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## **In Addition to Devastating Impacts on the Economy and Jobs, Amendment 4 Will Increase Costs to Taxpayers through Added Elections and Increased Litigation Against Local Governments**

On November 2, 2010, Floridians will vote on six proposed amendments to the *Florida Constitution*. Perhaps Floridians' most important vote – certainly the one with the biggest fiscal and economic implications – is the vote on Amendment 4.

***Ballot Title:** Referenda required for adoption and amendment of local government comprehensive land use plans.*

Amendment 4 would require that voters approve changes to their local comprehensive land use plans. These plans are the growth management plans that cities and counties use to outline the specifics of future development. Currently, these plans can be amended by elected local officials and must also be approved by the Florida Department of Community Affairs; however, if the Amendment 4 passes, all changes to comprehensive plans (a.k.a. “comp plans”) would be mandated to follow the current processes as well as the expensive process of going before the voters – either in a special election or proposed changes could be added to the ballot during a scheduled regular election.

Amendment 4 raises several concerns. Our nation's founding fathers and Florida TaxWatch have long warned against “hyper-democracy” and its threat to our republic form of government. The current process to amend comp plans is already accessible and open to the public. The voters currently hold elected officials responsible for their actions in amending comp plans. Even if it were practical, is Amendment 4 necessary? Land use decisions are often complex. Does the average voter have the expertise to be the final say on the decision, or should that reside with the officials the voters elected to represent them? Hundreds, or even thousands, of expensive elections would also provide the opportunity for well-financed special interests to have undue influence over these decisions.

But the most important question over Amendment 4 is its effect on our economy and the taxpayers of Florida. There is a general consensus that the amendment would have a chilling impact on essential investment in Florida's future, which would in turn have a chilling impact on jobs and Florida's economy. Florida TaxWatch is currently conducting an econometric analysis to quantify the dynamic economic impact of Amendment 4. That study will be released soon but our preliminary findings indicate the amendment would have serious long-term negative impacts on our economy.

**In addition to its impact on jobs and economic growth, Amendment 4 would undoubtedly increase costs for local governments, and therefore taxpayers.** Bringing all these amendments to the voters comes at a cost to local governments and ultimately to the taxpayers, and experience has shown that such a system also carries

significant legal costs.

Not considering the question of whether land planning by referendum is even practical (Florida cities and counties make approximately 8,000 changes to their comp plans annually), Amendment 4 would undoubtedly require additional elections. The state's Financial Impact Estimating Conference (FIEC), which is required by law to develop a fiscal impact statement on amendments brought to the ballot by citizen initiative, says that Amendment 4 will add costs to local governments, but they did not determine a precise fiscal cost estimate.

The official Financial Impact Statement:

*The amendment's impact on local government expenditures cannot be estimated precisely. Local governments will incur additional costs due to the requirement to conduct referenda in order to adopt comprehensive plans or amendments thereto. The amount of such costs depends upon the frequency, timing and method of the referenda, and includes the costs of ballot preparation, election administration, and associated expenses. The impact on state government expenditures will be insignificant.*

### **The Cost of Special Elections**

While it is difficult to precisely estimate the fiscal impact, by examining the costs of elections in Florida you can quickly see that the impact would be substantial. The FIEC analysis states that the minimum cost per special election for an average-sized county ranges from \$143,300 to \$287,700; for an average-sized city from \$10,500 to \$22,000. The FIEC estimates the cost for just one extra election for each voter in the state would range from \$10 million and \$20 million.

That analysis used data from 2005. Moreover, the bottom of the range is the cost of voting by mail and that cost only includes the mailing out of ballots – \$0.92 per mail out. It assumes voters pay return postage and also does include other costs such as advertising, education, and public meetings.

Information supplied to the FIEC during its deliberations illustrates how voting by mail is in fact much more expensive. In 2005, the City of Tallahassee conducted a referendum via mail ballot that costs the city \$337,275 to reach its 103,316 registered voters – a cost of \$3.26 per voter (you can view an invoice of the costs [here](#)).

