only protects taxpayers, it can also help avoid a more severe tax or revenue limit that could improperly and imprudently constrain state government (such as voter approval of all taxes).

Florida TaxWatch has recommended a three-fifths standard, but history has shown that the two-thirds requirement in Amendment 5 is certainly attainable if there is a compelling need for new revenue. While it shouldn't overly bind the Legislature in those situations, it would help avoid unnecessary tax hikes or hastily and poorly designed ones.

<sup>4</sup> Florida TaxWatch, *A Supermajority on All Taxes Can Stop the Trend of Governing by Referendum*, March 1995.

<sup>5</sup> Center on Budget and Policy Priorities, “Policy Basics: State Supermajority Rules to Raise Revenues,” February 15, 2018



Florida has experienced such mistakes—such as the sales tax on services, the unitary tax and the “by the drink” alcoholic beverage surcharge. These all caused substantial problems and public backlash, and harmed the perception of Florida's stability, which necessitated their repeal. Further, in times of a budget shortfall, a supermajority requirement would increase the likelihood that unnecessary spending is addressed before taxpayers are asked to pay more.

**FOR THESE REASONS, FLORIDA TAXWATCH  
RECOMMENDS A “YES” VOTE ON AMENDMENT 5.**



# AMENDMENT 6

## TITLE

RIGHTS OF CRIME VICTIMS; JUDGES

## PLACED BY

Constitution Revision Commission

## AMENDING

Amends Article I, Section 16; Amends Article V, Section 8; Creates Article V, Section 21; and Creates a new Section in Article XII

## BALLOT SUMMARY

"Creates constitutional rights for victims of crime; requires courts to facilitate victims' rights; authorizes victims to enforce their rights throughout criminal and juvenile justice processes. Requires judges and hearing officers to independently interpret statutes and rules rather than deferring to government agency's interpretation. Raises mandatory retirement age of state judges from seventy to seventy-five years; deletes authorization for judges to complete term if one-half of term has been served by retirement age."

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**NOTE** *This amendment is a "bundled" amendment, which means that a single "Yes" or "No" vote applies to all components of the amendment. Voters cannot separate the components of the amendment.*

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## A YES VOTE MEANS

**Piece 1:** Victims of crimes and their surviving family members would have constitutional rights that are equal to those already afforded to the accused and convicted.

**Piece 2:** Deference shown to agency interpretations of state statutes or rules would no longer apply in any situation. The courts would determine, on their own, whether interpretations by government agencies comply with state statutes and administrative rules.

**Piece 3:** Judges and justices would be permitted to remain on the bench for (no more than) an additional five years before having to retire.

## A NO VOTE MEANS

**Piece 1:** The specific rights of the victims of crime and surviving family members would not be enumerated in the constitution. This does not mean, however, that victims of crime and surviving family members have no rights. These rights, most of which are included in the proposed amendment, exist currently in Chapter 960, Florida Statutes.

**Piece 2:** In disputes involving the interpretation of a statute or administrative rule, courts will continue to presume the agency's interpretation is valid unless it can be shown that the agency's interpretation is "clearly erroneous."

**Piece 3:** Judges and justices would not be permitted to serve after attaining the age of 70 years, except upon temporary assignment or to complete a term, one-half of which has been served.



## THE ARGUMENTS

### SUPPORTERS SAY

**Piece 1:** Victims of crime and surviving family members are often not treated with the respect and dignity to which they are entitled. Too often, the criminal justice system “revictimizes” victims of crime by focusing on punishment of perpetrators at the expense of not making victims whole. Giving crime victims and surviving family members constitutional rights that are equal to the rights already afforded to those who have been accused or convicted is a rare bipartisan political issue supported by both Republicans and Democrats.

**Piece 2:** The current practice of affording great weight to an agency’s construction or interpretation of a statute, and not overturning that construction or interpretation unless it is clearly erroneous, is a violation of due process of law. The agency’s legal interpretation should be afforded no more or no less weight than those of a private party. Approval will “level the playing field” for litigants going up against government agencies and will return the power of interpreting the law back to the judicial branch.

**Piece 3:** Increased life expectancies permit courts to retain considerable experience and institutional knowledge by extending the mandatory retirement age for judges and justices. The mandatory retirement age of 70 is arbitrary; federal judges are appointed for life, and no other branch of government has an age limit on service. There are currently provisions in place whereby the voters or judicial commissions can remove judges who are unable to perform.

### OPPOSITIONS SAY

**Piece 1:** The amendment’s vague guarantee of privacy for crime victims will result in unintended consequences. For example, the amendment requires that a victim be notified when a defendant or convict is transferred or released; however, it is unclear in the event the victim cannot be reached whether inmates who should be released would be kept behind bars.

Many of the constitutional rights for crime victims and surviving family members established by the proposed amendment already exist under Florida law. No member of the public requested the expansion of crime victims’ rights during the Constitution Revision Commission’s preliminary hearings. The Constitution Revision Commission heard well-founded criticism from public defenders, defense attorneys, and the Florida Police Chiefs’ Association. The American Civil Liberties Union has said that the rights of the accused will be “significantly impaired” by deleting the current constitutional requirement ensuring that nothing interfere with the constitutional rights of the accused.

**Piece 2:** The U.S. Supreme Court has ruled that a court should defer to an agency’s interpretation as long as it is not unreasonable. The burden of proof should be on the litigant to show that the agency’s interpretation of the statute or administrative rule is clearly erroneous.

**Piece 3:** Maintaining the current mandatory retirement age will inject new judges and ideas into the court system. The need to remove older, incompetent judges will be eliminated, and political and judicial crises that arise due to an older justice’s or judge’s death or health issues will be avoided. Maintaining the current mandatory retirement age does not harm the judiciary.



**General:** The “bundling” of separate and unrelated issues into a single amendment unconstitutionally prevents voters from making a simple “yes” or “no” decision on each issue.

## ANALYSIS

**Piece 1:** In 1989, Florida became the first state to amend its constitution to include the rights of crime victims.<sup>1</sup> The Legislature has subsequently supplemented the rights afforded crime victims through the “Victim Rights Act.”<sup>2</sup>

Approval of the proposed ballot measure would expand the constitutional rights of crime victims consistent with provisions contained in what is commonly referred to as “Marsy’s Law,” provisions of which have been adopted in six states. Polls show there is strong interest among Florida voters to enact provisions of Marsy’s Law in the constitution. Almost eight of every 10 voters polled support expanding the rights of crime victims. Approval of the proposed amendment would help to ensure that the rights of crime victims and surviving family members are equal to the rights already afforded to the accused and convicted.

