

**The Constitution Revision Commission**  
**COMMITTEE MEETING EXPANDED AGENDA**

**FINANCE AND TAXATION**  
**Commissioner Karlinsky, Chair**  
**Commissioner Grady, Vice Chair**

**MEETING DATE:** Tuesday, December 12, 2017  
**TIME:** 8:00 a.m.—12:00 noon  
**PLACE:** 301 Senate Office Building, Tallahassee, Florida

**MEMBERS:** Commissioner Karlinsky, Chair; Commissioner Grady, Vice Chair; Commissioners Armas, Nuñez, Rouson, Smith, and Washington

TAB	PROPOSAL NO. and INTRODUCER	PROPOSAL DESCRIPTION and COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>P 92</b> Solari	FINANCE AND TAXATION, Laws requiring counties or municipalities to spend funds or limiting their ability to raise revenue or receive state tax revenue; Section 18 of Article VII of the State Constitution to revise and specify certain conditions required to be met before the Legislature may enact a law requiring a county or a municipality to spend funds, reducing the authority of a county or a municipality to raise revenue, or reducing the amount of state tax revenue that may be received by a county or a municipality.  FT 12/12/2017 Unfavorable LE LO	Unfavorable Yeas 0 Nays 4
2	<b>P 100</b> Kruppenbacher	FINANCE AND TAXATION, Taxes; exemptions; Section 3 of Article VII of the State Constitution to provide that a nonprofit organization or a corporation that compensates an individual employee over a specified amount, adjusted annually for inflation, is not eligible for any exemption from ad valorem taxation.  FT 12/12/2017 Temporarily Postponed	Temporarily Postponed
3	<b>P 49</b> Gainey	MISCELLANEOUS, creates new section; a new section in Article X of the State Constitution to establish the rights to certain death benefits to the survivors of specified first responders and military members.  GP 11/28/2017 Favorable GP 11/30/2017 FT 12/12/2017 Favorable	Favorable Yeas 3 Nays 1
4	<b>P 72</b> Karlinsky	FINANCE AND TAXATION; a new section in Article VII of the State Constitution to establish that a law may not impose a new state tax or fee or raise an existing state tax or fee unless passed by a two-thirds vote of the membership of each house of the Legislature.  FT 12/12/2017 Fav/CS	Fav/CS Yeas 5 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Finance and Taxation

Tuesday, December 12, 2017, 8:00 a.m.—12:00 noon

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TAB	PROPOSAL NO. and INTRODUCER	PROPOSAL DESCRIPTION and COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>P 63</b> Rouson	FINANCE AND TAXATION, creates s. 19; Section 19 of Article VII of the State Constitution to require that newly adopted constitutional tax exemptions or the expansion of an existing constitutional tax exemption be subject to repeal unless readopted by the electors of the state in a subsequent election.	Unfavorable Yeas 1 Nays 4
		FT 12/12/2017 Unfavorable EE	

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**Constitution Revision Commission  
Finance and Taxation Committee  
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: P 92

Relating to: FINANCE AND TAXATION, Laws requiring counties or municipalities to spend funds or limiting their ability to raise revenue or receive state tax revenue

Introducer(s): Commissioner Solari

Article/Section affected: Art. XII, s. 18, Florida Constitution

Date: December 8, 2017

	REFERENCE	ACTION
1.	FT	<b>Pre-meeting</b>
2.	LE	_____
3.	LO	_____

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**I. SUMMARY:**

The proposal provides that the legislature may not enact a law constituting an unfunded state mandate or reduce the authority that municipalities and counties have to raise revenues unless the law:

- Contains only a single subject;
- Is enacted only after a public hearing has been held, with at least 24 hour notice before the hearing that legislation containing an unfunded state mandate will be considered;
- Is accompanied by a fiscal analysis available at the time of the public hearing; and
- Passed by a three-fourths vote of the membership of each house of the legislature.

The proposal provides that any law containing an unfunded state mandate is repealed on October 1 in the eighth year after its enactment. Any reenactment of the law must adhere to the requirements listed above as well.

The proposal defines an unfunded state mandate as a law which requires a county or municipality to:

- Spend funds or to take an action requiring the expenditure of funds;
- Accept the transfer of a responsibility or function performed by the state; or
- Accept an increase in a responsibility or function performed by the state.

The proposal also eliminates the ability of the legislature to enact a law if the anticipated effect is a reduction of a state tax in the aggregate shared with counties or municipalities.

## II. SUBSTANTIVE ANALYSIS:

### A. PRESENT SITUATION:

#### Article VII- Section 18: Local Unfunded Mandates

Section 18 of Article VII of the Florida Constitution<sup>1</sup> is commonly referred to as the “unfunded mandates” section.<sup>2</sup> The section was designed to prevent the legislature from imposing requirements on local governments without providing a means to pay for such requirements.<sup>3</sup> The amendment was proposed and adopted in reaction to the growing costs absorbed by counties and municipalities for such things as growth management, environmental protection, pension benefits, and the operation of the state courts system.<sup>4</sup> Because sources of revenue to local governments are limited to those allowed by law, counties and municipalities made a strong argument that mandates should not be imposed by the state without the state also providing a means to fund the costs of the mandate.<sup>5</sup>

The unfunded mandate section provides that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless the legislature has determined that such law fulfills an important state interest. . .”<sup>6</sup> and one of the following conditions have been met:

- Funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure;
- The legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989, that can be used to generate the amount of funds estimated to be sufficient to fund such expenditure by a simple majority vote of the governing body of such county or municipality;
- The law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature;
- The expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments; or
- The law is either required to comply with a federal requirement or required for eligibility for a federal entitlement, which federal requirement specifically contemplates actions by counties or municipalities for compliance.<sup>7</sup>

The section provides that the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or

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<sup>1</sup> This section was added in the Florida Constitution in 1990. The amendment was placed on the ballot by the Florida Legislature. <http://dos.elections.myflorida.com/initiatives/initdetail.asp?account=10&seqnum=57> (last visited 12/09/17).

<sup>2</sup> *Westlaw Commentary for s.18 of Art. VII of the Fla. Const.*, by William A. Buzzett and Deborah K. Kearney.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Art. VII, s. 18(a), Fla. Const.

<sup>7</sup> *Id.*

counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989, unless approved by each house of the legislature by two-thirds of the membership.<sup>8</sup>

The section also prohibits the legislature from enacting, amending, or repealing any general law if the anticipated effect of doing so would reduce the percentage of a state tax shared with counties and municipalities as an aggregate on February 1, 1989, unless approved by each house of the legislature by two-thirds of the membership.<sup>9</sup>

The following types of laws are exempt from this section, laws adopted to require:

- Funding of pension benefits existing on the effective date of this section;
- Criminal laws;
- Election laws;
- The general appropriations act; and
- Special appropriations acts.<sup>10</sup>

Also, laws reauthorizing but not expanding then-existing statutory authority, laws having insignificant fiscal impact, and laws creating, modifying, or repealing noncriminal infractions, are exempt from the requirements of section 18.<sup>11</sup>

## **B. EFFECT OF PROPOSED CHANGES:**

The proposal revises s. 18 of Art. VII of the Florida Constitution to provide that the legislature may not enact a law constituting an unfunded state mandate or reduce the authority that municipalities and counties have to raise revenues unless the law:

- Contains only a single subject;
- Is enacted only after a public hearing has been held, with at least 24 hour notice before the hearing that legislation containing an unfunded state mandate will be considered;
- Is accompanied by a fiscal analysis available at the time of the public hearing; and
- Passed by a three-fourths vote of the membership of each house of the legislature.

The proposal provides that any law containing an unfunded state mandate is repealed on October 1 in the eighth year after its enactments. Any reenactment of the law must adhere to the requirements listed above as well.

The proposal defines an unfunded state mandate as a law which requires a county or municipality to:

- Spend funds or to take an action requiring the expenditure of funds;

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<sup>8</sup> Art. VII, s. 18(b), Fla. Const.

