



NEWS

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CONTACT: Robert Weissert
Director of Communications
& External Relations
850-222-5052, ext. 20
850-321-5052 (cell)
robert@floridataxwatch.org

Florida Supreme Court Strikes Constitutional Tax Proposal known as Amendment 5 from November Ballot, *Amendments 7 and 9 concerning school vouchers also struck by High Court*

The controversial Amendment 5 was ordered off the November ballot by the Supreme Court of Florida in Tallahassee this afternoon. The order directed that there would be no reconsideration of the matter and that a full opinion on the issues involved in the case would be forthcoming. Last week, Florida TaxWatch filed an amicus curiae brief with the Court supporting the removal of the amendment from the November ballot. The Florida TaxWatch position is that the ballot title and summary may mislead the voters because they indicate that Amendment 5 would replace the funds lost by the elimination of the required local effort with “equivalent” state funds, whereas Florida TaxWatch research indicates that the replacement requirements would likely result in a nearly \$3 billion tax increase overall. Additionally, the Florida TaxWatch amicus brief explained the complexity of the issues involved in the proposal and the uncertainty inherent in such dramatic changes.

On August 14, 2008, a circuit court in Tallahassee ruled that the amendment’s title and summary were misleading and failed to adequately inform voters of the purposes of the amendment. Today, the Florida Supreme Court upheld that ruling in an affirmation order reading, in its entirety: “The final judgment of the circuit court is affirmed, and proposed Amendment 5 shall not be placed on the November 2008 general election ballot. No motion for rehearing will be entertained. Opinion to follow.”

Last week, the Florida Supreme Court moved the hearing on Amendment 5 up from September 9th to September 3rd presumably to accommodate the September 5th deadline for the Secretary of State to approve the form of ballots submitted by the Supervisors of Elections. The order issued today was signed by all seven Justices, indicating a unanimous agreement that the proposed amendment be struck from the ballot.

“Florida TaxWatch agrees with the Supreme Court that the ballot title and summary of Amendment 5 do not adequately inform the voters about the changes to the constitution, which is the organic law of Florida,” said Dominic M. Calabro, President and CEO of Florida TaxWatch. “Amendment 5 was a fiscal Trojan Horse that would not have provided any assurance that education funding would have been ‘held harmless’ after 2010-11. The circuit court properly removed the amendment from the ballot, and today the Supreme Court affirmed that decision and accepted the position of Florida TaxWatch that the ballot summary and title were misleading. We commend the Court on their hard work and expedient decision.”

“Although we feel that removing Amendment 5 from the ballot is the appropriate outcome in this case, Florida TaxWatch will work with Governor Crist, legislative leaders, and key groups across the state to put together meaningful tax and spending reforms – at the state and local level – that will provide long term value and accountability for all of Florida’s taxpayers,” Calabro added.

In addition to striking Amendment 5 from the ballot, the Court also struck Amendments 7 and 9, reversing a lower court decision that ruled these amendments proper. Amendment 7 would have removed the constitutional ban on using public funds for religious-based institutions. Amendment 9 would have authorized school vouchers by allowing the use of public money for tuition assistance at private schools and simultaneously required school districts to spend at least 65 percent of their funding in the classroom (a proposal known as the “65 percent solution”). The argument raised by the challenges to Amendments 7 and 9 was that they were outside the scope of the Taxation and Budget Reform Commission’s authority for proposing constitutional amendments, which it was argued is limited to issues concerning taxation and the “state budgetary process” by the constitution (Art. XI, Sec. 6(e)). In reversing the lower court decision and striking these amendments, the Court also ordered that no reconsideration would be entertained and indicated that a full opinion explaining the issues is forthcoming.

See the Supreme Court order striking Amendment 5 [here](#)

See the Supreme Court order striking Amendments 7 and 9 [here](#)

See the Florida TaxWatch Amicus Curiae Brief supporting the removal of Amendment 5 [here](#)

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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.