The Constitution Revision Commission acknowledges that most of the provisions are already in statute, but are not followed uniformly throughout the state. Putting these rights in the Constitution, according to the measure’s sponsor, will raise the profile of victims’ rights. It is unclear how this will provide any meaningful benefit to victims of crime.

The text of the amendment states that it is “self-executing,” which means that the Legislature does not have to pass any law implementing the changes and, for

instance, defining the scope of any of the rights now guaranteed to the victim. Nearly all of the language of the amendment will need to be interpreted by judges, which will almost certainly lead to additional delays and inconsistencies in the administration of justice.

Approval of the ballot measure will add to the workload (and expenses) of state attorneys and public defenders. There is a requirement, for example, that victims be consulted in every aspect of their case, including bail hearings and plea bargains. A prosecutor with a heavy caseload who wants to resolve a case through a plea bargain could be thwarted by a victim who wants the case to go to trial. Another provision establishes an arbitrary limit (two years for non-capital cases and five years for capital cases) on the time to complete state-level appeals. The ballot measure raises the potential for numerous conflicts between the enumerated rights of victims and the rights of those who have been accused or convicted.

**Piece 2:** Issues where judicial deference may arise are those that come before judges at every level of the state court system and that come before the administrative law judges who serve in the state Division of Administrative Hearings. This represents literally thousands of cases a year.

The courts have maintained that, if a statute is silent or ambiguous with respect to the precise question facing the agency, then deference should be given to any reasonable agency interpretation.<sup>3</sup> An agency’s interpretation of a statute or administrative rule is entitled to great weight and should not be overturned unless it is clearly erroneous.<sup>4</sup> This appears to conflict with the separation of powers provisions in the

1 Article I, Section 16(b), Florida Constitution.

2 Chapter 960, Florida Statutes.

3 *Chevron U.S.A., Inc. v. Natural Res. Def. Council, Inc.*, 467 U.S. 837 (1984).

4 *Dep’t of Ins. v. Se. Volusia Hosp. Dist.*, 438 So. 2d 815, 820 (Fla. 1983).



constitution, which establish the judicial branch as a co-equal branch of government vested with the sole authority to exercise judicial power, and with the due process provisions, which leave it up to the judicial branch to interpret the meaning of a law.

**Piece 3:** Thirty-two states and the District of Columbia require judges to retire at ages ranging from 70 to 90, with the average being 72. Vermont is the only state that allows a judge to remain on the bench until age 90. The other 31 states and the District of Columbia mandate judges retire sometime in their 70s. Florida and 19 other states mandate judges retire upon reaching age 70.<sup>5</sup>

## FISCAL IMPACT

**Piece 1:** There will be costs associated with the increased workloads resulting from the expanded rights of crime victims and surviving family members; however, the Constitution Revision Commission has determined that the fiscal impacts are “indeterminate.”

**Piece 2:** It is unlikely that eliminating deference to an agency’s interpretation of a statute or administrative rule will have a significant fiscal impact. The Constitution Revision Commission has determined that the fiscal impacts are “indeterminate.”

**Piece 3:** It is reasonable to expect that, by not paying retirement benefits to judges aged 70-75 who are otherwise competent and effective, while new judges are appointed to replace them, the state will save an indeterminate amount of retirement funds.

## CONCLUSION

The bundling of two or more separate issues into a single ballot measure, although potentially confusing to voters, has been upheld by the Florida Supreme Court. This bundling has the potential to require voters to accept constitutional changes they may not like in order to get constitutional changes they do like.

The first bundled provision of Amendment 6 would expand the rights of crime victims which, on its face, sounds desirable. But the provision granting all victims, the definition of which is expanded to include family members, the right to notice and to be present at all proceedings involving the accused will create an administrative logjam. The costs to state and local governments to implement the vague and undefined procedural and compliance requirements will be substantial, and no source of these necessary funds is identified. TaxWatch views the victims’ rights provision a solution in search of a problem. The Legislature has already enacted a comprehensive body of laws that provide virtually the same victim’s rights as does Amendment 6.

The mandatory retirement age for judges and justices, however, is established in the constitution and cannot be changed by action of the legislature. Only the voters can approve this measure, but this cannot be accomplished without approving two measures that TaxWatch firmly believes should NOT be in the Constitution. TaxWatch believes that any positive benefits associated with increasing the mandatory retirement age for judges and justices would be far outweighed by the negative impacts associated with the other two provisions.

**FOR THESE REASONS, FLORIDA TAXWATCH RECOMMENDS A “NO” VOTE ON AMENDMENT 6.**

<sup>5</sup> Retrieved from <http://www.ncsc.org/Newsroom/Background/2010/Mandatory-Retirement.aspx>, June 24, 2018.



# AMENDMENT 7

## TITLE

FIRST RESPONDER AND MILITARY MEMBER SURVIVOR BENEFITS; PUBLIC COLLEGES AND UNIVERSITIES

## PLACED BY

Constitution Revision Commission

## AMENDING

Amends Article IX, Sections 7 and 8;  
Creates a new Section in Article X

## BALLOT SUMMARY

"Creates mandatory payment of education and compensation benefits to qualifying survivors of certain first responders and military members who die performing official duties. Requires supermajority votes by university trustees and state university system board of governors to raise or impose all legislatively authorized fees if law requires approval by those bodies. Establishes existing state college system as constitutional entity; provides governance structure."

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**NOTE** *This amendment is a "bundled" amendment, which means that a single "Yes" or "No" vote applies to all components of the amendment. Voters cannot separate the components of the amendment.*

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## A YES VOTE MEANS

**Piece 1:** Employers will be required to provide death benefits to the surviving spouses of first responders and active members of the military who are killed while engaged in their official duties.

**Piece 2:** A nine-member vote of a public university's Board of Trustees and 12-member vote of the state Board of Governors will be required to increase a fee.

**Piece 3:** The current structure and governance model for the Florida College System will be established in the constitution.

## A NO VOTE MEANS

**Piece 1:** The constitution would remain silent regarding death benefits to first responders or active military personnel. The statutory guarantees would remain in effect for death benefits for law enforcement, correctional, and correctional probation firefighters, and members of the Florida National Guard who are killed in the line of duty.

**Piece 2:** A simple majority vote of a public university's Board of Trustees and the state Board of Governors will be required to increase a fee.

**Piece 3:** The constitution would remain silent regarding the structure and governance model for the Florida College System.