<sup>9</sup> Art. VII, s. 18(c), Fla. Const.

<sup>10</sup> Art. VII, s. 18(d), Fla. Const.

<sup>11</sup> *Id.*

- Accept the transfer of a responsibility or function performed by the state; or
- Accept an increase in a responsibility or function performed by the state.

The proposal eliminates the ability of the legislature to enact a law if the anticipated effect is a reduction of a state tax in the aggregate shared with counties or municipalities.

The proposal also eliminates the following exemptions from the requirements of unfunded mandates: local pensions, elections laws, the general appropriations act, special appropriations acts, laws reauthorizing but not expanding then-existing statutory authority, and laws creating, modifying, or repealing noncriminal infractions.

**C. FISCAL IMPACT:**

None.

**III. Additional Information:**

**A. Statement of Changes:**

(Summarizing differences between the current version and the prior version of the proposal.)

None.

**B. Amendments:**

None.

**C. Technical Deficiencies:**

None.

**D. Related Issues:**

None.

By Commissioner Solari

solarib-00090-17

201792\_\_

A proposal to amend

Section 18 of Article VII of the State Constitution to revise and specify certain conditions required to be met before the Legislature may enact a law requiring a county or a municipality to spend funds, reducing the authority of a county or a municipality to raise revenue, or reducing the amount of state tax revenue that may be received by a county or a municipality.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 18 of Article VII of the State Constitution is amended to read:

ARTICLE VII

FINANCE AND TAXATION

SECTION 18. Laws requiring counties or municipalities to spend funds or limiting their ability to raise revenue or receive state tax revenue.—

(a) No county or municipality shall be bound by any general law that includes an unfunded state mandate, unless such law is enacted in accordance with the requirements in paragraph (1). For purposes of this section, an unfunded state mandate is a law which requires a ~~requiring such~~ county or municipality to spend funds or to take an action requiring the expenditure of funds; to accept the transfer of a responsibility or function performed by the state; or to accept an increase in a responsibility or function performed by the state. An unfunded state mandate does not include a law for which funds are appropriated by the legislature at the time of enactment and annually thereafter to fund county or municipal expenditures that are required by law or a law that is required in order to comply with a federal

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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requirement or to be eligible for a federal entitlement, which requirement specifically contemplates actions by counties or municipalities for compliance.

(1) The legislature may not enact a law constituting an unfunded state mandate unless the law contains only a single subject; is enacted only after a public hearing has been held, with at least twenty-four hours' notice before the hearing that legislation containing an unfunded state mandate will be considered; is accompanied by a fiscal analysis prepared by the legislature and made available at the time of the public hearing; and, in addition to complying with all other requirements for the enactment of laws, is passed by a three-fourths vote of the membership of each house of the legislature.

(2) A law containing an unfunded state mandate shall be repealed on October 1 in the eighth year after its enactment, unless reenacted by the legislature in accordance with the requirements in paragraph (1) unless the legislature has determined that such law fulfills an important state interest and unless funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure; the legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989, that can be used to generate the amount of funds estimated to be sufficient to fund such expenditure by a simple majority vote of the governing body of such county or municipality; the law requiring such expenditure is approved by two thirds of the membership in each house of the legislature; the expenditure is required to comply with a law that applies to all persons similarly

Page 2 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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62 ~~situated, including the state and local governments, or the law~~  
 63 ~~is either required to comply with a federal requirement or~~  
 64 ~~required for eligibility for a federal entitlement, which~~  
 65 ~~federal requirement specifically contemplates actions by~~  
 66 ~~counties or municipalities for compliance.~~

67 (b) ~~Except upon approval of each house of the legislature~~  
 68 ~~by two-thirds of the membership,~~ The legislature may not enact,  
 69 amend, or repeal any general law if the anticipated effect of  
 70 doing so would be to reduce the then-existing authority that  
 71 municipalities or counties have to raise revenues in the  
 72 aggregate, unless the law contains only a single subject; is  
 73 enacted only after a public hearing has been held, with at least  
 74 twenty-four hours' notice before the hearing that legislation  
 75 containing an unfunded state mandate will be considered; is  
 76 accompanied by a fiscal analysis prepared by the legislature and  
 77 made available at the time of the public hearing; and, in  
 78 addition to complying with all other requirements for the  
 79 enactment of laws, is passed by a three-fourths vote of the  
 80 membership of each house of the legislature as such authority  
 81 exists on February 1, 1989.

82 (c) ~~Except upon approval of each house of the legislature~~  
 83 ~~by two-thirds of the membership,~~ The legislature may not enact,  
 84 amend, or repeal any general law if the anticipated effect of  
 85 doing so would be to reduce the percentage of a state tax in the  
 86 aggregate shared with counties or and municipalities ~~as an~~  
 87 ~~aggregate on February 1, 1989.~~ ~~The provisions of~~ This subsection  
 88 ~~does shall~~ not apply to enhancements to a state tax source  
 89 enacted after January 1, 2019 ~~February 1, 1989,~~ to state tax  
 90 ~~sources,~~ or during a fiscal emergency declared in a written

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91 joint proclamation issued by the president of the senate and the  
 92 speaker of the house of representatives, or where the  
 93 legislature provides additional state-shared revenues which are  
 94 anticipated to be sufficient to replace the anticipated  
 95 aggregate loss of state-shared revenues resulting from the  
 96 reduction of the percentage of the state tax shared with  
 97 counties or and municipalities, which source of replacement  
 98 revenues shall be subject to the same requirements for repeal or  
 99 modification as provided herein for the replaced ~~a~~ state-shared  
 100 tax source ~~existing on February 1, 1989.~~

101 (d) Laws adopted to require funding of a state-administered  
 102 retirement system or plan ~~pension benefits~~ existing on January  
 103 8, 2019 ~~the effective date of this section,~~ criminal laws, and  
 104 ~~election laws, the general appropriations act, special~~  
 105 ~~appropriations acts, laws reauthorizing but not expanding then-~~  
 106 ~~existing statutory authority,~~ laws having insignificant fiscal  
 107 impact, ~~and laws creating, modifying, or repealing noncriminal~~  
 108 ~~infractions,~~ are exempt from the requirements of this section.

109 (e) The legislature may enact laws to assist in the  
 110 implementation and enforcement of this section.



**CONSTITUTION REVISION COMMISSION  
APPEARANCE RECORD**

(Deliver completed form to Commission staff)

12-12

Meeting Date

92

Proposal Number (if applicable)

\*Topic P 92

Amendment Barcode (if applicable)

\*Name Brian Sullivan

Address 100 S. Monroe

Phone 810-335-0150

Tallahassee FL 32301  
City State Zip

Email bsullivan@flccentres.com

\*Speaking:  For  Against  Information Only

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Are you representing someone other than yourself?  Yes  No

If yes, who? Florida Association of Counties

Are you a registered lobbyist?  Yes  No

Are you an elected official or judge?  Yes  No

*While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**Information submitted on this form is public record.**

**\*Required**

**CONSTITUTION REVISION COMMISSION**  
**APPEARANCE RECORD**  
(Deliver completed form to Commission staff)

12/12/17  
Meeting Date

92  
Proposal Number (if applicable)

\*Topic State mandates

Amendment Barcode (if applicable)

\*Name David Cruz

Address P.O. Box 1757

Phone 701-3076

Street

Tallahassee

FL

32302

City

State

Zip

Email DCRUZ@FCCITIES.COM

\*Speaking:  For  Against  Information Only

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Are you representing someone other than yourself?  Yes  No

If yes, who? Florida League of Cities

Are you a registered lobbyist?  Yes  No

Are you an elected official or judge?  Yes  No

*While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**Information submitted on this form is public record.**

**\*Required**

**CONSTITUTION REVISION COMMISSION**  
**APPEARANCE RECORD**  
(Deliver completed form to Commission staff)

12/12/2017  
Meeting Date

92  
Proposal Number (if applicable)

\*Topic Unfunded Mandates

Amendment Barcode (if applicable)

\*Name Edward G. Labrador

Address 115 S. Andrews Avenue, Room 424

Phone 954-357-7575

Street

Fort Lauderdale FL 33301

Email elabrador@broward.org

City

State

Zip

\*Speaking:  For  Against  Information Only

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Are you representing someone other than yourself?  Yes  No

If yes, who? Broward County

Are you a registered lobbyist?  Yes  No

Are you an elected official or judge?  Yes  No

*While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**Information submitted on this form is public record.**

**\*Required**

**Constitution Revision Commission  
Finance and Taxation Committee  
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: P 100

Relating to: FINANCE AND TAXATION, Taxes; exemptions

Introducer(s): Commissioner Kruppenbacher

Article/Section affected:

Date: December 10, 2017

	REFERENCE	ACTION
1.	FT	<b>Pre-Meeting</b>
2.		
3.		
4.		
5.		
6.		

