

**STORAGE NAME:** h1971.jud

**DATE:** April 5, 2000

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
JUDICIARY  
ANALYSIS**

**BILL #:** HJR 1971

**RELATING TO:** Taxation

**SPONSOR(S):** Rep. Harrington

**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) JUDICIARY
  - (2) FINANCE & TAXATION
  - (3) GENERAL GOVERNMENT APPROPRIATIONS
  - (4)
  - (5)
- 

**I. SUMMARY:**

HJR 1971 proposes an amendment to Section 1(d) of Article VII of the Florida Constitution that would prohibit any law enacted after January 1, 2001, from imposing a tax, expanding the base of a tax, increasing the rate of a tax, or repealing an exemption from a tax unless the law was enacted in a separate bill for that purpose only by a three-fifths vote of the membership of each house of the Legislature.

The joint resolution also proposes an amendment to Article XII of the Florida Constitution to make the amendment to Section 1(d) of Article VII effective on January 1, 2001.

If adopted, the proposed amendments would be voted on by the electorate in the November general election.

The joint resolution appears to meet the requirements of s. 101.61, F.S., with respect to the ballot title and summary.

The joint resolution will have a fiscal impact associated with the advertising of the proposed constitutional amendment.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

B. PRESENT SITUATION:

The Florida Constitution provides that “no tax shall be levied except pursuant to law.” Art. VII, s. 1(a), Fla. Const. Article VII, Section 1(d) requires the Legislature to make adequate provisions in law for “raising sufficient revenue to defray expenses of the state for each fiscal period.”

In addition, the Constitution allows for increases in state revenues by a two-thirds vote of the membership of each house of the Legislature in a separate bill that contains no other subject and that sets forth the dollar amount by which those revenues will be increased. See, Art. VII, s. 1(e), Fla. Const. “State revenues” under this provision are defined to include taxes, fees, licenses, and charges for services. Id.

Article XII provides a schedule for implementation of various constitutional provisions, continuation of various taxes and state offices, and for incorporation of certain provisions of the Constitution of 1885.

C. EFFECT OF PROPOSED CHANGES:

The joint resolution will propose an amendment to Section 1(d) of Article VII of the Florida Constitution that will prohibit any law enacted after January 1, 2001 from imposing a tax, expanding the base of a tax, increasing the rate of a tax, or repealing an exemption from a tax unless the law was enacted in a separate bill for that purpose only by a three-fifths vote of the membership of each house of the Legislature.

The joint resolution also amends Article XII of the Florida Constitution to make the tax increase amendment effective on January 1, 2001.

**The amendment of Article VII may conflict with current Section 1(e) of Article VII.**

The joint resolution also proposes an amendment to Article XII of the Florida Constitution to make the amendment to Section 1(d) of Article VII effective on January 1, 2001.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The proposed amendment to the constitution, if adopted, would limit the Legislature's ability to raise taxes, and could have the effect of "capping" state tax revenue to the extent that the Legislature fails to reach consensus for a three-fifths vote on an applicable tax measure.

2. Expenditures:

The Division of Elections is required to advertise proposed constitutional amendments in newspapers of general circulation in each county two times prior to the general election at an estimated cost of \$46,000 per amendment.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

The proposed amendment could limit the Legislature's ability to implement this constitutional requirement in a fiscal crisis if the Legislature could not reach consensus on a tax increase or related tax issue sufficient to reach a three-fifths vote on the issue.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of any funds.

**B. REDUCTION OF REVENUE RAISING AUTHORITY:**

The bill does not reduce the revenue raising authority of any city or county.

**C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

The bill does not reduce the amount of state tax shared with any city or county.

**V. COMMENTS:**

**A. CONSTITUTIONAL ISSUES:**

A constitutional amendment proposed for the ballot by the Legislature must be approved by three-fifths of the members of the Senate and House of Representatives. Art. XI, s.1, Fla. Const. Ordinarily, the proposed amendment must then be submitted to the electors at the next general election held more than 90 days after the joint resolution proposing it is filed with the Secretary of State. Art. XI, s. 5(a), Fla. Const.

If the amendment is adopted by the electorate, it is effective on the first Tuesday after the first Monday in January following the election, unless another date is specified in the amendment. Art. XI, s. 5(c), Fla. Const.

Amendments to the state constitution are construed *in pari materia* with all other constitutional provisions that bear on the same subject. Sylvester v. Tindall, 18 So.2d 892 (Fla. 1944). Under this rule of construction, provisions of a statute or constitution are to be read together to glean the overall intent of the drafters. In construing the constitution, the Florida Supreme Court has stated that the "leading purpose should be to ascertain and effectuate the intent and object designed to be accomplished." State ex rel. West v. Butler, 70 Fla. 102, 125; 69 So. 771, 776 (Fla. 1915). A constitutional provision that is susceptible of two meanings, one consistent with other provisions and one inconsistent with those provisions, should be construed as consistent. Butler, supra. However, if there is a clear conflict between an amendment to the constitution and pre-existing provisions, the later adopted amendment will prevail. Tindall, supra.

The amendment to Article VII, Section 1(d) may conflict with the current limitations on revenue raising laws provided by Section 1(e). Under the current provision, a two-thirds vote is required of both houses of the Legislature. The joint resolution would add an additional requirement that tax increases or related measures (which would fall under the category of "revenue increase") be made by three-fifths vote. However, the amendment proposed by the joint resolution would prevail since it would have been adopted later-in-time. See Tindall, supra.

**B. RULE-MAKING AUTHORITY:**

N/A

**C. OTHER COMMENTS:**

The proposed amendment may limit the Legislature's ability to restructure taxes by repealing one tax and enacting another tax that may be more fair to taxpayers.

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In addition, the proposed amendment may raise an issue regarding Revision 7 to Article V of the Florida Constitution which may require the restructuring of current taxes and fees.

It is unclear whether the proposed amendment will have an impact on local tax options.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON JUDICIARY:

Prepared by:

Staff Director:

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Michael W. Carlson, J.D.

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P.K. Jameson, J.D.