## THE ARGUMENTS

### SUPPORTERS SAY

**Piece 1:** This ballot measure will support and assist families of first responders and military personnel who gave their all to protect and defend Floridians. The death benefits and education waivers will provide educational opportunities for surviving spouses and children to ensure they are able to provide for their families.

### OPPONENTS SAY

**General:** The inclusion of mandatory payment of death benefits and the waiver of certain educational expenses to qualifying survivors of certain first responders and military members who die performing official duties, and the number of votes required to impose a legislatively authorized fee, in the constitution is inappropriate. These provisions can be best addressed through action of the Legislature.

The “bundling” of separate and unrelated issues into a single amendment unconstitutionally prevents voters from making a simple “yes” or “no” decision on each issue.

## ANALYSIS

**Piece 1:** There is no provision in the constitution that guarantees death benefits to first responders or active military personnel. There are, however, provisions in Florida law that guarantee death benefits for law enforcement, correctional officers, correctional probation officers, and firefighters.<sup>1</sup> There are no statutory guarantees of benefits for emergency medical technicians, paramedics, or active duty military members. Members of the Florida National Guard

who are killed while on active state duty are entitled to benefits in line with those provided to law enforcement officers killed in the line of duty.<sup>2</sup>

The ballot measure would provide a constitutional guarantee of benefits for a firefighter; paramedic; emergency medical technician; law enforcement, correctional, or correctional probation officer; active duty member of the Florida National Guard or United States Armed Forces who is killed while engaged in the performance of their official duties. The proposed amendment also provides for the waiver of certain educational expenses that the child or spouse of the deceased first responder or military member incurs while obtaining a career certificate, an undergraduate education, or a postgraduate education.

**Piece 2:** The Boards of Trustees of universities in the State University System have been delegated authority to impose a number of fees, including activity and service fees, health fees, technology fees, and fees for applications, identification cards, traffic violations, etc. Currently, the imposition of a new or increased fee (excluding tuition) is subject to the favorable vote of a simple majority of the 13-member Board of Trustees. Fees that are subject to approval by the Board of Governors must receive a favorable vote by a simple majority of the Board of Governors as well. The proposed amendment would require any change in fees for a state university to be approved by an affirmative vote of at least nine members of the university Board of Trustees and an affirmative vote of at least 12 members of the Board of Governors before the change could become effective.

<sup>1</sup> Subsection 112.19, Florida Statutes.

<sup>2</sup> Subsection 250.34, Florida Statutes.



**Piece 3:** The ballot measure codifies in the constitution that there is to be a single college system comprised of all public community and state colleges. The purpose of the Florida College System (FCS) is revised to emphasize its responsibility for creating articulated pathways for baccalaureate degrees and responding to the workforce needs of the surrounding communities.

FCS institutions will be governed by a local board of trustees who: are comprised of members residing in the service delivery area of the college; are appointed by the governor and confirmed by the senate; and serve staggered terms. Responsibility for supervising the FCS is vested in the State Board of Education.

## FISCAL IMPACT

The ballot measure is silent on the amount and source of funding for benefits paid under the proposed amendment; therefore, the fiscal impacts are indeterminate. No additional state resources are anticipated to implement the college and university system measures.

## CONCLUSION

The bundling of two or more separate issues into a single ballot measure, although potentially confusing to voters, has been upheld by the Florida Supreme Court. This bundling has the potential to require voters to accept constitutional changes they may not like in order to get constitutional changes they do like.

TaxWatch testified before the Constitution Revision Commission's Education Committee in support of a proposed amendment (albeit it a different one) that would have codified the Florida College System and its governance in the constitution. There are currently provisions in the constitution that codify the state Pre-K through 12 system and how it is governed, and

the state university system and how it is governed, so including similar provisions to make clear the role of Florida's community and state colleges in Florida's system of public education makes a great deal of sense.

What makes less sense is including in the constitution guarantees of death benefits for first responders or active military personnel, education waivers, and the number of votes required to establish or increase university fees. Matters such as these are ordinarily handled through the legislative process and should be excluded from the constitution. The constitution loses much of its significance as the foundational instrument of government when the process of constitutional amendment or revision is used as a substitute for legislation. Incorporating what is essentially a legislative matter into the constitution undercuts the legislative process and limits legislative responsibility and discretion. Once incorporated, it is extremely difficult to remove what is essentially a statutory provision from the constitution.

Overall, however, TaxWatch believes the positive benefits of codifying the Florida College System and its governance in the constitution outweigh the negative impacts of including the other two provisions.

**FOR THESE REASONS, TAXWATCH RECOMMENDS  
A "YES" VOTE ON AMENDMENT 7.**



# AMENDMENT 8

## TITLE

SCHOOL BOARD TERM LIMITS AND DUTIES; PUBLIC SCHOOLS

AMENDMENT 8 WAS REMOVED FROM THE BALLOT BY THE FLORIDA SUPREME COURT ON THE GROUNDS THAT THE BALLOT TITLE AND SUMMARY WERE "MISLEADING."



# AMENDMENT 9

## TITLE

PROHIBITS OFFSHORE OIL AND GAS DRILLING; PROHIBITS VAPING IN ENCLOSED INDOOR WORKPLACES

## PLACED BY

Constitution Revision Commission

## AMENDING

Amends Article II, Section 7; Amends Article X, Section 20

## BALLOT SUMMARY

"Prohibits drilling for the exploration or extraction of oil and natural gas beneath all state-owned waters between the mean high water line and the state's outermost territorial boundaries. Adds use of vapor-generating electronic devices to current prohibition of tobacco smoking in enclosed indoor workplaces with exceptions; permits more restrictive local ordinances."

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**NOTE** *This amendment is a "bundled" amendment, which means that a single "Yes" or "No" vote applies to all components of the amendment. Voters cannot separate the components of the amendment.*

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## A YES VOTE MEANS

**Piece 1:** Drilling for exploration or extraction of oil or natural gas will be prohibited on lands beneath all state waters which have not been alienated and that lie between the mean high-water line and the outermost boundaries of the state's territorial seas.

**Piece 2:** Vapor-generating electronic devices will be added to current prohibition of tobacco smoking in enclosed indoor workplaces, with certain specified exceptions. The practice of vaping will be treated the same as smoking regular cigarettes.

## A NO VOTE MEANS

**Piece 1:** There would be no constitutional safeguard against offshore drilling for oil and natural gas on lands beneath all state waters. Any legislative prohibition could easily be lifted.