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**I. SUMMARY:**

This proposal amends Article VII, Section 3(h), to add that a nonprofit organization or a corporation that pays an individual employee more than \$300,000 annually is not eligible for any exemption from ad valorem taxation.

This proposal requires the Department of Revenue adjust the salary limitation annually on September 30 for inflation using the Consumer Price Index for urban wage earners and clerical workers, CPI-W, or a successor index calculated by the United States Department of Labor. The Department must publish each adjusted salary limitation, which will take effect on the following January 1.

The proposal provides that the term “employee” does not include any medical professional licensed by the state.

**II. SUBSTANTIVE ANALYSIS:**

**A. PRESENT SITUATION:**

**Ad Valorem Taxation Exemptions**

Article VII, Section 3, of the Florida Constitution provides for multiple ad valorem tax exemptions. The Florida legislature has implemented these exemptions through statutory

law.<sup>1</sup> Some examples are exemptions for renewable energy source devices, charitable exemptions, historic property used for certain commercial or nonprofit purposes, nonprofit homes for the aged, charter school exemptions, and economic development exemptions. These exemptions are administered by local property appraisers through an application and review process at the local level.

### **Chapter 196 Exemptions**

Chapter 196, F.S., provides the qualifications and process for an entity to claim a tax exempt status for purposes of ad valorem taxation. The Florida Department of Revenue also provides a form for an exempt entity to fill out and return to the county property appraiser.<sup>2</sup> The exempt entities must be organized and operated for at least one of these purposes:

- Religious;<sup>3</sup>
- Literary;<sup>4</sup>
- Charitable;<sup>5</sup>
- Scientific;<sup>6</sup>
- Sewer water/wastewater systems;<sup>7</sup>
- Education;<sup>8</sup> or
- Hospitals, nursing homes and homes for special services.<sup>9</sup>

There are also several additional purposes as well including historic preservation.<sup>10</sup>

### **B. EFFECT OF PROPOSED CHANGES:**

This proposal amends Article VII, Section 3(h), to add that a nonprofit organization or a corporation that pays an individual employee more than \$300,000 annually is not eligible for any exemption from ad valorem taxation.

This proposal requires the Department of Revenue adjust the salary limitation annually on September 30 for inflation using the Consumer Price Index for urban wage earners and clerical workers, CPI-W, or a successor index calculated by the United States Department of Labor. The Department must publish each adjusted salary limitation, which will take effect on the following January 1.

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<sup>1</sup> See ch. 196, F.S., for examples.

<sup>2</sup> For an example of the form and checklist see <https://www.hcpafl.org/Portals/HCPAFL/pdfs/dr504.pdf> (last visited 12/09/17).

<sup>3</sup> See s. 196.196, F.S.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> See s. 196.2001, F.S.

<sup>8</sup> See s. 196.198, F.S.

<sup>9</sup> See 196.197, F.S.

<sup>10</sup> See Ch. 196, F.S. See also The Palm Beach County Property Appraiser for a presentation on *Charitable Exemptions* (2016) <http://pbcgov.com/papa/presentations/NonProfitsFirst2016.pdf> (last visited 12/09/17).

The proposal provides that the term “employee” does not include any medical professional licensed by the state.<sup>11</sup>

**C. FISCAL IMPACT:**

To the extent that any nonprofit organizations and corporations no longer qualify for a tax exemption, may result in additional ad valorem tax collected.

**III. Additional Information:**

**A. Statement of Changes:**

(Summarizing differences between the current version and the prior version of the proposal.)

None.

**B. Amendments:**

None.

**C. Technical Deficiencies:**

None.

**D. Related Issues:**

None.

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<sup>11</sup> For a list of medical professions licensed by the state of Florida *see* the Florida Department of Health website <http://www.floridahealth.gov/5C/licensing-and-regulation/index.html> (last visited 12/09/17).

By Commissioner Kruppenbacher

kruppenbf-00118A-17 2017100\_\_

1 A proposal to amend  
 2 Section 3 of Article VII of the State Constitution to  
 3 provide that a nonprofit organization or a corporation  
 4 that compensates an individual employee over a  
 5 specified amount, adjusted annually for inflation, is  
 6 not eligible for any exemption from ad valorem  
 7 taxation.

8  
9 Be It Proposed by the Constitution Revision Commission of  
10 Florida:

11  
12 Section 3 of Article VII of the State Constitution is  
13 amended to read:

14 ARTICLE VII  
 15 FINANCE AND TAXATION

16 SECTION 3. Taxes; exemptions.-

17 (a) All property owned by a municipality and used  
 18 exclusively by it for municipal or public purposes shall be  
 19 exempt from taxation. A municipality, owning property outside  
 20 the municipality, may be required by general law to make payment  
 21 to the taxing unit in which the property is located. Such  
 22 portions of property as are used predominantly for educational,  
 23 literary, scientific, religious or charitable purposes may be  
 24 exempted by general law from taxation.

25 (b) There shall be exempt from taxation, cumulatively, to  
 26 every head of a family residing in this state, household goods  
 27 and personal effects to the value fixed by general law, not less  
 28 than one thousand dollars, and to every widow or widower or  
 29 person who is blind or totally and permanently disabled,  
 30 property to the value fixed by general law not less than five  
 31 hundred dollars.

32 (c) Any county or municipality may, for the purpose of its

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33 respective tax levy and subject to the provisions of this  
 34 subsection and general law, grant community and economic  
 35 development ad valorem tax exemptions to new businesses and  
 36 expansions of existing businesses, as defined by general law.  
 37 Such an exemption may be granted only by ordinance of the county  
 38 or municipality, and only after the electors of the county or  
 39 municipality voting on such question in a referendum authorize  
 40 the county or municipality to adopt such ordinances. An  
 41 exemption so granted shall apply to improvements to real  
 42 property made by or for the use of a new business and  
 43 improvements to real property related to the expansion of an  
 44 existing business and shall also apply to tangible personal  
 45 property of such new business and tangible personal property  
 46 related to the expansion of an existing business. The amount or  
 47 limits of the amount of such exemption shall be specified by  
 48 general law. The period of time for which such exemption may be  
 49 granted to a new business or expansion of an existing business  
 50 shall be determined by general law. The authority to grant such  
 51 exemption shall expire ten years from the date of approval by  
 52 the electors of the county or municipality, and may be renewable  
 53 by referendum as provided by general law.

54 (d) Any county or municipality may, for the purpose of its  
 55 respective tax levy and subject to the provisions of this  
 56 subsection and general law, grant historic preservation ad  
 57 valorem tax exemptions to owners of historic properties. This  
 58 exemption may be granted only by ordinance of the county or  
 59 municipality. The amount or limits of the amount of this  
 60 exemption and the requirements for eligible properties must be  
 61 specified by general law. The period of time for which this

kruppenbf-00118A-17 2017100\_\_  
 62 exemption may be granted to a property owner shall be determined  
 63 by general law.

64 (e) By general law and subject to conditions specified  
 65 therein:

66 (1) Twenty-five thousand dollars of the assessed value of  
 67 property subject to tangible personal property tax shall be  
 68 exempt from ad valorem taxation.

