

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 1525 Nonbinding Statewide Referendum  
**SPONSOR(S):** Economic Development & Community Affairs Policy Council, Weatherford and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 2742

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|    | <b>REFERENCE</b>  | <b>ACTION</b>    | <b>ANALYST</b> | <b>STAFF DIRECTOR</b> |
|----|---|------------------|----------------|-----------------------|
| 1) | Economic Development & Community Affairs Policy Council | 13 Y, 2 N, As CS | Tait           | Tinker                |
| 2) | Rules & Calendar Council                                |                  |                |                       |
| 3) |   |                  |                |                       |
| 4) |   |                  |                |                       |
| 5) |   |                  |                |                       |

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**SUMMARY ANALYSIS**

Assuming current law and policies remain the same, the Congressional Budget Office estimates that the federal budget deficit will be approximately \$1.3 trillion for fiscal year 2010. As a result of increasing federal deficits, the federal debt held by the public is expected to increase significantly, from an estimated \$8.1 trillion today to \$15 trillion by the end of 2020.

The bill provides for a nonbinding statewide advisory referendum to be placed on the 2010 general election ballot asking voters if the United States Constitution should be amended to require a balanced federal budget without raising taxes.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Methods of Proposing Amendments to U.S. Constitution**

There are two means to propose amendments to the United States Constitution. The first method allows Congress, with the agreement of two-thirds of both the Senate and the House of Representatives, to propose an amendment itself. The second method requires Congress to "call a Convention for proposing Amendments" after application from legislatures in two-thirds of the states.<sup>1</sup> In either method, Congress is authorized to specify whether the amendment must be ratified by the legislatures of three-fourths of the states or by conventions in three-fourths of the states.<sup>2</sup>

##### **History of Calls for Constitutional Convention on Balanced Federal Budget**

Starting in the mid-1970s, 32 states adopted measures, of varying forms, urging Congress to convene a constitutional convention to address federal budget deficits.<sup>3</sup> Depending upon the manner of tallying applications, that count was two short of the 34 state applications necessary under article V of the U.S. Constitution.

##### Florida's 1976 Convention Application

Florida participated in the movement in 1976, when the Legislature adopted Senate Memorial 234. In that memorial, the Legislature made "application to the Congress of the United States ... to call a convention for the sole purpose of proposing an amendment to the Constitution of the United States to require a balanced federal budget and to make certain exceptions with respect thereto."<sup>4</sup>

The Legislature also adopted House Memorial 2801 that same year. In the House memorial, the Legislature made application to Congress for a convention to consider an amendment to the U.S.

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<sup>1</sup> U.S. CONST. art. V. By comparison, the Florida Constitution provides the following methods for proposing amendments to the document: by joint resolution agreed to by three-fifths of the membership of each house of the Legislature (FLA. CONST. art. XI, s. 1); by constitutional revision commission (FLA. CONST. art. XI, s. 2); by citizen initiative (FLA. CONST. art. XI, s. 3); by a constitutional convention to consider revision to the entire document called by the people of the state (FLA. CONST. art. XI, s. 4); and by a taxation and budget reform commission (FLA. CONST. art. XI, s. 6). Regardless of the method by which an amendment to the Florida Constitution is proposed, the amendment must be approved by at least 60 percent of the electors voting on the measure (FLA. CONST. art. XI, s. 5(e)).

<sup>2</sup> U.S. CONST. art. V.

<sup>3</sup> E. Donald Elliott, *Constitutional Conventions and the Deficit*, 1985 DUKE L.J. 1077, 1078 (1985).

<sup>4</sup> Senate Memorial 234 (Reg. Sess. 1976).

Constitution requiring a balanced federal budget. Unlike Senate Memorial 234, House Memorial 2801 prescribed the precise language of the proposed constitutional amendment. Among other provisions, the proposed amendment stated:

[T]he Congress shall make no appropriation for any fiscal year if the resulting total of appropriations for such fiscal year would exceed the total revenues of the United States for such fiscal year. ... There shall be no increase in the national debt, and the existing debt, as it exists on the date which this amendment is ratified, shall be repaid during the one hundred-year period following the date of such ratification.

The proposed constitutional language also authorized Congress to suspend the requirement for a balanced budget in times of national emergency, as identified by a concurrent resolution of three-fourths of the membership of the U.S. Senate and the U.S. House of Representatives.

House Memorial 2801 further specified that “the purview of any convention called by the Congress pursuant to this resolution [shall] be strictly limited to the consideration” of a balanced-budget amendment. In addition, the Legislature resolved that the 1976 application for a constitutional convention “constitutes a continuing application ... until such time as two-thirds of the Legislatures of the several states have made similar application, and the convention herein applied for is convened.”<sup>5</sup>

#### Florida’s 1988 Request to Congress

In 1988, the Legislature adopted a measure urging congressional action related to the federal budget deficit. Adopted by both chambers, Senate Memorial 302 urged Congress to use its own power to propose an amendment to the U.S. Constitution requiring the federal budget to be in balance except under specified emergencies.