**Piece 2:** Floridians will continue to be subjected to second-hand vapor when they attend movies or restaurants and other public places.



## THE ARGUMENTS

### SUPPORTERS SAY

**Piece 1:** The prohibition against offshore drilling and exploration in our state waters sends a message to the federal government that Florida’s tourism based economies and oil “do not mix” and reflects the economic value of Florida’s natural resources.

**Piece 2:** Health experts warn that nicotine ingested while “vaping” can increase the risk of heart disease. Some brands of vapor-generating electronic devices contain formaldehyde, diacetyl, and high levels of toxic metals.

### OPPONENTS SAY

**Piece 1:** Domestic oil and gas development is a key driver of Florida’s economy and supports many high-paying jobs and investments. Offshore oil and gas exploration should remain an option, at least in part to help meet energy needs. Advances in technology continue to make drilling less environmentally obtrusive.

**Piece 2:** Linking offshore drilling with electronic cigarette use just doesn’t make sense. Voters should be able to make decisions on public health and its economic future separately. Vapor-generating electronic devices, such as e-cigarettes, offer smokers an effective way to consume nicotine while giving up the harmful chemicals found in tobacco products.

**General:** The “bundling” of separate and unrelated issues into a single amendment unconstitutionally prevents voters from making a simple “yes” or “no” decision on each issue.

## ANALYSIS

**Piece 1:** It is the policy of the state to conserve and protect its natural resources and scenic beauty.<sup>1</sup> Oil and gas drilling in Florida’s territorial waters is regulated by the Florida Department of Environmental Regulation. In 2006, Congress approved a federal moratorium that bans drilling along almost all of the eastern Gulf of Mexico, an area which extends 125 miles off Florida’s west coast. This moratorium also contains a well-control rule that was adopted in the aftermath of the Deepwater Horizon disaster. An executive order signed by the President of the United States in April calls for these regulations to be reconsidered.<sup>2</sup>

The ballot measure prohibits oil and gas drilling for exploration or extraction in and beneath all state waters which have not been alienated and that lie between the mean high-water line and the outermost boundaries of the state’s territorial seas. The transportation of oil and gas products produced outside those waters is unaffected.

**Piece 2:** In 2002, the constitution was amended to prohibit tobacco smoking in enclosed indoor work places. Florida law<sup>3</sup> currently permits indoor smoking of tobacco in private residences, retail tobacco shops, designated smoking guest rooms, stand-alone bars, rooms designated for smoking cessation and medical or scientific research, and customs smoking rooms in airport in-transit lounges.

The current prohibition against tobacco smoking in enclosed indoor work places was enacted before vapor-generating electronic devices were marketed in

<sup>1</sup> Article II, Section 7, Florida Constitution.

<sup>2</sup> Constitution Revision Commission, Declaration of Rights Committee Proposal Analysis, Proposal CS/91, January 29, 2018.

<sup>3</sup> Subsection 386.2405, Florida Statutes.



the U.S. A 2016 study of the health risks from passive exposure to such vapor concluded that “the absolute impact from second-hand exposure to tobacco vapor has the potential to lead to adverse health effects.”<sup>4</sup>

Other studies have shown that probable cancer-causing chemicals, such as formaldehyde and acetaldehyde, are measurable in some e-cigarette vapor.<sup>5</sup>

The ballot measure prohibits vapor-generating electronic devices in enclosed indoor workplaces, just as smoking tobacco is currently prohibited. Retail locations where vapor-generating electronic devices are sold are added to the list of indoor locations where the use of vapor-generating electronic devices is permitted.

## FISCAL IMPACT

The Department of Environmental Protection does not anticipate any financial impacts associated with the prohibition against offshore drilling for oil and natural gas. The Department of Business and Professional Regulation enforces compliance with the prohibition against indoor tobacco smoking consistent with Florida law. Any financial impact to state or local government is expected to be minimal.<sup>6</sup>

## CONCLUSION

The bundling of two or more separate issues into a single ballot measure, although potentially confusing to voters, has been upheld by the Florida Supreme Court. This bundling has the potential to require voters to accept constitutional changes they may not like in order to get constitutional changes they do like.

The constitution loses much of its significance as the foundational instrument of government when the process of constitutional amendment or revision is used as a substitute for legislation. Incorporating what is essentially a legislative matter into the constitution undercuts the legislative process and limits legislative responsibility and discretion. Once incorporated, it is extremely difficult to remove what is essentially a statutory provision from the constitution.

The contents of the Florida Constitution should be limited to matters that are essential or fundamental. Matters that are ordinarily handled through the legislative process, such as where people can and cannot smoke tobacco products, should be excluded from the Constitution.

**FOR THESE REASONS, FLORIDA TAXWATCH  
RECOMMENDS A “NO” VOTE ON AMENDMENT 9.**

4 Hess, Isabel MR., Lachireddy, K., & Capon, A., “A Systematic Review of the Health Risks From Passive Exposure to Electronic Cigarette Vapor,” 26 PUBLIC HEALTH RES. PRACT. 2 (2016).

5 U.S. National Library of Medicine, National Institutes of Health, “Safety Evaluation and Risk Assessment of Electronic Cigarettes as Tobacco Cigarette Substitutes: a Systematic Review,” Ther Adv Drug Saf., 2014.

6 Constitution Revision Commission General Provisions Committee Proposal Analysis, P 65, November 22, 2017.



# AMENDMENT 10

## TITLE

STATE AND LOCAL GOVERNMENT STRUCTURE AND OPERATION

## PLACED BY

Constitution Revision Commission

## AMENDING

Amends Article III, Section 3;  
Amends Article IV, Sections 4 and 11;  
Amends Article VIII, Sections 1 and 6

## BALLOT SUMMARY

"Requires legislature to retain department of veterans' affairs. Ensures election of sheriffs, property appraisers, supervisors of elections, tax collectors, and clerks of court in all counties; removes county charters' ability to abolish, change term, transfer duties, or eliminate election of these offices. Changes annual legislative session commencement date in even-numbered years from March to January; removes legislature's authorization to fix another date. Creates office of domestic security and counterterrorism within department of law enforcement."

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**NOTE** *This amendment is a "bundled" amendment, which means that a single "Yes" or "No" vote applies to all components of the amendment. Voters cannot separate the components of the amendment.*

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## A YES VOTE MEANS

**Piece 1:** The Legislature will convene its regular session in January of every even-numbered year.

**Piece 2:** A new Office of Domestic Security and Counterterrorism would be created within the Florida Department of Law Enforcement.