69 (2) The assessed value of solar devices or renewable energy  
 70 source devices subject to tangible personal property tax may be  
 71 exempt from ad valorem taxation, subject to limitations provided  
 72 by general law.

73 (f) There shall be granted an ad valorem tax exemption for  
 74 real property dedicated in perpetuity for conservation purposes,  
 75 including real property encumbered by perpetual conservation  
 76 easements or by other perpetual conservation protections, as  
 77 defined by general law.

78 (g) By general law and subject to the conditions specified  
 79 therein, each person who receives a homestead exemption as  
 80 provided in section 6 of this article; who was a member of the  
 81 United States military or military reserves, the United States  
 82 Coast Guard or its reserves, or the Florida National Guard; and  
 83 who was deployed during the preceding calendar year on active  
 84 duty outside the continental United States, Alaska, or Hawaii in  
 85 support of military operations designated by the legislature  
 86 shall receive an additional exemption equal to a percentage of  
 87 the taxable value of his or her homestead property. The  
 88 applicable percentage shall be calculated as the number of days  
 89 during the preceding calendar year the person was deployed on  
 90 active duty outside the continental United States, Alaska, or

kruppenbf-00118A-17 2017100\_\_  
 91 Hawaii in support of military operations designated by the  
 92 legislature divided by the number of days in that year.

93 (h) A nonprofit organization or a corporation that  
 94 compensates an individual employee at a rate that exceeds  
 95 \$300,000 annually is not eligible for any exemption from ad  
 96 valorem taxation. Each September 30th, the Department of Revenue  
 97 or its successor agency shall adjust the limitation annually for  
 98 inflation using the consumer price index for urban wage earners  
 99 and clerical workers, CPI-W, or a successor index as calculated  
 100 by the United States Department of Labor. Each adjusted  
 101 limitation calculated shall be published and take effect on the  
 102 following January 1st. For purposes of this subsection, the term  
 103 "employee" does not include any medical professional licensed by  
 104 the state.



**Constitution Revision Commission  
General Provisions Committee  
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: P 49

Relating to: MISCELLANEOUS, creates new section

Introducer(s): Commissioners Gainey and Timmann

Article/Section affected: Art. X; creates new section

Date: December 7, 2017

	REFERENCE	ACTION
1.	<u>GP</u>	<b>Favorable</b>
2.	<u>FT</u>	<b>Pre-meeting</b>

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**I. SUMMARY:**

Proposal creates a new Section within Article X of the Florida Constitution to create additional survivor benefits for:

An individual working for the State of Florida or a political subdivision who is killed in the line of duty and employed as a first responder in one of the following positions:

- Firefighter
- Law Enforcement Officer
- Correctional Officer
- Correctional Probation Officer
- Florida National Guard Member

Or, an Active Duty Member of the United States Armed Services who is a resident of Florida or stationed in Florida at the time of death

The beneficiary must be designated in writing by the covered individual. If no beneficiary is designated the survivor benefit is paid in the following order of succession to the individual's:

- Surviving spouse and/or children in equal portion; or
- Surviving parent or parents if no surviving spouse or children, or
- Estate

These survivor benefit payments are in addition to any workers' compensation or pension benefit payments owed to the individual and are exempt from attachment or garnishment.

The surviving spouse or child can benefit from a state waiver of educational expenses for full-time or part-time attendance at a state career center, a Florida College System institution or a state university. The waiver is for up to 120 credit hours equal to the cost of tuition, matriculation, and registration fees while obtaining a career certificate, an undergraduate degree or a post-graduate degree. The education waiver is available for the surviving child until his or her 25<sup>th</sup> birthday or to the surviving spouse for up to five years and is available until the tenth anniversary after the individual's death.

The in-line-of-duty survivor benefits created by this proposal are not payable for a death resulting from an unlawful action by the individual or an intentionally self-inflicted bodily

## II. SUBSTANTIVE ANALYSIS:

### A. PRESENT SITUATION:

Currently there is no provision within the Florida Constitution that guarantees death benefits to first responders. There are existing laws that guarantee a death benefit for law enforcement, correctional, and correctional probation officers<sup>1</sup> as well as Firefighters.<sup>2</sup> The statutes are written so that the employing agency of the first responder is responsible to pay the death benefit to their employer. The amounts of the benefit are contingent on the circumstances of the death and range from \$150,000 if an officer is killed due to an unlawful act by another individual, to \$50,000 if the death was the result of an accident. 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>3</sup> While there are benefits for law enforcement officers and firefighters, there are no statutory guarantees of benefits for emergency medical technicians, paramedics, or active duty military members. However, active duty military members qualify for a federal benefit program, and are automatically insured under Servicemembers' Group Life Insurance (SGLI) for the maximum amount of \$400,000 unless an election is filed reducing the insurance by \$50,000 increments or canceling it entirely.<sup>4</sup>

In 2016, the legislature passed SB 7012, which created death benefits under the Florida retirement system for surviving spouses and children of Special Risk Class members.<sup>5</sup> This created the benefit of a monthly pension equal to one half of the decedent's monthly salary for the rest of the surviving spouse's lifetime, or if the decedent was vested, a lump sum. If the decedent leaves no survive spouses but is survived by a child under 18, the benefits extend to the child up until the 25<sup>th</sup> birthday as long as the child is unmarried and enrolled as a full-time student.

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<sup>1</sup> F.S. §112.19

<sup>2</sup> F.S. §112.191

<sup>3</sup> F.S. §250.34

<sup>4</sup> <https://www.benefits.va.gov/insurance/sgli.asp> (last visited 11/25/17).

<sup>5</sup> F.S. §121.091

Education benefits are also available for the spouse and children of a deceased law enforcement, correctional, or correctional probation officers pursuant to Florida law.<sup>6</sup>

## **B. EFFECT OF PROPOSED CHANGES:**

The proposal creates a new Section within Article X of the Florida Constitution to create additional survivor benefits for:

An individual working for the State of Florida or a political subdivision who is killed in the line of duty and employed as a first responder in one of the following positions:

- Firefighter
- Law Enforcement Officer
- Correctional Officer
- Correctional Probation Officer
- Florida National Guard Member

Or, an Active Duty Member of the United States Armed Services who is a resident of Florida or stationed in Florida at the time of death

The beneficiary must be designated in writing by the covered individual. If no beneficiary is designated the survivor benefit is paid in the following order of succession to the individual's:

- Surviving spouse and/or children in equal portion; or
- Surviving parent or parents if no surviving spouse or children, or
- Estate

These survivor benefit payments are in addition to any workers' compensation or pension benefit payments owed to the individual and are exempt from attachment or garnishment.

The surviving spouse or child can benefit from a state waiver of educational expenses for full-time or part-time attendance at a state career center, a Florida College System institution or a state university. The waiver is for up to 120 credit hours equal to the cost of tuition, matriculation, and registration fees while obtaining a career certificate, an undergraduate degree or a post-graduate degree. The education waiver is available for the surviving child until his or her 25<sup>th</sup> birthday or to the surviving spouse for up to five years and is available until the tenth anniversary after the individual's death.

## **C. FISCAL IMPACT:**

The following was provided by the Department of Management Services (DMS)<sup>7</sup>: The proposal is silent on the benefit amount provided under this program. Additionally, while the proposal specifies that benefits for active duty military members will be funded from

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<sup>6</sup> See F.S. §112.19(3)

<sup>7</sup> DMS Analysis on CRC Proposal 49 (on file with CRC staff).

General Revenue, it is silent on the source of funding for benefits for government employees.<sup>8</sup>

To administer this benefit, Florida governmental employers could be responsible for administering the benefit which is payable to the named surviving beneficiary for the impacted employees working for that government employer. The payment to beneficiaries of the active Armed Services members may pose administrative challenges. Challenges may also arise from personnel being reassigned between bases in and out of Florida, maintaining current beneficiary information for individuals outside of the workforce of Florida governmental employers and coordinating any ongoing benefits for the survivors of active Armed Services members. There are 55,862 active military members and 36,387 reservists stationed in Florida.<sup>9</sup>

Administering this Florida survivor benefit for military members cannot be assigned to the federal employer. There would have to be a Florida-based administrator for the program such as a Florida government agency or a contracted third party administrator.

