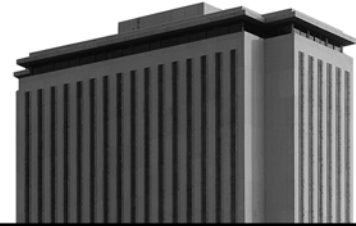




LEGISLATIVE ISSUE BRIEFS



Revenue & Expenditure Limitations

The Florida League of Cities supports a tax structure that is fair and equitable, is competitively neutral and allows municipalities the flexibility to provide adequate services in their communities. In addition, the League supports simplifying and stabilizing Florida's state and local revenue structure in a manner that provides tax fairness for both businesses and citizens. The League opposes arbitrary caps or limitations on property assessments, municipal expenditures or municipal revenues.

Background:

TABOR stands for Taxpayer Bill of Rights. The term describes any proposal that would impose a one-size-fits-all requirement on state and local governments to cap spending and revenue to a defined base amount, with some periodic adjustment for population growth and inflation. Other common features shared by various TABOR proposals:

- Constitutional amendment
- Limits on the growth in spending equal to inflation and population growth
- Allocation of some amount of surplus revenue to a budget stabilization fund and to tax relief
- Voter approval for any new or increase in taxes, debt, or fees, or for any expenditure of surplus revenue.

TABOR supporters argue it is needed to ensure government spending does not exceed the pace of the economy, and that "caps" will force government to become more efficient and to "do more with less."

Colorado is the only state in the union to have adopted a TABOR similar to what is being proposed for Florida. Similar TABOR measures have either failed or been specifically rejected in every other state where they have been proposed. Colorado's TABOR is a failure. Colorado citizens saw their quality of life erode under TABOR, so much so the people wound up suspending its effect for a 5-year period to allow for economic recovery. The editor of the *Denver Business Journal* stated: "[Business leaders] have figured out that no business would survive if it were run like the TABOR faithful say Colorado should be run – with withering tax support for colleges and universities, underfunded public schools and a future of crumbling roads and bridges."

Despite the lesson of Colorado and 25 other states, the Florida Legislature, the Florida Taxation and Budget Reform Commission (TBRC), and the Governor are discussing some variant of TABOR as a proposed amendment to the Florida Constitution. The TBRC TABOR proposal would apply to all cities and counties, as well as special districts, school districts, and

the state. So far, proposals by the legislature and the Governor address only cities and counties.

The Problem:

Direct democracy is contrary to the American form of government.

Referenda on fees and taxes would turn representative democracy on its head. Direct democracy (where governing decisions are put to popular vote) was specifically rejected by our country's founders in favor of a representative democracy (where governing decisions are voted on by an elected body). A representative democracy, with its system of checks and balances, is simply better suited to make long term planning and policy level decisions that impact a diverse number of individuals and interest groups. Direct democracy can trample minority interests and ignore a community's long-term needs and goals. In the American form of government, if citizens are dissatisfied with the performance of their elected officials, they are free to elect others to take their place. It is ironic that many of the groups pushing TABOR are the same groups who say the sky will fall if voter referenda are used for comprehensive plan amendments.

One Size Does Not Fit All.

TABOR proposals offer no flexibility for local preferences. Local communities, even if they like the idea of some type of cap, would be bound by the specific caps of TABOR. They could not deviate from it to impose different caps or create exceptions; not even by referendum.

More Power to Big Government

While cloaked in populism, the TABOR proposals under consideration actually place more and more power in the hands of big government. For example, the TBRC proposal authorizes the state legislature to provide for the establishment of local government reserve funds and for the uses of revenues deposited into those funds. The state has no business dictating to municipal citizens what they can and cannot do with their revenue reserves. Past experience with hurricanes in Florida and New Orleans more than make the case for local self sufficiency. Likewise, legislative proposals such as HB 715 (Flores) and SB 2412 (Haridopolos) have the state legislature controlling local revenues under the guise of local referenda. Notably, these bills don't impose the same standards on the state. Local budgets are a local matter that should stay local. Moreover, if TABOR is imposed in Florida, it must apply to all levels and types of state and local government.

Experimenting with the Constitution (Again)

It is inappropriate to test policy in the state constitution. The constitution is designed to be a permanent document that provides the basic framework for state governance. Policy and politics do not belong in it. It is not a testing ground for political experiments. Like pregnant pigs and bullet trains, TABOR is a political and policy experiment that may not stand the test of time. If, like Colorado, TABOR does not work or needs to be modified, a constitutional provision would be expensive and difficult to change.

Unfunded State & Federal Mandates

TABOR proposals are based on the flawed assumption that local governments have full control over their expenditures. In reality, the state and federal governments continue to force cities to undertake state and federal initiatives without providing adequate funding for the initiatives. These unfunded mandates force cities to raise taxes to fund the state or federal initiative at the expense of funding local services or priorities demanded by their citizens. Unfunded state and federal mandates must be prohibited outright or the costs of such mandates must be excluded from a TABOR proposal.