**Piece 3:** The Legislature would be required (instead of authorized) to establish a Department of Veterans' Affairs.

**Piece 4:** Every county would be required to elect their sheriffs, property appraisers, supervisors of elections, tax collectors, and clerks of court, and could not abolish or alter the duties of these officials.

## A NO VOTE MEANS

**Piece 1:** The dates on which the Legislature convenes its regular session would be left up to the Legislature in even-numbered years.

**Piece 2:** There would be no constitutional requirement for an Office of Domestic Security and Counterterrorism.

**Piece 3:** The Legislature would be authorized (instead of required) to establish a Department of Veterans' Affairs.

**Piece 4:** The process through which counties choose their sheriffs, property appraisers, supervisors of elections, tax collectors, and clerks of court would remain unchanged.



## THE ARGUMENTS

### SUPPORTERS SAY

**Piece 1:** Legislators are prohibited from raising money for elections during the official dates of Legislative Session, and in election years, this date change would allow for campaigns to begin several months earlier. Additionally, many legislators have children, and commencing the regular session in January provides opportunity for legislators to enjoy spring break with their families.

**Piece 2:** A constitutional requirement for an Office of Domestic Security and Counterterrorism reflects a serious, long-term commitment to domestic security and to keeping Florida residents and visitors less vulnerable to domestic or international threats.

**Piece 3:** A constitutional requirement for a Department of Veterans' Affairs reflects a serious, long-term commitment to meeting the needs of veterans.

**Piece 4:** The voters will always have the right to vote for their independent constitutional county officers and hold them accountable at election time.

### OPPONENTS SAY

**Piece 1:** January-February sessions are too early for economic forecasts needed to properly shape the state budget.

**Pieces 2 & 3:** Most of what would be gained from including the Department of Veterans' Affairs and the FDLE Office of Domestic Security and Counterterrorism in the constitution already exists in Florida law.

**Piece 4:** The ballot measure would eliminate the constitutional right of local citizens to govern their

sheriff, tax collector, property appraiser, supervisor of elections, and the management of county finances.

**General:** The “bundling” of separate and unrelated issues into a single amendment unconstitutionally prevents voters from making a simple “yes” or “no” decision on each issue.

## ANALYSIS

**Piece 1:** The constitution prescribes the dates on which the Legislature convenes its 60-day regular session.<sup>1</sup> In odd-numbered years, the regular session commences on the first Tuesday after the first Monday in March. In even-numbered years, the regular session commences on the on the first Tuesday after the first Monday in March, unless a different date has been established by law. Most recently, the 2016 Legislature set January 9, 2018, as the date to convene the 2018 regular session. That law establishing this date<sup>2</sup> applies only to the 2018 regular session, but if the Amendment does not pass, the Legislature may still set the date of Regular Session in even-numbered years as they see fit in the future.

The economy of the Tallahassee area depends heavily on legislature-related commerce. Tallahassee hotel and restaurant owners consider the early legislative session as a “mixed bag.” Although the early session stimulates business activity earlier in the new year, there is a corresponding reduction in commerce during the period the Legislature would have normally met.

Overall, by not switching the dates of the regular session every other year, the certainty and predictability helps business owners better plan their business activities.

<sup>1</sup> Article III, Subsection 3(b), Florida Constitution.

<sup>2</sup> Chapter 2016-218, Laws of Florida.



**Piece 2:** FDLE is designated in Florida law as the lead agency to coordinate counterterrorism efforts, working with myriad state, local and federal agencies involved in the preparation against, or response to, acts of terrorism.<sup>3</sup> FDLE's Executive Director (or designee) serves as the Chief of Domestic Security. FDLE operates a Regional Domestic Security Task Force (RDSTF) in each of its seven regional operations centers. The ballot measure, if approved, would establish in the constitution FDLE's responsibility as the lead counterterrorism and domestic security. FDLE's specific duties and responsibilities would be established in Florida law by the Legislature.

**Piece 3:** Section 20.37, Florida Statutes, establishes Florida Department of Veterans Affairs (FDVA) and designates the Governor and Cabinet as the head of FDVA. Section 20.37, Florida Statutes, also provides that the executive director shall be appointed by the Governor with the approval of three members of the Cabinet and subject to confirmation by the Senate. Responsibilities and duties of FDVA are provided in Chapter 292, Florida Statutes.<sup>4</sup> The ballot measure amends the constitution to "require" rather than "authorize" the Legislature to provide for the FDVA and prescribe its duties by general law.

**Piece 4:** The Florida Constitution creates five specific county officers: sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court. Each of these officers are elected separately by the voters of the county for four-year terms, and their duties are prescribed in Florida law. The Florida Constitution permits charter counties (consistent with their charter) to abolish one or all of these

constitutional offices; transfer the powers to another department of the county government; or provide for a different manner of selecting any of these officers.<sup>5</sup>

Eight charter counties (Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia) have changed the manner of selection of at least one of the five constitutional officers or restructured or abolished at least one of the five constitutional offices and transferred their duties to another county office.<sup>6</sup> The ballot measure, if approved, would require these eight charter counties to amend their charters to: (1) reflect that all constitutionally prescribed county officers (sheriff, tax collector, property appraiser, supervisor of elections, and clerk of circuit court) be elected by the voters of that county, as was originally prescribed before the authorization of county charters; and (2) prohibit counties from abolishing, transferring the duties of, or establishing any alternate method of selection for these county constitutional officers. If adopted, the ballot measure would have no impact on non-charter counties or those charter counties that retained the constitutional offices without any changes to its selection or authority.

## FISCAL IMPACT

The constitutional requirements to change the date on which the Legislature convenes in even-numbered years from March to January, and to establish an Office of Domestic Security and Counterterrorism and a Department of Veterans' Affairs, are not expected to have any significant fiscal impact. The impact of requiring constitutional officers to be elected will be confined to the charter counties who have altered their constitutional officers. The proposal would require

<sup>3</sup> Section 943.03101, Florida Statutes.

<sup>4</sup> Constitution Revision Commission Executive Committee Proposal Analysis, Proposal CS/P 9, December 4, 2017.

<sup>5</sup> Article VIII, Subsection 1(d), Florida Constitution.

<sup>6</sup> Constitution Revision Commission Ethics and Elections Committee Proposal Analysis, Proposal P 13, November 21, 2017.



the affected counties to expend funds to (a) provide for election of appointed constitutional officers, and (b) reorganize their governments to accommodate the officer's office and responsibilities. The effect will be heavily dependent on the reorganization efforts at the county level and could vary greatly by county. The fiscal impact is indeterminate.