The first responder positions covered may require more detail to ensure the benefit program is structured as envisioned by the proposal. For example:

- Are correctional officers and correctional probation officers limited to those employed by the Department of Corrections or are these terms inclusive of the correctional officers working in county jails and detention centers and the probation officers employed by local governments?
- Are correctional officers, correctional probation officers and law enforcement officers based on a definition in current law or on some other basis?
- Will volunteer firefighters become covered in addition to firefighters employed by state and local governments?

Currently, certain governmental positions, including firefighters, law enforcement officers and correctional officers who die of specified conditions enumerated in section 112.18, Florida Statutes, (tuberculosis, heart disease and hypertension) are presumed to have died in the line of duty for workers' compensation and retirement benefits. It is unclear whether this presumption will apply under this benefit program as well. If this presumption does apply, current federal requirements under the HEART Act which specify that an employee be considered "returned to work" for survivor benefit eligibility do not create an in line of duty presumption for members of the armed services.

The structure of the benefit program and how benefits are paid could trigger financial reporting requirements under the Governmental Accounting Standards Board requiring the employers participating in the program (whether an individual employer or in some

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<sup>8</sup> At the General Provisions Committee meeting on 11/28/17, Commissioner Gainey clarified that the employing agency is responsible for payment.

<sup>9</sup> According to the September 2017 report by the Defense Management Data Center for the Department of Defense.

multiple employer or agent retirement plan) to record long-term financial liabilities on their financial statements for the benefits paid under this provision.

The educational benefits for the surviving spouse or children for other employees killed in the line of duty are currently coordinated through the employer to verify eligibility of the requirement when the survivors are seeking access to education within the Florida career centers, the State Community College System or the State University System. A similar approach could continue for the survivors of first responders employed by that agency but the survivors of active duty Armed Services personnel stationed in Florida will require a different approach since there is no Florida governmental employer to verify eligibility for access or define the time limitations for the educational component of this benefit.

### **III. Additional Information:**

#### **A. Statement of Changes:**

(Summarizing differences between the current version and the prior version of the proposal.)

None.

#### **B. Amendments:**

None.

#### **C. Technical Deficiencies:**

None.

#### **D. Related Issues:**

None.

By Commissioner Gainey

gaineye-00077-17

201749\_\_

1 A proposal to create  
2 a new section in Article X of the State Constitution  
3 to establish the rights to certain death benefits to  
4 the survivors of specified first responders and  
5 military members.

6  
7 Be It Proposed by the Constitution Revision Commission of  
8 Florida:

9  
10 A new section is added to Article X of the State  
11 Constitution to read:

12 ARTICLE X  
13 MISCELLANEOUS

14 Death benefits for survivors of first responders and  
15 military members.-

16 (a) A death benefit shall be paid by the employing agency  
17 when a firefighter; a paramedic; an emergency medical  
18 technician; a law enforcement, correctional, or correctional  
19 probation officer; or a member of the Florida National Guard,  
20 while engaged in the performance of their official duties, is:

21 (1) Accidentally killed or receives accidental bodily  
22 injury which results in the loss of the individual's life,  
23 provided that such killing is not the result of suicide and that  
24 such bodily injury is not intentionally self-inflicted; or

25 (2) Unlawfully and intentionally killed or dies as a result  
26 of such unlawful and intentional act or is killed during active  
27 duty.

28 (b) A death benefit shall be paid by funds from general  
29 revenue when an active duty member of the United States Armed  
30 Forces is:

31 (1) Accidentally killed or receives accidental bodily  
32 injury which results in the loss of the individual's life,

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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33 provided that such killing is not the result of suicide and that  
34 such bodily injury is not intentionally self-inflicted; or

35 (2) Unlawfully and intentionally killed or dies as a result  
36 of such unlawful and intentional act or is killed during active  
37 duty.

38 (c) An eligible first responder must have been working for  
39 the State of Florida or any of its political subdivisions or  
40 agencies at the time of death. An eligible military member must  
41 have been a resident of this state or whose duty post was within  
42 the State of Florida at the time of death.

43 (d) Payments authorized under subsections (a) and (b),  
44 regardless of whether secured by insurance, shall be made to the  
45 beneficiary that is designated by such first responder or  
46 military member through a written designation signed by the  
47 first responder or military member and delivered to the  
48 employing agency during the first responder or military member's  
49 lifetime. If no such designation is made, the payment shall be  
50 made to the first responder's or military member's surviving  
51 child or children and spouse in equal portions, and if there is  
52 no surviving child or spouse, then to the first responder's or  
53 military member's parent or parents. If a beneficiary is not  
54 designated and there is no surviving child, spouse, or parent,  
55 the payment shall be made to the first responder or military  
56 member's estate.

57 (e) Payments that are made pursuant to subsections (a)  
58 through (d) are in addition to any workers' compensation or  
59 pension benefits and are exempt from the claims and demands of  
60 creditors of the first responder or military member.

61 (f) If a firefighter; a paramedic; an emergency medical

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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62 technician; a law enforcement, correctional, or correctional  
63 probation officer; or an active duty member of the United States  
64 Armed Forces or Florida National Guard is accidentally killed as  
65 specified in paragraphs (a) (1) and (b) (1), or unlawfully and  
66 intentionally killed as specified in paragraphs (a) (2) and  
67 (b) (2), the state shall waive certain educational expenses that  
68 the child or spouse of the deceased first responder or military  
69 member incurs while obtaining a career certificate, an  
70 undergraduate education, or a postgraduate education. The amount  
71 waived by the state shall be an amount equal to the cost of  
72 tuition and matriculation and registration fees for a total of  
73 120 credit hours. The child or spouse may attend a state career  
74 center, a Florida College System institution, or a state  
75 university. The child or spouse may attend any or all of the  
76 institutions specified in this subsection, on either a full-time  
77 or part-time basis. The benefits provided to a child under this  
78 subsection continue until the child's 25th birthday. The  
79 benefits provided to a spouse under this subsection must  
80 commence within 5 years after the death occurs, and entitlement  
81 thereto shall continue until the tenth anniversary of that  
82 death.

83 (g) This section does not limit the legislature from  
84 enacting laws consistent with this section.

85 (h) This amendment becomes effective upon approval by the  
86 electors.



# ***CRC Proposal 49***

**A proposal to create a new section in Article X of the State Constitution to establish the rights to certain death benefits to the survivors of specified first responders and military members.**

**Sponsor, Commissioner Emery Gainey  
Co-Sponsor, Carolyn Timmann**



# Lt. Debra Clayton



# Deputy First Class Norman Lewis



# Sgt. Richard "Sam" Howard and Officer Matthew Baxter



# Sgt. La David Johnson





**CONSTITUTION REVISION COMMISSION**  
**APPEARANCE RECORD**

(Deliver completed form to Commission staff)

December 12, 2018

*Meeting Date*

49

*Proposal Number (if applicable)*

\***Topic** Death benefits to the survivors of first responders and military members

*Amendment Barcode (if applicable)*

\***Name** Sheriff Walt McNeil

**Address** 2825 Municipal Way

**Phone** 850-606-3300

*Street*

Tallahassee

FL

32304

**Email** \_\_\_\_\_

*City*

*State*

*Zip*

\***Speaking:**  For  Against  Information Only

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Are you representing someone other than yourself?  Yes  No

If yes, who? Florida Sheriffs Association

Are you a registered lobbyist?  Yes  No

Are you an elected official or judge?  Yes  No

*While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**Information submitted on this form is public record.**

**\*Required**

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

12/12/17  
Meeting Date

49

Proposal Number (if applicable)

\*Topic Proposal 49

Amendment Barcode (if applicable)

\*Name David Perry

Address 830 W. Jefferson St

Phone

Street Tallahassee FL 32304  
City State Zip

Email dperry@fsu.edu

\*Speaking:  For  Against  Information Only

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Are you representing someone other than yourself?  Yes  No

If yes, who? Florida Police Chiefs Association

Are you a registered lobbyist?  Yes  No

Are you an elected official or judge?  Yes  No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

\*Required

**Constitution Revision Commission  
Finance and Taxation Committee  
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: P 72

Relating to: FINANCE AND TAXATION

Introducer(s): Commissioner Karlinsky and others

Article/Section affected: Article VII; creates a new section

Date: December 6, 2017

REFERENCE	ACTION
1. FT	<b>Pre-meeting</b>

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**I. SUMMARY:**

The proposal provides that a law may not impose a new state tax or fee or raise a state tax or fee unless passed by two-thirds vote of the membership of each house of the legislature.

