



April 14, 2008

E-Communiqué

TBRC Defeats Revenue/Tax Limit Proposal and Passes Streamlined Sales Tax Compliance

Taxpayer Protection Act (Revenue Limit and Voter Approval of Taxes)

There will be no revenue cap or tax limit coming out of the Taxation and Budget Reform Commission. The Commission took its long-delayed final vote on CP 45 today and the measure fell three votes short of the 17 needed to appear on the November ballot. The final version that was voted on bore little resemblance to the initial proposal that was modeled after Colorado's Taxpayers Bills of Rights (or TABOR). The idea, embodied in Colorado's TABOR, of requiring voter approval of new taxes and imposing a revenue cap on state and local governments based on population and inflation produced much debate and became the focus of the TBRC's recent meetings.

At the last meeting on April 4, 2008, the Commission adopted a major amendment which changed the current (and basically irrelevant) state revenue limit – which is based on personal income – to a cap based on the inflation and population plus one percent formula. Under the adopted amendment to CP 45, state spending on Medicaid, which is excluded from the current state revenue limit, would be included. The amendment also directed the legislature to create revenue limits for local governments but did not contain a requirement for voter approval of taxes.

At today's meeting it became apparent that there were not enough votes for the CP 45 to pass as it existed. Another amendment containing a different approach, developed by Florida TaxWatch, was then approved. This was a much simpler approach that would have achieved the same basic goal of the Taxpayer Protection Amendment – creating a higher standard for elected officials who wish to extract more taxes and fees from the citizens of Florida. It would simply require a 2/3 vote of the Legislature or the governing body of any local government to levy a new tax or fee or increase an existing one.

This simpler approach does away with most of the issues with which the Commission has been struggling – such as bonding, special districts, how to define a tax increase, and what to include or leave out of a revenue limitation. It does not attempt to impose a formula cap that may not truly reflect either legitimate government growth or taxpayer's ability to pay. Moreover, it respects the republic form of government envisioned by our founding fathers.

While it appears that this approach may have picked up a couple more votes, CP 45 still fell short of the 17 needed to put a proposed constitutional amendment on the ballot.

Streamlined Sales Tax

The TBRC did approve a longtime Florida TaxWatch recommendation – bringing Florida into full compliance with the Streamlined Sales Tax Project, a consortium of states working to make collecting sales taxes on remote sales easier on businesses, and therefore more politically feasible. This will allow the state to begin collecting sales taxes on remote sales that are remitted by voluntary member retailers. This will also help spur federal action to require retailers to collect sales taxes on remote sales, taxes that are currently owed under Florida law but not collected. While federal action is ultimately needed, the state could potentially collect billions of dollars in taxes currently owed the state and to remove a severe competitive disadvantage facing our in-state retailers.

The TBRC had already passed a statutory recommendation to do this, but the Legislature has not yet acted. The passage of CP 18 will bring the issue to the voters. For more information on the Streamlined Sales Tax Project, see [this Florida TaxWatch report](#).

Burden of Proof in Property Tax Challenges

CP 42, aimed at making property tax challenges fairer for the taxpayer, was also defeated today. At an earlier meeting, the Commission had passed a Florida TaxWatch supported statutory recommendation (SR 13), 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 encourages the Legislature to enact a law providing 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, while the taxpayer has 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 basic intent, had been kept alive in case the legislature fails to act on SR 13 this session. The Legislature has been slow to act on this, so CP 42 was debated today. It goes farther than SR 13 by taking the “presumption of correctness” away from the property appraiser. The TBRC also considered requiring the appraiser to pay the taxpayers attorney fees if the taxpayer prevailed in court.

Affordable Housing Trust Funds

CP 22 would have created two affordable housing trust funds to receive the portion of the state documentary stamp tax that is currently dedicated to affordable housing. It would have also directed the Legislature to appropriate all of the deposits for affordable housing. Proponents said this would stop the Legislature from using these funds for other purposes. Opponents felt it overly restricted the Legislature. CP 22 failed.

Other Measures

Two measures on the agenda were temporarily postponed until, presumably, the next meeting. CP 26 would mandate that at least 65% of school funding be spent in the classroom and CP 27

would increase the frequency of future TBRCs from once every 20 years to once every 10 years.

The TBRC also approved a motion to reconsider CP 40, which attempts to address the court ruling that declared Florida's voucher program for students in low-performing schools unconstitutional due to a prohibition against using public funds for private education. It failed by one vote at the previous meeting. There was no further discussion of CP 40 at this meeting.

The next meeting is scheduled for April 24.