## CONCLUSION

The bundling of two or more separate issues into a single ballot measure, although potentially confusing to voters, has been upheld by the Florida Supreme Court. This bundling has the potential to require voters to accept constitutional changes they may not like in order to get constitutional changes they do like.

Everything that could be achieved by establishing an Office of Domestic Security and Counterterrorism and a Department of Veterans' Affairs in the constitution can be achieved by action of the Legislature, most of which already has been established. The Legislature currently has authority in the constitution to establish early dates for the regular legislative session. The contents of the Florida Constitution should be limited to matters that are essential or fundamental. Matters that are ordinarily handled through the legislative process, such as enumerating the specific duties of state agencies, should be excluded from the Constitution.

Amendment 10 restores the rights of voters to elect their constitutional officers and prohibits a county charter from including provisions that would permit the selection of constitutional officers in a manner other than by election. TaxWatch believes this provision will restore power to the voters and make the offices of sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the court more accountable and their actions more transparent.

TaxWatch believes that the positive benefits associated with restoring the rights of voters to elect their constitutional officers far outweighs other considerations.

**FOR THESE REASONS, TAXWATCH RECOMMENDS A "YES" VOTE ON AMENDMENT 10.**



# AMENDMENT 11

## TITLE

PROPERTY RIGHTS; REMOVAL OF OBSOLETE PROVISION; CRIMINAL STATUTES

## PLACED BY

Constitution Revision Commission

## BALLOT SUMMARY

"Removes discriminatory language related to real property rights.

Removes obsolete language repealed by voters. Deletes provision that amendment of a criminal statute will not affect prosecution or penalties for a crime committed before the amendment; retains current provision allowing prosecution of a crime committed before the repeal of a criminal statute."

## AMENDING

Amends Article I, Section 2; Amends Article X, Sections 9 and 19

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**NOTE** *This amendment is a "bundled" amendment, which means that a single "Yes" or "No" vote applies to all components of the amendment. Voters cannot separate the components of the amendment.*

---

## A YES VOTE MEANS

**Piece 1:** Language authorizing the Legislature to regulate or prohibit the ability of foreign-born persons ineligible for citizenship to own, inherit, dispose of, and possess property would be deleted from the constitution.

**Piece 2:** The Legislature would be permitted to apply reduced sentencing requirements and other criminal law changes retroactively to people who committed crimes before the new changes went into effect.

**Piece 3:** Obsolete language regarding high-speed rail that was repealed in 2004 would be deleted from the constitution.

## A NO VOTE MEANS

**Piece 1:** Language authorizing the Legislature to regulate or prohibit the ability of foreign-born persons ineligible for citizenship to own, inherit, dispose of, and possess property would remain in the constitution.

**Piece 2:** The Legislature would not be permitted to apply reduced sentencing requirements and other criminal law changes retroactively to people who committed crimes before the new changes went into effect.

**Piece 3:** Obsolete language regarding high-speed rail that was repealed in 2004 would remain in the constitution.



## THE ARGUMENTS

### SUPPORTERS SAY

**Pieces 1 & 3:** These provisions are obsolete and they should be removed from the constitution.

**Piece 2:** Florida's prison population is among the highest per capita in the nation, and is still growing. This amendment would help to reverse this trend, and save taxpayer dollars on incarceration while freeing up resources that could be used for re-entry and substance abuse programs.

### OPPONENTS SAY

**General:** The “bundling” of separate and unrelated issues into a single amendment unconstitutionally prevents voters from making a simple “yes” or “no” decision on each issue.

## ANALYSIS

**Pieces 1 & 3:** The provisions in the constitution that establish property rights include a carve out that authorizes the legislature to regulate or prohibit the rights of foreign-born persons not eligible for citizenship to own, inherit, dispose of, or possess real property. In 2007, staff of the Florida Senate Judiciary Committee conducted a review of Florida statutes adopted since 1847, and found that no statutes had been enacted by the Florida Legislature to regulate or prohibit the property rights of foreign-born persons.<sup>1</sup> A proposal to repeal this provision was previously submitted to voters in the 2008 General Election; however, the proposed repeal failed.

**Piece 2:** The constitution includes a provision whereby the repeal or amendment of a criminal statute does

not affect prosecution or punishment for a crime that occurred before the repeal or amendment. Only three states (Florida, New Mexico, and Oklahoma) have this type of provision in their constitution; however, Florida is the only state in which amendments to criminal statutes do not affect prosecution or punishment for a crime that occurred before the amendment. This prohibits the Legislature from applying reduced sentencing requirements and other criminal law changes retroactively to people who committed crimes before the new changes went into effect.

The ballot measure, if approved, would not affect any legislative efforts to increase criminal sentencing or toughen criminal penalties, since federal law prohibits expanded sentencing laws from being applied retroactively to someone who already has committed the crime. The ballot measure, if approved, would permit the Legislature to retroactively apply new sentencing guidelines to prisoners currently serving time in prison, which could allow earlier release for some inmates and reduce costs to the state.

In 2000, a majority of Florida voters approved a ballot initiative that would provide for the development of a high-speed system linking major urbanized areas. Four years later, voters approved an initiative to repeal this provision. Although repealed, the obsolete language has remained in the constitution. The ballot measure, if approved, would remove the obsolete language.

### FISCAL IMPACT

Permitting the Legislature to retroactively apply new sentencing guidelines to prisoners currently serving time in prison could allow earlier release for some inmates and reduce costs to the state. The fiscal impact is indeterminate.

<sup>1</sup> Constitution Revision Commission Declaration of Rights Committee Proposal Analysis, CS/P 3, December 20, 2017.



## CONCLUSION

The bundling of two or more separate issues into a single ballot measure, although potentially confusing to voters, has been upheld by the Florida Supreme Court. This bundling has the potential to require voters to accept constitutional changes they may not like in order to get constitutional changes they do like.

Two of the issues bundled in Amendment 11 would repeal the prohibition on foreign-born persons ineligible for citizenship from property ownership and remove obsolete language regarding high-speed rail, both of which are desirable. TaxWatch supports the third issue, which would permit the retroactive application of changes in criminal laws to the punishment of previously committed crimes. Florida is the last state in the nation to prohibit the retroactive application of criminal statutes. If the Legislature lowers the punishment for a crime, defendants who have been charged with that crime and are still in the process should receive the lower sentence of the new law rather than the law that was in place when the crime occurred. Taxpayers will benefit significantly from the reduced criminal justice system costs.