The memorial specified that it superseded “all previous memorials applying to the Congress of the United States to call a convention to propose an amendment to the Constitution of the United States to require a balanced federal budget,” including the two memorials passed in 1976. The 1988 memorial further specified that the previous memorials were “revoked and withdrawn.”<sup>6</sup>

#### **State Balanced-Budget Requirements**

Although there is not agreement on what is meant by a “balanced budget,” the National Conference of State Legislatures reported in 2004 that 49 states “have at least a limited statutory or constitutional requirement of a balanced budget.”<sup>7</sup> Florida’s requirement is prescribed in article VII, section 1 of the Florida Constitution. The constitution requires that “[p]rovision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period.”<sup>8</sup> Among other elements, the implementing statute, s. 216.221, F.S., provides that all appropriations shall be maximum appropriations, based on the collection of sufficient revenue. In addition, “[i]t is the duty of the Governor, as chief budget officer, to ensure that revenues collected will be sufficient to meet the appropriations and that no deficit occurs in any state fund.”<sup>9</sup>

Section 215.98, F.S., provides that the “Legislature shall not authorize the issuance of additional state tax-supported debt if such authorization would cause the designated benchmark debt ratio of debt service to revenues available to pay debt service to exceed 7 percent unless” it finds that the additional debt is necessary to address a critical state emergency.<sup>10</sup>

#### **Federal Budget Deficit and National Debt**

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<sup>5</sup> House Memorial 2801 (Reg. Sess. 1976).

<sup>6</sup> Senate Memorial 302 (Reg. Sess. 1988).

<sup>7</sup> Nat’l Conference of State Legislatures, *State Balanced Budget Requirements: Provisions and Practice* (updated 2004), <http://www.ncsl.org/IssuesResearch/BudgetTax/StateBalancedBudgetRequirementsProvisionsand/tabid/12651/Default.aspx>. Last visited March 19, 2010.

<sup>8</sup> FLA. CONST. art VII, s. 1(d).

<sup>9</sup> Section 216.221(1), F.S.

<sup>10</sup> Section 215.98(1), F.S.

Assuming current law and policies remain the same, the Congressional Budget Office (CBO) estimates that the federal budget deficit will be approximately \$1.3 trillion for fiscal year 2010.<sup>11</sup> This is a slight reduction of the deficit in 2009, \$1.4 trillion.<sup>12</sup> The CBO explained that the 2009 and 2010 deficits were a result of:

an imbalance between revenues and spending that predates the recession and turmoil in financial markets, sharply lower revenues and elevated spending associated with those economic conditions, and the costs of various federal policies implemented in response to those conditions.<sup>13</sup>

The office projects average deficits of approximately \$600 billion per year over the 2011-2020 period.<sup>14</sup>

As a result of increasing federal deficits, federal debt held by the public is expected to increase significantly. Currently, the debt held by the public is estimated to be \$8.1 trillion.<sup>15</sup> The CBO projects that the figure will increase to \$15 trillion by the end of 2020.<sup>16</sup>

### **Ballot Referenda**

When a public measure is submitted to the voters, the substance of the measure must be printed in clear and unambiguous language on the ballot, followed by the words “yes” and “no.” In addition, Florida law requires that the ballot must be written so that a “yes” vote indicates approval of the proposal, and a “no” vote indicates rejection.<sup>17</sup>

### **Effect of Proposed Changes**

This bill provides for a nonbinding statewide advisory referendum on the 2010 general election ballot, on the question of whether the U.S. Constitution should be amended to require a balanced federal budget. An advisory referendum has been described as a method for voters to make their views known without binding a legislature to act. The bill requires the following question to be printed on the ballot, followed by the word “yes” and the word “no”:

In order to stop the uncontrolled growth of our national debt and prevent excessive borrowing by the Federal Government, which threatens jobs, robs America and our children of their opportunity for success, and threatens our national security, should the United States Constitution be amended to require a balanced federal budget without raising taxes?

The bill takes effect upon becoming a law.

### **B. SECTION DIRECTORY:**

**Section 1:** Requires a nonbinding statewide advisory referendum to be placed on the 2010 general election ballot, relating to the federal budget.

**Section 2:** Provides an effective date of upon becoming a law.

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<sup>11</sup> Congressional Budget Office, Congress of the United States, *The Budget and Economic Outlook: Fiscal Years 2010 to 2020*, Summary (Jan. 2010), <http://www.cbo.gov/ftpdocs/108xx/doc10871/01-26-Outlook.pdf>. Last visited March 19, 2010.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> TreasuryDirect, *The Debt to the Penny and Who Holds It*, <http://www.treasurydirect.gov/NP/BPDLogin?application=np>. Last visited March 19, 2010. TreasuryDirect is a financial services website through which a person may purchase and redeem securities directly from the U.S. Department of the Treasury in paperless electronic form. TreasuryDirect is a service of the U.S. Department of the Treasury Bureau of the Public Debt. See TreasuryDirect, *About TreasuryDirect*, <http://www.treasurydirect.gov/about.htm>. Last visited March 19, 2010.

<sup>16</sup> Congressional Budget Office, *supra* note 12.

<sup>17</sup> Section 101.161(1), F.S.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

According to the Department of State, there is no fiscal cost to the agency.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There is an indeterminate, but likely insignificant, cost to the counties depending on whether the amendment will require printing of additional pages.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill may require local governments to spend funds by requiring a specific question on the 2010 general election ballot. However, it appears to be exempt from the State Constitution's provisions restricting local mandates because the bill applies to election law and also because the fiscal impact appears to be insignificant.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On April 7, 2010, the Economic Development & Community Affairs Policy Council adopted a strike-all amendment, which added the words "without raising taxes" to the referendum question and removed the appropriation.

The bill was reported favorably and the analysis has been updated to reflect the council substitute.