The Formula For the “Cap” is Flawed

A TABOR revenue or expenditure “cap” is determined by current or actual revenue of a “base year”, plus some measure of population growth and inflation. For instance, the TBRC proposal uses growth in population plus growth in the Consumer Price Index.

- *Inequitable*: Caps that are based on a government’s actual spending or revenue in the “base year” rather than the amount of authorized spending or revenue penalize cities that may have decided to spend less in a particular year and favor those who have spent more. A city that has very modest spending in the base year will be forever behind its peer who had relatively higher spending in the base year.
- *Self-Defeating*: If the base decreases (like what is happening now due to declining property values, sales tax revenues and implementation of Amendment 1), this lower level will become the new base, even though the costs of and demand for services continually grows. Bottom line: you will never recover from a bad year!
- *Unrealistic*: TABOR population estimates do not account for the level of services unique to Florida or to its unique population. TABOR does not account for services and expenditures necessitated by tourists or college students. It does not account for the high level of services demanded by Florida’s elderly population, which is expected to double in size over the next two decades.
- *Unrealistic*: The indices used to measure inflation under a TABOR proposal often do not accurately reflect the nature of government expenditures. A TABOR proposal must use a growth index that realistically considers the nature of municipal expenditures, including expenditures for construction and energy in a state like Florida. A city’s responsibility for building and maintaining roads is not going to stop because the cost of asphalt goes through the ceiling. Use of the CPI is inappropriate. Use of a Florida-specific “Government Price Index” is critical.
- *Unfair*: Population growth factors used in various TABOR proposals have not accounted for annexation. Annexation is clearly an addition to a city’s population and services that must be accommodated within a “cap”.

The Death of Community Redevelopment

Community Redevelopment Areas, or CRAs, depend on Tax Increment Financing (TIF). Understandably, counties argue that under TABOR they should have full control over commitment of TIF funds. If county control is required, community redevelopment will come

to a standstill as it is unlikely a county will commit resources specifically for incorporated areas over other countywide needs.

Infrastructure Deterioration

Voter approval of taxes and fees will mean that almost all large capital improvements (e.g., roads, electrical facilities, water facilities, wastewater facilities, mass transit facilities, airports, etc.) will be postponed and in some cases abandoned. Even a simple fee increase for parking meters downtown would require a citywide referendum.

Further Experimentation is Unwise at This Time

Last year, the Legislature imposed statutory “caps” and decreases on municipal, county, and special district millage rates. The first year alone resulted in a reduction of property tax revenues by over \$2.1 billion, with municipal property taxes being reduced by approximately \$500 million. The Legislature has also imposed restrictions on millage rates for fiscal year 2008-09 and thereafter. The long term impacts of these restrictions are unknown.

On January 29, 2008, Florida voters approved Amendment 1 to the state constitution, which included provisions that will further decrease local tax bases. The fiscal impact of Amendment 1 on municipalities is largely unknown, but some estimates show the statewide municipal impact to approximate \$9.7 billion. Consequently, cities must budget additional reductions or adjustments as these impacts come to light.

The statutory caps and rollbacks imposed in 2007 coupled with the potential impacts of Amendment 1 create a highly unstable fiscal environment for Florida’s municipalities. These impacts will undoubtedly have long term and unintended consequences. Declining state revenues and corresponding cuts to trusts funds that provide critical funding for housing, water and transportation capital projects further add to this uncertainty. In this environment, it is difficult if not impossible to budget for long term capital improvements and services demanded by citizens and mandated by the state.

For these reasons, it is critical these recent statutory and constitutional changes be studied and evaluated before considering additional changes that would adversely impact local governments’ financial infrastructure.

Status:

HJR 7125 (Gov’t Efficiency & Accountability Council) proposes an amendment to the constitution that would make the existing state revenue limitation more stringent and that would impose a similar revenue cap on local governments. Local revenues would be capped at the actual revenues of the 2007-08 fiscal year, plus a growth factor that is based on population growth plus inflation. The mechanics of implementation (what local revenues are included or excluded, what local governments are included or excluded) are left to the discretion of the Legislature. **HJR will be considered by the House Policy & Budget Council on April 15th at 9:00 a.m.**

CS for CP0045 is the TABOR proposal currently under consideration by the TBRC. It would apply to the state and all local governments, school districts and special districts. Generally, the proposal has two components: it requires voter approval before a city can enact new taxes, increase existing taxes, or enact new user fees; and it places a limitation on increases in a city's revenues that can only be exceeded by an extraordinary vote of the governing body (it also requires an extraordinary vote before a city may increase existing fees). **The proposal will be voted on by the TBRC on Monday, April 14th.**

HB 715 (Flores) and **SB 2412** (Haridopolos) would require a supermajority vote of the local governing body to levy new, increase existing, expand the tax base or area subject to, or to eliminate any exemptions from, taxes, special assessments, non-ad valorem assessments, or impact fees. The bills would require a 3/5 vote of the electors voting in any referendum regarding the same. **HB 715 passed the House State Affairs Committee on March 26.**

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