The proposal does not apply to any tax or fee imposed by a county, municipality, school board, or special district.

**II. SUBSTANTIVE ANALYSIS:**

**A. PRESENT SITUATION:**

**Passage of Legislation**

Article III of the Florida Constitution provides the framework for how the legislature enacts laws by passing legislation, including legislation that impacts the state's tax policy. In order for legislation to become law in Florida, the legislation must:

1. Receive a majority vote in each house of the legislature;<sup>1</sup> and
2. Be presented to the Governor,<sup>2</sup> who may approve the legislation, veto it, or if the Governor fails to act within the proscribed time frame, the legislation becomes law.<sup>3</sup>

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<sup>1</sup> Fla. Const. Art III, s. 7.

<sup>2</sup> Fla Const. Art III, s. 8(a).

<sup>3</sup> *Id.* The Governor has seven days after presentation to act on a bill if the seven day period occurs during a legislative session, or fifteen days otherwise.



If the Governor vetoes the legislation, the legislature may override the veto by a two-thirds vote of each house of the legislature.<sup>4</sup>

### **Supermajority Vote Requirements**

There are many examples of supermajority vote requirements for the legislature in the Florida constitution including:

- An increase in the corporate income tax above 5% requires a three-fifths vote of the membership of each house of the legislature;<sup>5</sup>
- Legislation that authorizes the conveyance of property taken by eminent domain to a natural person or private entity requires a three-fifths vote of each house of the legislature;<sup>6</sup>
- Legislation that appropriates nonrecurring general revenue funds for recurring purposes cannot exceed three percent of the total general revenue funds estimated to be available unless approved by a three-fifths vote of the membership of each house of the legislature;<sup>7</sup>
- Legislation that repeals court rules of practice or procedure requires a two-thirds vote of the membership of each house of the legislature;<sup>8</sup>
- Legislation that increases or decreases judicial offices by a number different than that certified by the Supreme Court to the legislature requires a two-thirds of the membership of both houses of the legislature;<sup>9</sup>
- Legislation that creates special laws or general laws of local application that are prohibited by general law, or legislation that amends or repeals such a prohibition requires a three-fifths vote of the membership of each house of the legislature;<sup>10</sup>
- Legislation that creates certain local mandates that require counties or municipalities to expend funds, reduce their authority to raise revenues, or reduce the percentage of a state shared tax, requires a two-thirds vote of the membership of each house of the legislature;<sup>11</sup>
- Legislation that creates or recreates a trust fund requires a vote of three-fifths of the membership of each house of the legislature;<sup>12</sup>
- Legislation that raises revenue above certain constitutionally prescribed caps requires a two-thirds vote of the membership of each house of the legislature;<sup>13</sup>
- Legislation that exempts public access from certain public records or meetings requires a two-thirds vote of the membership of each house of the legislature;<sup>14</sup>

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<sup>4</sup> Fla. Const. Art III, s. 8(c).

<sup>5</sup> Fla. Const. Art VII, s. 5(b). The state corporate income tax was raised to 5.5% in 1984. *See* s. 220.11, F.S., as amended by ch. 84-549, L.O.F.

<sup>6</sup> Fla. Const. Art. X, 6(c).

<sup>7</sup> Fla. Const. Art. III, s. 19(a)(2).

<sup>8</sup> Fla. Const. Art. V, s. 2(a).

<sup>9</sup> Fla. Const. Art. V, s. 9.

<sup>10</sup> Fla. Const. Art. III, s. 11(a)(21).

<sup>11</sup> Fla. Const. Art. VII, ss. 18(a)-(c).

<sup>12</sup> Fla. Const. Art. III, s. 19(f)(1).

<sup>13</sup> Fla. Const. Art. VII, s. 1(e).

<sup>14</sup> Fla. Const. Art. I, s. 24(c).

- Joint resolutions proposing an amendment to the Florida Constitution require a three-fifths vote of the membership of each house of the legislature;<sup>15</sup>
- Legislation creating a special election for voter approval of a constitutional amendment proposed by joint resolution, a report of a revision commission, a constitutional convention or the taxation and budget reform commission, requires a three-fourths vote of the membership of each house of the legislature.<sup>16</sup>

### **Supermajority Vote for Amendment to the Florida Constitution**

No new state tax or fee may be imposed on or after November 8, 1994, by any amendments to the Florida Constitution unless the proposed amendment is approved by not fewer than two-thirds of the voters voting in the election in which such proposed amendment is considered. For purposes of this constitutional provision, the phrase “new state tax or fee” means any tax or fee which may produce revenue subject to lump sum or other appropriation by the legislature, either for the state general revenue or any trust fund, which tax is not in effect on November 7, 1994, including without limitation such taxes and fees as are subject of proposed constitutional amendments appearing on the ballot on November 8, 1994.<sup>17</sup>

All other amendments to the Florida constitution require only a sixty percent approval of the electors voting on the amendment.<sup>18</sup>

### **Supermajority Vote in Other States**

According to 2015 National Conference of State Legislators (NCSL) report, fifteen states have a supermajority vote requirement for all or some types of tax increases.<sup>19</sup> These states include:

- Arizona (2/3) for all taxes;<sup>20</sup>
- Arkansas (3/4) for all taxes except sales and alcohol;<sup>21</sup>
- California (2/3) for all taxes;<sup>22</sup>
- Delaware (3/5) for all taxes;<sup>23</sup>
- Florida (3/5) for corporate income tax;
- Kentucky (3/5) for all taxes;<sup>24</sup>

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<sup>15</sup> Fla. Const. Art. XI, s. 1.

<sup>16</sup> Fla. Const. Art. XI, s. 5(a).

<sup>17</sup> Fla. Const. Art. XI, s. 7.

<sup>18</sup> Fla. Const. Art. S. 5(e).

<sup>19</sup> National Conference of State Legislatures, *Supermajority Vote Requirements to Pass Budgets*.

<http://www.ncsl.org/research/fiscal-policy/supermajority-vote-requirements-to-pass-the-budget635542510.aspx> (last visited 12/07/17).

<sup>20</sup> Ariz. Const. Art. IX, s. 22.

<sup>21</sup> Ark. Const. Art. V, s. 38.

<sup>22</sup> Cal. Const. Art. XIII, s. 3.

<sup>23</sup> Del. Const. Art. VIII, s. 10.

<sup>24</sup> Ky. Const. s. 36(1).

- Louisiana (2/3) for all taxes;<sup>25</sup>
- Michigan (3/4) state property tax;<sup>26</sup>
- Mississippi (3/5) for all taxes;<sup>27</sup>
- Missouri (2/3) for all taxes;<sup>28</sup>
- Nevada (2/3) for all taxes;<sup>29</sup>
- Oklahoma (3/4) for all taxes;<sup>30</sup>
- Oregon (3/5) for all taxes;<sup>31</sup>
- South Dakota (2/3) for all taxes;<sup>32</sup>
- Wisconsin (2/3) sales, income, and franchise taxes.<sup>33</sup>

Three states require a supermajority vote for approval of the state budget.<sup>34</sup>

## **B. EFFECT OF PROPOSED CHANGES:**

The proposal requires that any law that imposes a new state tax or fee or raises a state tax or fee be passed by a two-thirds vote of the membership of each house of the legislature.