If that cost is adjusted for the 14.9% inflation from FY 2004-05 to FY 2010-11, the result is a cost of \$3.75 per voter. Applying this cost to Florida's 11,120,316 registered voters results in a cost of \$41.7 million.

The FIEC estimated that a physical location election covering all voters cost \$19.4 million in 2005. Adjusting for inflation, the cost in 2011 would be \$22.3 million.

It is difficult to know precisely how many special elections would need to be held if Amendment 4 passes. Generally, amendments to the comp plan are considered twice a year by local governments, but the volume of amendments could result in more special elections. During years with scheduled elections, comp plan amendments could be added to the ballot. There would still be additional costs, but not as costly as a special election.

Conservatively assuming the experience of Tallahassee is the high end of the range and the low end is the inflation-adjusted FIEC estimate, and further assuming that Amendment 4 will necessitate an average of two special elections for each Florida voter, **the direct estimated annual cost to the taxpayers throughout Florida would be \$44.6 million to \$83.4 million.**

## **Litigation Costs**

The experience of two small Florida cities that have adopted an Amendment 4 approach suggests that lawsuits are likely and that these legal challenges resulting from comp plan amendment votes will add to the cost to taxpayers. The City of St. Pete Beach, with a population of approximately 10,000, has accumulated legal costs of \$765,000 from related lawsuits. According to the *St. Petersburg Times*, Yankeetown (population approximately 730) has “been inundated with a dozen lawsuits from the developers and other interested parties, costing more than \$23,000 in a town with an operating budget of just over a million dollars.”

For strictly illustrative purposes, taking the average of the per capita litigation costs in St. Pete Beach and Yankeetown (\$54) and applying it to Florida’s 18.9 million residents, a total cost of more than \$1 billion results -- this is more than \$135 per Florida household annually. While it is impossible to precisely extrapolate a statewide impact from the experience of two small cities, it would be reasonable to expect Amendment 4 to result in Florida taxpayers incurring added litigation costs in the tens of millions, if not hundreds of millions, of dollars annually. In an editorial, the *St. Petersburg Times* board said; “As a three-year experiment in St. Pete Beach shows, land planning via referendum is a messy, unpredictable business that leads to higher government costs due to litigation and a stalemate when it comes to development.”

The city of St. Pete Beach proposed six comp plan changes in 2008. While all six passed, four of the six -- or 2/3 were legally challenged and are still being litigated. So, if just a very small fraction (far less than 2/3) of the 8,000 changes to city and county comprehensive land use plans are litigated -- even as small as 5% or approximately 400 -- one can clearly see how these likely elections and litigation costs can quickly fall on taxpayers wallets with tens of millions, if not hundreds of millions, of taxpayer dollars.

## **Conclusion**

Amendment 4’s envisioned re-structuring of property rights from private to public and the associated change in decision-making from the marketplace to the ballot box will certainly have devastating, lasting effects on Florida’s economy, the taxpayers, and the treasuries of cities and counties throughout our state. Commercial and residential investment as well as business formation and expansion will diminish. Higher costs will emerge for approved commercial and residential investments as well as forming new businesses and expanding existing ones.

In addition to these impacts, which will be detailed in an upcoming Florida TaxWatch analysis, taxpayers will be saddled with added costs from additional elections and increased litigation. While an exact estimate of these costs is probably not attainable, the fiscal impact of Amendment 4 likely totals tens of millions of taxpayer dollars, if not hundreds of millions, at a time when Floridians are experiencing the most severe economic recession and highest levels of unemployment since the Great Depression and can least afford additional government operating expenses. Instead of spending tens of millions, if not hundreds of millions, of taxpayers’ hard earned money on expensive elections, likely lawsuits, and unnecessary overhead, Florida should invest in early learning for its children and youth, high quality education, public safety, and modern infrastructure which would allow Floridians to compete and prosper in the twenty first century.

**Floridians should vote no on Amendment 4.**

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