



# NEWS

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## **Florida TaxWatch Releases Analysis of the Constitutional Tax Proposal known as Amendment 5**

**TALLAHASSEE** — Florida TaxWatch today released an analysis of the constitutional proposal that will appear on the November ballot as Amendment 5. The Briefing, *Uncertainty Makes Amendment 5 a Bad Bet for Florida: The “tax swap” will likely be a tax increase*, analyzes the issues involved with the proposed constitutional amendment and concludes that “the passage of Amendment 5 in November would be detrimental to Florida’s people, economy, and future.”

Amendment 5, if approved by Florida voters this November, would replace the required local effort (RLE) school property taxes set by the legislature with a combination of sources, relying mostly on increased sales taxes and anticipating a substantial increase in the base of what is not currently taxed. The constitutional amendment would also provide a 5% assessment cap for non-homestead property, lowering it from its current level of a 10% annual increase.

Required local effort (RLE) is the property tax 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 by the legislature in the General Appropriation Act. The legislature mandated that the local school districts raise a statewide total of \$8.3 billion in RLE for 2008-09.

“We have long noted that the required local effort (RLE) portion of the property tax is not transparent, it diffuses and confuses who is accountable, and it has been a major contributor to the significant increases in the property tax burden in Florida in recent years,” said Dominic M. Calabro, President and CEO of Florida TaxWatch. “Unfortunately, however, Amendment 5’s proposed constitutional solution is worse than the problem.” Calabro explained that Florida TaxWatch has long supported the gradual elimination of RLE; however, “eliminating it all-at-once and leaving an \$11 billion hole to be filled in yet unspecified ways raises significant concerns.”

According to the report, the state will have to find up to an additional \$11.1 billion in state revenues and/or significant additional budget cuts to fill the hole. Chief among the concerns raised by

Amendment 5 is the uncertainty that its passage would create with respect to the tax system and the state budget; specifically, uncertainty about the amount of taxes that the legislature would have to raise and what the tax package would look like.

The wording of the amendment basically leaves replacing the money up to the legislature. The amendment says that the legislature will replace RLE “with one or more of the following options” and one of those options is “other revenues identified or created by the legislature.” Despite this flexibility, it is clear the intention was to use the sales tax, by increasing the rate by (up to) one percentage point (from 6% to 7%) and eliminating billions of dollars worth of current exemptions.

According to the report, the “original math used by the proponents was simple: Replace the RLE – which was just under \$8 billion at the time – with (1) a one penny sales tax increase worth almost \$4 billion and (2) \$4 billion from closing some sales tax exemptions. However, the Florida TaxWatch analysis “reveals that the legislature will have to find significantly more, yet unidentified tax sources.”

The analysis cites three main reasons why the additional revenue will be needed. First, a much larger amount of revenue will be needed than originally contemplated by the TBRC (\$11 billion instead of \$8 billion).

Second, the \$4 billion estimate from a one penny increase in the sales tax was overly optimistic; current reductions in the state’s official estimates bring that number down to \$3.3 billion, it will reach \$3.9 billion in FY 2010-11. Based on actual revenue collections in recent months and the recent Florida economic forecast, those estimates are probably overstated. Moreover, the estimate does not account for decreased collections due to a tax increase. Furthermore, only 89% of the current Sales and Use Tax collections go to General Revenue (with the remaining going to local governments or trust funds). The analysis concludes that although the exact amount of additional revenue from a one penny sales tax increase is uncertain, the sales tax increase “would likely produce far less than half of the needed replacement revenue, and perhaps as little as one-third.”

Third, the analysis concludes that “a close examination of the sales tax system highlights the fact that the assertion that there are billions of dollars of exemptions that are ‘unjustified loopholes’ is incorrect.” The report explains that the amendment itself “excludes most (in terms of dollar value) of the \$12.4 billion in exemptions from consideration...[leaving] only \$4.1 billion of exemptions for the legislature to consider for taxation.” And the \$4.1 billion figure includes a significant amount of “structural exemptions”; “credits, collection allowances, and subsidies that do not qualify as exemptions”; and exemptions for things such as metered water and government purchases that “are not likely to be repealed.” Additionally, the analysis finds that there are a number of exemptions intended to promote economic development and concludes: “Forcing the legislature to repeal a significant portion of current exemptions is likely to produce some counterproductive results. This forced action could harm Florida’s economy at a most inopportune time – as it attempts to begin to reverse a severe economic downturn.”

Another funding option explicitly provided for by Amendment 5 is state spending reductions. While the report acknowledges that targeted state spending reductions should always be the first option explored, the Florida TaxWatch analysis concludes that “with billions in budget cuts already implemented and more potentially on the way, this option may not produce much more available money for the state budget,” and “these additional funding cuts to core services could jeopardize services provided to vulnerable citizens, actually reduce total education spending, and undermine the rule of law by slashing funding for the state court system.”

The analysis also acknowledges that the legislature’s “need for more revenue raises the specter of taxing services,” concluding that: “Despite the significant opposition to a services tax, Amendment 5 undoubtedly puts this option into play. The amendment does not address taxing services, but due to the magnitude of the revenue required, the legislature would be compelled to consider taxing services.

In relation to the fact that Amendment 5 will require the legislature to raise a significant amount of additional revenue, analysis concludes that “Florida’s history with making tax changes to raise specific revenue amounts, instead of because they are the right long-term changes, should give pause. The unitary tax, the services tax, and the alcoholic beverage surcharge are examples of what happens when only revenue considerations drive tax changes. In each instance, it was quickly realized that a mistake had been made and all three taxes were subsequently repealed.”