**FOR THESE REASONS, FLORIDA TAXWATCH  
RECOMMENDS A "YES" VOTE ON AMENDMENT 11.**



# AMENDMENT 12

## TITLE

LOBBYING AND ABUSE OF OFFICE BY PUBLIC OFFICERS

## PLACED BY

Constitution Revision Commission

## AMENDING

Amends Article II, Section 8; Amends Article V, Section 13; Creates a new Section in Article XII

## BALLOT SUMMARY

"Expands current restrictions on lobbying for compensation by former public officers; creates restrictions on lobbying for compensation by currently serving public officers; provides exceptions; prohibits certain abuses of public office for personal benefit."

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**NOTE** *This amendment is a "bundled" amendment, which means that a single "Yes" or "No" vote applies to all components of the amendment. Voters cannot separate the components of the amendment.*

---

## A YES VOTE MEANS

**Piece 1:** Public officials would be prohibited from lobbying for compensation during their term in office and for six years after leaving office.

**Piece 2:** Public officials are prohibited from using their office to obtain a disproportionate benefit.

## A NO VOTE MEANS

**Piece 1:** Public officials would be prohibited from lobbying for compensation during their term in office and for two years after leaving office.



## THE ARGUMENTS

### SUPPORTERS SAY

**Piece 1 & 2:** The ballot measure establishes stronger ethics standards for public officials, prohibiting them from using their offices “to obtain a disproportionate benefit” for themselves, their families or their businesses.

### OPPONENTS SAY

**Piece 1 & 2:** The lobbying profession should not be regulated through the constitution. Approval of the ballot measure will likely discourage some otherwise good people from running for office or accepting appointments to office.

**General:** The “bundling” of separate and unrelated issues into a single amendment unconstitutionally prevents voters from making a simple “yes” or “no” decision on each issue.

## ANALYSIS

**Piece 1:** Under the proposal, state lawmakers and statewide elected officials would not be able to lobby the Legislature or any state agency for six years after they leave office. State agency heads would not be able to lobby the Legislature, the governor’s office or their former agencies for the six-year period. Local government officials, including county commissioners, school board members and city commissioners, would be banned for six years from lobbying their former governments. Judges would be precluded from lobbying the Legislature or the executive branch of state government for six years after they leave office. The ballot measure would also prohibit state and local elected officials from lobbying other governmental

agencies, (including the federal government) for compensation while in office. The six-year ban would not apply to current office holders.

According to the National Conference of State Legislatures, ethics laws in all but nine states set mandatory waiting periods before a legislator may register as a lobbyist or engage in lobbying activities. None exceeds two years.<sup>1</sup> If the ballot measure is approved, Florida would have the strictest lobbying ban in the country.

**Piece 2:** In addition to the lobbying ban, the ballot measure prohibits public officials from using their offices to obtain a “disproportionate benefit” for themselves, their families or their business interests. The term “disproportionate benefit” is undefined and it would be left to the Legislature or Florida Commission on Ethics to define what that term means.

### FISCAL IMPACT

To the extent that the change made by this proposal resulted in greater or fewer reported ethics complaints than is currently the case, there could be an indeterminate fiscal impact based on the related change in the workload of the Florida Commission on Ethics.

There may be an indeterminate negative fiscal impact to legislators and other public officers who would be affected by the changes made by this proposal. This could be offset by an indeterminate positive fiscal impact for those personally representing another person or entity for compensation before a government body or agency who in essence replace those who are prohibited from doing so under this proposal.<sup>2</sup>

<sup>1</sup> <http://www.ncsl.org/research/ethics/50-state-table-revolving-door-prohibitions.aspx>, retrieved July 3, 2018.

<sup>2</sup> Constitution Revision Commission General Provisions Committee Proposal Analysis, CS/P 39, January 29, 2018.



## CONCLUSION

The bundling of two or more separate issues into a single ballot measure, although potentially confusing to voters, has been upheld by the Florida Supreme Court. This bundling has the potential to require voters to accept constitutional changes they may not like in order to get constitutional changes they do like.

The constitution loses much of its significance as the foundational instrument of government when the process of constitutional amendment or revision is used as a substitute for legislation. Incorporating what is essentially a legislative matter into the constitution undercuts the legislative process and limits the area of legislative responsibility and discretion. Once incorporated, it is extremely difficult to remove what is essentially a statutory provision from the constitution.

The contents of the Florida Constitution should be limited to matters that are essential or fundamental. Matters that are ordinarily handled through the legislative process, such as the regulation of the lobbying profession, should be excluded from the Constitution.

**FOR THESE REASONS, FLORIDA TAXWATCH  
RECOMMENDS A "NO" VOTE ON AMENDMENT 12.**



# AMENDMENT 13

## TITLE

ENDS DOG RACING

## PLACED BY

Constitution Revision Commission

## BALLOT SUMMARY

"Phases out commercial dog racing in connection with wagering by 2020. Other gaming activities are not affected."

## AMENDING

Creates new sections in Articles X and XII

## A YES VOTE MEANS

Beginning January 1, 2021, pari-mutuel facilities would be prohibited from racing greyhounds or any other dogs for wagering, and wagering on the outcome of live dog races would also be prohibited. The greyhound pari-mutuel permit holder would still be able to operate a cardroom or (if the permit holder has a slot machine license) operate slot machines.

## A NO VOTE MEANS

Greyhound racing and wagering on the outcome of live dog races would remain permissible.



## THE ARGUMENTS

### SUPPORTERS SAY

Animal rights advocates say that the greyhound racing industry's treatment of the dogs is cruel and inhumane, citing hundreds of greyhound deaths in Florida and the banning of commercial greyhound racing in 40 states. Proponents say that the greyhound racing industry is in decline, as evidenced by declining tax revenues. Proponents assert that the kennel clubs make their money through the operation of cardrooms, and that the state law<sup>1</sup> that allows dog tracks to operate cardrooms as long as they offer dog races perpetuates an activity that would otherwise cease to exist.

### OPponents SAY

Opponents say the greyhounds are treated well and that greyhound racing fully complies with American Veterinary Medical Association guidelines governing the housing, feeding and treatment of the dogs. Some have expressed concern that there are not enough adoption programs to take in the 8,000 or more racing greyhounds, many of which will have to be euthanized as a result. Opponents cite the projected loss of tax revenue and fee revenue associated with greyhound pari-mutuel permit holders if racing is banned.

Opponents assert that a ban on dog racing would just lead to the expansion of other types of gambling.