A “fee” is defined as “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.” “Raise” is defined as an increase in the rate of a state tax or fee imposed on a percentage or per-mill basis; an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or to decrease or eliminate a state tax or fee exemption or credit.

The proposal provides that this new provision “does not apply to any tax or fee imposed by a county, municipality, school board, or special district.”

## **C. FISCAL IMPACT:**

A Florida House of Representative staff analysis from the Ways and Means Committee of Proposed Committee Bill WMC 18-01 (2018), a similar proposal to CRC Proposal 72, provided the following:

“The Revenue Estimating Conference (REC) has not adopted an official estimate of the joint resolution’s impact. However, based on past REC decisions, staff concludes that the

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<sup>25</sup> La. Const. Art. VII, s. 2.

<sup>26</sup> Mich. Const. Art. IX, s. 3.

<sup>27</sup> Miss. Const. Art. IV, s. 70.

<sup>28</sup> Mo. Const. Art. X, ss.16-20.

<sup>29</sup> Nev. Const. Art. IV, s. 18(2).

<sup>30</sup> Okla. Const. Art. V, s. 33(D). The Oklahoma Supreme Court recently ruled that repealing a sales tax exemption on automobile sales did not trigger the three-fourths requirement. *See Okla. Automobile Dealers Assoc. v. State*, 401 P.3d 1152 (Okla. 2017).

<sup>31</sup> Or. Const. Art. IV, s. 25(2).

<sup>32</sup> S.D. Const. Art. XI, ss. 13-14.

<sup>33</sup> National Conference of State Legislatures, *Supermajority Vote Requirements to Pass Budgets*.

<http://www.ncsl.org/research/fiscal-policy/supermajority-vote-requirements-to-pass-the-budget635542510.aspx> (last visited 12/07/17).

<sup>34</sup> *Id.*

state revenue impact will be either zero, if voters disapprove, or negative indeterminate if approved. The proposed amendment creates a new constraint on the Legislature's ability to impose or raise state taxes or fees. The timing and magnitude of the negative revenue impact cannot be determined."<sup>35</sup>

### III. Additional Information:

#### A. Statement of Changes:

(Summarizing differences between the current version and the prior version of the proposal.)

None.

#### B. Amendments:

None.

#### C. Technical Deficiencies:

None.

#### D. Related Issues:

None.

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<sup>35</sup> See *Florida House of Representative Staff Analysis of Proposed Committee Bill PCB WMC 18-01 (2018)*, prepared by the Ways and Means Committee of the Florida House of Representatives. [http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2924&Session=2018&DocumentType=proposed committee bill analyses&FileName=pcb01b.WMC.pdf](http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2924&Session=2018&DocumentType=proposed%20committee%20bill%20analyses&FileName=pcb01b.WMC.pdf) (last visited 12/7/17). PCB WMC 18-01 is now listed as HJR 7001 by Ways and Means Committee and Rep. Leek. <http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=60576> (last visited 12/7/17).



426000

CRC ACTION

Commissioner .  
Comm: FAV .  
12/13/2017 .  
. .  
. .  
. .

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The Committee on Finance and Taxation (Karlinsky) recommended the following:

**CRC Amendment (with title amendment)**

Delete everything after the proposal clause  
and insert:

A new section is added to Article VII of the State  
Constitution to read:

ARTICLE VII

FINANCE AND TAXATION

Supermajority vote required to impose, authorize, or raise  
state taxes or fees.-



426000

11 (a) SUPERMAJORITY VOTE REQUIRED TO IMPOSE OR AUTHORIZE NEW  
12 STATE TAX OR FEE. No new state tax or fee may be imposed or  
13 authorized by the legislature except through legislation  
14 approved by two-thirds of the membership of each house of the  
15 legislature and presented to the Governor for approval pursuant  
16 to Article III, Section 8.

17 (b) SUPERMAJORITY VOTE REQUIRED TO RAISE STATE TAXES OR  
18 FEEES. No state tax or fee may be raised by the legislature  
19 except through legislation approved by two-thirds of the  
20 membership of each house of the legislature and presented to the  
21 Governor for approval pursuant to Article III, Section 8.

22 (c) APPLICABILITY. This section does not authorize the  
23 imposition of any state tax or fee otherwise prohibited by this  
24 Constitution, and does not apply to any tax or fee imposed by,  
25 or authorized to be imposed by, a county, municipality, school  
26 board, or special district.

27 (d) DEFINITIONS. As used in this section, the following  
28 terms shall have the following meanings:

29 (1) "Fee" means any charge or payment required by law,  
30 including any fee for service, fee or cost for licenses, and  
31 charge for service.

32 (2) "Raise" means:

33 a. To increase or authorize an increase in the rate of a  
34 state tax or fee imposed on a percentage or per mill basis;

35 b. To increase or authorize an increase in the amount of a  
36 state tax or fee imposed on a flat or fixed amount basis; or

37 c. To decrease or eliminate a state tax or fee exemption or  
38 credit.

39 (e) SINGLE-SUBJECT. A state tax or fee imposed, authorized,



426000

40 or raised under this section must be contained in a separate  
41 bill that contains no other subject.

42  
43 ===== T I T L E   A M E N D M E N T =====

44 And the title is amended as follows:

45       Delete everything before the proposal clause  
46 and insert:

47                               A proposal to create  
48       a new section in Article VII of the State Constitution to  
49 provide that no state tax or fee may be imposed, authorized, or  
50 raised by the legislature except through legislation approved by  
51 two-thirds of the membership of each house of the legislature  
52 and presented to the Governor for approval; providing for  
53 applicability; providing definitions; requiring any tax or fee  
54 imposed or raised under this section to be contained in a  
55 separate bill that contains no other subject.

56

By Commissioner Karlinsky

karlinskyf-00087-17 201772\_\_

1 A proposal to create  
 2 a new section in Article VII of the State Constitution  
 3 to establish that a law may not impose a new state tax  
 4 or fee or raise an existing state tax or fee unless  
 5 passed by a two-thirds vote of the membership of each  
 6 house of the Legislature.  
 7  
 8 Be It Proposed by the Constitution Revision Commission of  
 9 Florida:  
 10  
 11 A new section is added to Article VII of the State  
 12 Constitution to read:  
 13 ARTICLE VII  
 14 FINANCE AND TAXATION  
 15 Vote requirements for laws imposing or raising state taxes  
 16 or fees.-  
 17 (a) Unless passed by a two-thirds vote of the membership of  
 18 each house of the legislature, a law may not impose a new state  
 19 tax or fee or raise a state tax or fee.  
 20 (b) This section does not authorize the imposition of any  
 21 state tax or fee that is otherwise prohibited by this  
 22 Constitution, and does not apply to any tax or fee imposed by a  
 23 county, municipality, school board, or special district.  
 24 (c) As used in this section, the term:  
 25 (1) "Fee" means any charge or payment required by law,  
 26 including any fee for service, fee or cost for licenses, and  
 27 charge for service.  
 28 (2) "Raise" means:  
 29 a. To increase the rate of a state tax or fee imposed on a  
 30 percentage or per-mill basis;  
 31 b. To increase the amount of a state tax or fee imposed on  
 32 a flat or fixed amount basis; or

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33 c. To decrease or eliminate a state tax or fee exemption or  
 34 credit.



CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

12/12/17

Meeting Date

72

Proposal Number (if applicable)

\*Topic SUPERMAJORITY VOTE ON TAX INCREASES

Amendment Barcode (if applicable)

\*Name TERRY GOLDEN

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32312

City

State

Zip

Email golden@fpi.institute

\*Speaking: For [ ] Against [x] Information Only [ ]

Waive Speaking: [ ] In Support [ ] Against [ ] (The Chair will read this information into the record.)