The Florida TaxWatch analysis also considers the evidence on the impact of Amendment 5 on Florida’s economy and concludes that Amendment 5 would harm Florida’s economy. Past Florida TaxWatch economic research has shown that swapping sales taxes for property taxes does not make economic sense. This was supported by the TBRC economist’s analysis of the tax swap that predicted a significant loss of jobs (an average of 47,000 jobs annually), gross state product, and disposable income from this tax swap. The fact that that Amendment 5 now appears likely to be a “net tax increase” rather than a “revenue neutral tax swap” would exacerbate any harmful economic impacts. Lastly, Amendment 5’s passage would create uncertainty within the business community by not knowing how what Florida’s tax structure will look like in FY 2010-11. This could reduce investment in Florida in the next two years as the Legislature decides what to tax.

The analysis also raises other concerns with the proposal. One such issue is that education funding must be held harmless *only* in the first year after implementation of the amendment and after year one, “K-12 will have to compete with other education entities, as well as other state priorities, for funding every year.” The analysis concludes that: “Taking a dedicated funding source for public schools, like the RLE, and replacing it with general revenue would not be a good deal for Florida’s school districts.” Furthermore, the hold harmless provision itself could create serious budget woes for other services – such as Health & Human Services, Corrections, and the Courts, as well as other educational services like higher education and early learning – in the first year.

“For school children and their parents, principles, teachers and those concerned with public education in Florida, this may very well be a Trojan Horse because there is no constitutional assurance that education funding will be ‘held harmless’ after the first year,” said Dominic M. Calabro.

Another issue highlighted by Dominic Calabro during the release was that the elimination of the local portion of school funding will likely result in the state seeking to increase its influence over the operation of local schools. “As the state picks up the \$11 billion cost of school funding previously provided by the local taxpayers through the required local effort or RLE, undoubtedly the state will seek to have a commensurately larger role in the leadership and direction of the local schools. If you don’t want your local school run from Tallahassee, then vote No on Amendment 5.”

The analysis also discusses the possibility that the elimination of the RLE will allow for faster growth of remaining property taxes, concluding that: “After a big reduction in tax bills, county, city, and special district taxpayers may be more likely to accept, or at least be less likely to show up at the public hearing to object, when their local governments propose a property tax increase or even vote to override the recently enacted millage caps.” Additionally, the report notes that there is “nothing in Amendment 5 that prohibits increases in other non-RLE school property taxes or even the reestablishment of an alternate to the RLE. Sensing this omission, the TBRC amended the proposal to reduce the constitutional cap on school operating millage from ten to five mills. While this change ensures that nothing of the magnitude of RLE will reappear, there are still more than 2 mills of capacity that the legislature could tap for schools.”

The report also analyzes the 5% assessment cap for non-homestead property that is part of Amendment 5, which would be similar to the 3% cap on homestead property provided by Save Our Homes (SOH) except that it would not apply to remaining school taxes and there would be no portability.

The analysis concludes that: “If SOH is here to stay, a cap on non-homestead property is needed to slow the tax shift that has been crippling businesses, rental property, first time homeowners, snowbirds, and second homeowners. However, by itself, the same inequities and attendant legal challenges created by Save Our Homes for homestead properties would be created among non-homesteads. It would also result in a major shift of tax burden from the vast majority of taxpayers to properties not benefiting from this proposal—e.g., new construction first time homeowners, new Floridians, businesses that relocate or expand, and non-homestead residential property owners who move.”

The report continues by offering a "better approach, as previously recommended by Florida TaxWatch, would be to couple a non-homestead assessment cap with a significant standard minimum exemption for all property, thereby reducing the impact on those not immediately benefiting from the cap.”

The analysis concludes that: “Amendment 5 is a far-reaching attempt to reduce the burden of required local effort (RLE) property taxes without reducing school funding; however, this approach could have serious consequences for taxpayers, the state’s economy, Florida schools, and the state budget.”

“At best, Amendment 5 is a risky gamble with Florida’s future; at worst, it’s an economic and fiscal train wreck waiting to happen,” said Calabro. “If Amendment 5 were real tax reform – a responsible tax cut benefiting a broad cross section of Florida taxpayers and likely to stimulate Florida’s economy – then Florida TaxWatch would support it. Our analysis shows that it is not, and we don’t.”

Kurt Wenner, Director of Tax Research and the lead author of the analysis, explained that “the magnitude of these new state taxes would dwarf any other revenue hike in Florida’s history. The economic/fiscal future is uncertain. Forcing the legislature to make major unspecified changes to the state’s tax structure at this time and in this manner is a very dangerous proposition.”

Mr. Wenner added that requiring the state to enact new taxes to raise as much as \$11 billion simply to replace a long-standing local revenue source will seriously reduce the flexibility the state has to meet any future revenue needs of its own. “These new taxes required by Amendment 5 will be several times bigger than anything the state has enacted before, but these new state revenues will not significantly enhance education, build more roads, provide better public safety, or insure more children.”

**MEDIA NOTE:** Dominic Calabro and Kurt Wenner are available for interviews, and pictures from the press conference in Tallahassee are available on the Florida TaxWatch webpage or by contacting Robert Weissert at Florida TaxWatch.

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Florida TaxWatch is a statewide, non-profit, non-partisan research institute that over its 29 year history has become widely recognized as the watchdog of citizens' hard-earned tax dollars. Its mission is to provide the citizens of Florida and public officials with high quality, independent research and education on government revenues, expenditures, taxation, public policies and programs and to increase the productivity and accountability of Florida state and local government. Its support comes from homeowners and retirees, small and large businesses, philanthropic foundations, and professional associations. On the web at [www.FloridaTaxWatch.org](http://www.FloridaTaxWatch.org).