## ANALYSIS

Florida is the leader in greyhound racing in the United States with 19 permit holders operating at 12 tracks throughout the state. A review of historical pari-mutuel activity from 2008 to 2017 shows a steady decline in the total handle<sup>2</sup> from greyhound wagering. During the

2007-08 fiscal year, the total handle from greyhound races was \$406.3 million.<sup>3</sup> By the end of the 2016-17 fiscal year, the total handle had declined to \$226.5 million.<sup>4</sup>

A similar decline is shown in the total amount of state tax revenue generated from greyhound races. During the 2007-08 fiscal year, \$10.5 million in state tax revenue was generated from greyhound races.<sup>5</sup> By the end of the 2016-17 fiscal year, the total amount of state tax revenue generated from greyhound races had declined to \$2.2 million.<sup>6</sup>

Cardroom activity at greyhound racing facilities, on the other hand, has shown a steady increase over the same period. During the 2007-08 fiscal year, cardrooms at greyhound permit holders generated \$7.2 million in state tax revenue.<sup>7</sup> By the end of the 2016-17 fiscal year, the total amount of state tax revenue generated from cardrooms at greyhound permit holders had increased to \$12.2 million.<sup>8</sup>

Absent some extraordinary measure, there is every reason to believe the decline of greyhound industry witnessed over the past 10 years will continue.

Decoupling the operation of cardrooms from the requirement to conduct live racing would allow the pari-mutuel permit holders to focus on their cardroom operations and discontinue greyhound racing. This can be done by action of the legislature. Previous decoupling efforts by the legislature have failed, not

1 Section 849.086, Florida Statutes.

2 The total amount of money wagered over a specific period of time.

3 Florida Department of Business and Professional Regulation, "Division of Pari-Mutuel Wagering 77th Annual Report Fiscal Year 2007-2008."

4 Florida Department of Business and Professional Regulation, "Division of Pari-Mutuel Wagering 86th Annual Report Fiscal Year 2016-2017."

5 Florida Department of Business and Professional Regulation, "Division of Pari-Mutuel Wagering 77th Annual Report Fiscal Year 2007-2008."

6 Florida Department of Business and Professional Regulation, "Division of Pari-Mutuel Wagering 86th Annual Report Fiscal Year 2016-2017."

7 Florida Department of Business and Professional Regulation, "Division of Pari-Mutuel Wagering 77th Annual Report Fiscal Year 2007-2008."

8 Florida Department of Business and Professional Regulation, "Division of Pari-Mutuel Wagering 86th Annual Report Fiscal Year 2016-2017."



from opposition by the greyhound racing industry, but from opposition by those that fear another form of gambling will take the place of greyhound racing.

## FISCAL IMPACT

The Department of Business and Professional Regulation (DBPR) projects a loss of tax and fee revenue and fee of approximately \$1.1 million in fiscal year 2019-2020, and approximately \$1.3 million in fiscal year 2020-2021. A portion of this projected loss may be mitigated if patrons of greyhound wagering move to wagering on horse racing or jai alai.<sup>9</sup>

Prize money from winning tickets that goes unclaimed for one year after the date the pari-mutuel ticket was issued become the property of the state. These moneys are deposited into the State School Fund to be used for the support and maintenance of public schools. The DBPR projects an annual decrease of approximately \$400,000 from unclaimed prize money associated with greyhound racing.<sup>10</sup>

The DBPR projects that the prohibition of wagering on greyhound or dog racing may result in a reduction of approximately \$325,000 to \$400,000 currently associated with the agency's licensing and sample collection responsibilities at greyhound permitholder facilities.<sup>11</sup>

## CONCLUSION

The constitution loses much of its significance as the foundational instrument of government when the process of constitutional amendment or revision is used as a substitute for legislation. Incorporating what is essentially a legislative matter into the constitution undercuts the legislative process and limits the area of legislative responsibility and discretion. Once incorporated, it is extremely difficult to remove what is essentially a statutory provision from the constitution.

The contents of the Florida Constitution should be limited to matters that are essential or fundamental. Matters that are ordinarily handled through the legislative process, such as the banning of greyhound racing, should be excluded from the Constitution.

**FOR THESE REASONS, FLORIDA TAXWATCH RECOMMENDS A "NO" VOTE ON AMENDMENT 13.**

<sup>9</sup> Constitution Revision Committee, Executive Committee Proposal Analysis, Proposal # CS/P 67, January 31, 2018.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.



# TAKE ME WITH YOU!

BALLOT #	TITLE	TAXWATCH REC.	MY VOTE
1	INCREASED HOMESTEAD PROPERTY TAX EXEMPTION	NO	
NOTES:			
2	LIMITATIONS ON PROPERTY TAX ASSESSMENTS	YES	
NOTES:			
3	VOTER CONTROL OF GAMBLING IN FLORIDA	NO	
NOTES:			
4	VOTING RESTORATION AMENDMENT	YES	
NOTES:			
5	SUPERMAJORITY VOTE REQUIRED TO IMPOSE, AUTHORIZE, OR RAISE STATE TAXES OR FEES	YES	
NOTES:			
6	RIGHTS OF CRIME VICTIMS; JUDGES	NO	
NOTES:			
7	FIRST RESPONDER & MILITARY MEMBER SURVIVOR BENEFITS; PUBLIC COLLEGES & UNIVERSITIES	YES	
NOTES:			
9	PROHIBITS OFFSHORE OIL & GAS DRILLING; PROHIBITS VAPING IN ENCLOSED INDOOR WORKPLACES	NO	
NOTES:			
10	STATE AND LOCAL GOVERNMENT STRUCTURE AND OPERATION	YES	
NOTES:			
11	PROPERTY RIGHTS; REMOVAL OF OBSOLETE PROVISION; CRIMINAL STATUTES	YES	
NOTES:			
12	LOBBYING AND ABUSE OF OFFICE BY PUBLIC OFFICERS	NO	
NOTES:			
13	ENDS DOG RACING	NO	
NOTES:			

## SEPTEMBER 2018

As an independent, nonpartisan, nonprofit taxpayer research institute and government watchdog, it is the mission of Florida TaxWatch to provide the citizens of Florida and public officials with high quality, independent research and analysis of issues related to state and local government taxation, expenditures, policies, and programs. Florida TaxWatch works to improve the productivity and accountability of Florida government. Its research recommends productivity enhancements and explains the statewide impact of fiscal and economic policies and practices on citizens and businesses.

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TaxWatch research is done under the direction of Dominic M. Calabro, President, CEO, Publisher & Editor.

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