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E-Communiqué

Taxation and Budget Reform Commission Passes Property Tax Swap: Where Will the Money Come From?

Today, the Taxation and Budget Reform Commission (TBRC) passed Constitutional Proposal 2 which, if approved by the voters this November, will mandate the elimination of Required Local Effort (RLE) property taxes and the replacement of the revenue from other sources. The proposal also creates a much needed 5% assessment cap for non-homestead properties.

RLE are the property taxes that the legislature requires school districts to levy in order to participate in the state's school funding program. The amount of RLE is set each year in the General Appropriation Act. The legislature mandated \$7.9 billion in RLE in 2007-08. The amount to be replaced in 2010-11 will be at least \$9 billion.

RLE has been a major contributor to increased property taxes in Florida in recent years, more than doubling since 2000. Florida TaxWatch has recommended reductions in RLE as the best way to give equitable property tax relief to all taxpayers. However, this proposal does raise significant concerns.

The biggest question is "Where is the money coming from?" The only thing that is certain is there will be a sales tax increase of up to 1% (one penny). A 1% increase is worth \$3.3 billion now and is forecasted to be worth \$3.9 billion in 2010-11. It must also be recognized that a portion of sales tax collections are diverted to specific uses, including local governments. Currently, only 89% of collections go to general revenue. Statutory changes would be necessary to have 100% of the sales tax hike go to replace RLE. Even if the Legislature chooses to levy the full 1%, it will still be more than \$5 billion short of the needed revenue.

This would put a lot of pressure on the Legislature to repeal sales tax exemptions. The proposal excludes most exemptions (in terms of dollar value) from consideration, including food, prescription drugs, residential rent and utilities. This leaves approximately \$4 billion of exemptions "on the table." That includes a significant amount of structural exemptions that are likely not (or are prohibited by law from) being repealed.

The pressure to repeal exemptions could result in the state losing valuable economic development tools that better enable Florida's businesses to compete successfully in an increasingly global economy. Even with the repeal of most available exemptions, it is doubtful that the specified options for replacing RLE would be sufficient. Even if the Legislature employs other, yet unspecified options, it is unlikely that a revenue package could be put together that

has a high degree of reliability, let alone certainty, that it would raise the required revenue, especially in early years. This could put school funding at risk.

Eliminating RLE could be a positive development, but without knowing how the Legislature will replace the money, it is hard to make that assessment. Florida's economy is facing its strongest challenge in over 50 years. Forcing the Legislature to make such major unspecified changes to the state's tax structure is a dangerous proposition.

For more information on CP 2 and other proposals addressed in today's TBRC meeting, see the Florida TaxWatch report [Analysis of the Constitutional Property Tax Proposals of the Florida Taxation and Budget Reform Commission](#).

Other Actions at Today's Commission Meeting

Property Tax Reform

After passing CP 2, the Commission postponed consideration of CP 21, a proposal which Florida TaxWatch concludes would bring about true reform of the state's property tax system.

The proposal would also cap non-homestead property assessment growth at 5%. It would also ensure that all residential (homestead and non-homestead) properties would get a minimum cap protection of 25% of the property's value. The concept of providing a standard minimum exemption that is used until a property's assessment cap savings reach that level is a good one. Having a minimum amount of a home's value protected from taxation will decrease the inequities between similarly situated properties and reduce taxes for new homeowners.

Florida TaxWatch recommends that this minimum exemption concept should be extended to all non-homestead property (residential and commercial). Having a 5% cap without the minimum exemption, as provided in CP 2, will produce the same inequities created by Save Our Homes for homestead properties among non-homesteads.

Florida TaxWatch testified at today's meeting, urging the TBRC to not give up on CP 21. It could work in tandem with CP 02 to truly reform the system. The sponsor indicated he wants to continue pursuing it and is receptive to the Florida TaxWatch recommendation.

Working Waterfronts

The TBRC also postponed action on CP 6, supported by Florida TaxWatch, to give much needed property tax relief to working waterfronts--commercial fishing facilities, marinas, boat ramps, and other water-dependent businesses. These properties have been the most harmed by the requirement that property is assessed at its highest and best use. The outlook for future passage is good.

Burden of Proof

The Commission also passed a statutory recommendation (SR 13), with a Florida TaxWatch supported amendment, to "level the playing field" in property tax challenges. Currently, the

property appraiser is presumed correct and taxpayers often need to meet the higher legal standard of “clear and convincing evidence” to overcome that presumption. SR 13 provides that the appraiser shall have the burden of going forward and proving that his or her assessment was arrived at by complying with Florida law and professionally accepted appraisal practices, in which case the assessment shall be presumed correct. The taxpayer shall have the burden of proving by a preponderance (majority) of the evidence that the assessment is in excess of just value.

CP 42, a constitutional proposal with the same intent, was postponed, but the sponsor wants to keep it alive in case the legislature fails to act on SR 13 this session.

Class-Size

CP 30, the only non-property tax proposal considered today, would loosen the requirements of the class-size amendment. CP 30 provides that class size would continue to be measured at school wide averages, instead of going to a classroom average, which is what is required by 2010. Individual classes could have up to five more students than the current hard cap in the constitution. Florida TaxWatch concludes this amendment would give need flexibility to school districts.

The proposal was narrowly defeated, but a motion was quickly made to reconsider. That motion passed and the proposal lives on.

The next meeting of the TBRC is scheduled for March 26.