Are you representing someone other than yourself? [x] Yes [ ] No

If yes, who? FLORIDA POLICY INSTITUTE

Are you a registered lobbyist? [x] Yes [ ] No

Are you an elected official or judge? [ ] Yes [x] No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

\*Required

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

12/12 Meeting Date

72 Proposal Number (if applicable)

\*Topic Finance & Tax

Amendment Barcode (if applicable)

\*Name Brewster Bevis

Address 516 W Adams St

Phone 850-771-7123

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32201

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City

State

Zip

\*Speaking: For Against Information Only

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? Associated Industries of Florida

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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\*Required

**Constitution Revision Commission  
Finance and Taxation Committee  
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: P 63

Relating to: FINANCE AND TAXATION, creates s. 19

Introducer(s): Commissioner Rouson

Article/Section affected: Article VII; creates new section 19

Date: December 8, 2017

	REFERENCE	ACTION
1.	FT	<b>Pre-meeting</b>
2.	EE	

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**I. SUMMARY:**

The proposal requires that a new tax exemption or an expansion of an existing tax exemption expires eight years after the effective date. The proposal also requires that any exemption or expansion of an existing exemption include a provision that directs the chief election officer to place on the ballot of the general election immediately preceding the expiration date of the exemption a measure that asks electors whether they wish to retain the exemption past the expiration date. If voters approve, the tax exemption remains in the constitution.

**II. SUBSTANTIVE ANALYSIS:**

**A. PRESENT SITUATION:**

**Tax Exemptions in the Florida Constitution**

The Florida Constitution includes various tax exemptions including, but not limited to:

- Not less than \$5,000 for the state corporate income tax;<sup>1</sup>
- Property owned by a municipality and exclusively used by the municipality for public purpose;<sup>2</sup>
- Household goods and personal effects to the head of family and to every widow, widower, blind person, or totally and permanently disabled person;<sup>3</sup>
- Economic development and grants;<sup>4</sup>

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<sup>1</sup> Fla. Const. Art. VII, s. 5(b).

<sup>2</sup> Fla. Const. Art. VII, s. 3(a).

<sup>3</sup> Fla. Const. Art. VII, s. (3)(b).

<sup>4</sup> Fla. Const. Art. VII, s. 3(c).

- Historic preservation;<sup>5</sup>
- Conservation purposes;<sup>6</sup>
- Solar devices and renewable energy source devices;<sup>7</sup> and
- Homestead exemptions.<sup>8</sup>

These exemptions remain in effect unless they are amended out of the constitution, include a sunset provision, or are subject to change or implementation by general law.

### Sunset Provision

An example of a provision in the Florida Constitution that includes a “sunset provision” is the 2008 constitutional amendment<sup>9</sup> that provides for a ten percent assessment limitation for non-homestead property.<sup>10</sup> The sunset provision, located in s. 27 of Art. XII of the Florida Constitution, provides, “Subsections (f) and (g) of Section 4 of Article VII are repealed effective January 1, 2019. . .” The amendment did provide a mechanism for the electors to avoid the repeal by requiring that, “. . . the legislature by joint resolution propose an amendment abrogating the repeal of subsections (f) and (g), which shall be submitted to the electors of this state for approval or rejection at the general election of 2018. . .”<sup>11</sup> This joint resolution was passed by the Florida Legislature during the 2017 session and will appear on the 2018 general election ballot.<sup>12</sup>

## B. EFFECT OF PROPOSED CHANGES:

The proposal creates s. 19 of Art. VII of the Florida Constitution and requires that newly adopted constitutional tax exemptions and expansions of existing exemptions that become effective on or after January 8, 2019, are subject to repeal within eight years of adoption if not readopted by referendum.

The proposal requires that the exemption or expansion include a provision requiring Florida’s chief election officer<sup>13</sup> place on the ballot a measure that allows the electors to retain the new tax exemption or the expansion of an existing exemption or let it expire. The proposal provides a specified manner in which language is to appear on the ballot of the general election immediately preceding the scheduled repeal date of the exemption.

If approved at that general election, the exemption becomes permanent. If rejected, the exemption is repealed effective January 1 following the election.

<sup>5</sup> Fla. Const. Art. VII, s. 3(d).

<sup>6</sup> Fla. Const. Art. VII, s. 3(f).

<sup>7</sup> Fla. Const. Art. VII, s. 3(e)(2)

<sup>8</sup> Fla. Const. Art. VII, s. 6.

<sup>9</sup> See Proposition 1 for 2008 election <http://dos.elections.myflorida.com/initiatives/initdetail.asp?account=10&seqnum=68> (last visited 12/8/17).

<sup>10</sup> See Fla. Const. Art. VII, ss. (g) and (h). Subsection (f) and (g) of Art. VII, s. 4 were redesignated subsections (g) and (h) by the 2008 Taxation and Budget Reform Commission.

<sup>11</sup> Fla. Const. Art. XII, s. 27.

<sup>12</sup> See Committee Substitute for House Joint Resolution 21 (2017).

<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=57030&SessionId=83> (last visited 12/8/17).

<sup>13</sup> Section 92.012, F.S., designates the Secretary of State of Florida as the chief election officer for the state.

**C. FISCAL IMPACT:**

None.

**III. Additional Information:**

**A. Statement of Changes:**

(Summarizing differences between the current version and the prior version of the proposal.)

None.

**B. Amendments:**

None.

**C. Technical Deficiencies:**

None.

**D. Related Issues:**

None.

By Commissioner Rouson

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1                           A proposal to create  
2           Section 19 of Article VII of the State Constitution to  
3           require that newly adopted constitutional tax  
4           exemptions or the expansion of an existing  
5           constitutional tax exemption be subject to repeal  
6           unless readopted by the electors of the state in a  
7           subsequent election.

8  
9 Be It Proposed by the Constitution Revision Commission of  
10 Florida:

11  
12           Section 19 of Article VII of the State Constitution is  
13 created to read:

14                           ARTICLE VII  
15                           FINANCE AND TAXATION

16  
17           SECTION 19. Tax exemption review.—A new tax exemption or  
18 the expansion of an existing tax exemption herein which takes  
19 effect on or after January 8, 2019, shall be repealed not more  
20 than eight years after the effective date of the new exemption  
21 or the expansion of an existing exemption. Such an exemption or  
22 an expansion must include a provision requiring that the chief  
23 election officer of the state place on the ballot at the general  
24 election immediately preceding the scheduled repeal date a  
25 measure as to whether the electors of this state wish to retain  
26 the new tax exemption or the expansion of an existing exemption  
27 or to let it stand repealed. The ballot question shall read  
28 substantially as follows: "The following tax exemption  
29 ...(description of tax exemption)... which has a value of  
30 ...(value of tax exemption)... is scheduled for repeal on  
31 ...(repeal date)... Do you wish to retain this exemption?" If  
32 approved, the tax exemption, or the expansion thereof, shall

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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33 remain in force and effect beyond the scheduled repeal date. If  
34 rejected, the tax exemption is repealed on the January 1  
35 immediately following the general election. However, if the  
36 electors of the state reject the abrogation of the repeal of an  
37 existing tax exemption that was expanded effective on or after  
38 January 8, 2019, the tax exemption shall revert to the text in  
39 existence before the effective date of the most recent  
40 amendment, except that any amendments to such text otherwise  
41 adopted shall be preserved and continue to operate to the extent  
42 that such amendments are not dependent upon the portions of text  
43 which expire in accordance with this section.

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

**CONSTITUTION REVISION COMMISSION**  
**APPEARANCE RECORD**

(Deliver completed form to Commission staff)

12/12/17  
Meeting Date

43  
Proposal Number (if applicable)

\*Topic Tax Exemption Review

Amendment Barcode (if applicable)

\*Name Carolyn Johnson

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Street

Phone 521-1200

Tallahassee FL 32301  
City State Zip

Email Cjohnson@flchamber.com

\*Speaking:  For  Against  Information Only

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Are you representing someone other than yourself?  Yes  No

If yes, who? FL Chamber of Commerce

Are you a registered lobbyist?  Yes  No

Are you an elected official or judge?  Yes  No

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