

Amendment 5 is a Bad Bet for Florida

TaxWatch Analysis Finds that “tax swap” will create uncertainty and likely be a tax increase

The passage of Amendment 5 this November would be “detrimental to Florida’s people, economy, and future,” so concluded an analysis of the proposed constitutional amendment released this month by Florida TaxWatch. The Briefing, *Uncertainty Makes Amendment 5 a Bad Bet for Florida: The “tax swap” will likely be a tax increase*, is the first in a series of reports on the constitutional amendments proposed by the Taxation and Budget Reform Commission.



Dominic M. Calabro, President and CEO of Florida TaxWatch, holds a copy of the Briefing on proposed constitutional Amendment 5 during a press conference in Tallahassee. The analysis concludes that Amendment 5 would be “detrimental to Florida’s economy, future, and people.”

Amendment 5 proposes to replace the required local effort (RLE) school property taxes 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 10% cap.

“Florida TaxWatch has 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, at a press conference in Tallahassee coinciding with the release in late July.

“Unfortunately, however, Amendment 5’s proposed constitutional solution is worse than the problem,” Calabro explained.

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. Among the concerns is the amount of uncertainty that Amendment 5 would create with respect to the tax system and the state budget: including uncertainty about the amount of taxes that the legislature would have to raise, what the tax package would look like, and how core services could be impacted by spending cuts.

Specifically, if additional spending reductions are necessitated by Amendment 5 – on top of those already made in the past two years – then the

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cuts to core functions of government could jeopardize services provided to vulnerable citizens, undermine the rule of law by slashing funding for the state court system, and actually reduce total education spending.

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 analysis finds that the education hold-harmless provision likely changes the proposal from a revenue-neutral tax swap to a net tax increase of as much as \$3.8 billion.

The report explains three main reasons why the additional revenue will be needed by the state if Amendment 5 is approved.

First, a much larger amount of money will be needed than originally contemplated by the TBRC (\$11 billion instead of \$8 billion) because the funding formula included in the final version of the proposal requires K-12 education to be funded at \$19.7 billion total in 2010-11 whereas the total funding for the current year is only \$16.9 billion (currently RLE is \$8.267 billion and legislative appropriation is \$8.6 billion).

Second, the \$4 billion estimate from a one-penny increase in the sales tax is overstated considering actual revenue collections in recent months and the recent economic forecast. Moreover, the estimate does not account for decreased collections usually associated with 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.”

“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,” summarized 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 so we don’t.”

Third, 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, there are a number of exemptions intended to promote economic development and forcing the legislature

to repeal a significant portion of current exemptions is likely to produce counterproductive results. This forced action, the analysis concludes, 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 targeted state spending reductions should always be the first option explored, the Florida TaxWatch analysis concedes that with the billions of dollars in budget cuts already implemented and more potentially on the way, this option may not produce much more available money for the state budget. Furthermore, 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 Briefing highlights a number of other specific concerns with the details of Amendment 5.

First, past Florida TaxWatch economic research has shown that swapping sales taxes for property taxes does not make economic sense. This finding was supported by the TBRC economist’s analysis of the tax swap that predicted a reduction in jobs, gross state product, and disposable income.

Second, Amendment 5 has significant implications for education funding. 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. After year one, K-12 will have to compete with other education entities, as well as other state priorities, for funding every year. Taking a dedicated funding source for public schools, like

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the RLE, and replacing it with general revenue would not be a good deal for Florida's school districts.

The analysis also acknowledges that the legislature's need for more revenue raises the specter of imposing a services tax in Florida, concluding that "Amendment 5 undoubtedly puts this option into play." Although the amendment does not address taxing services specifically, the legislature would be compelled to consider it due to the magnitude of the revenue required.

assessment cap provision. 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-homesteaded residential property owners who move.

The report offers a better approach, as previously recommended by Florida TaxWatch, that would couple a non-homestead assessment cap with a significant standard minimum exemption for all property, thereby

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."

"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," Dominic Calabro summarized. "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 so we don't."

Additional reports on the November amendments will be forthcoming soon. This report is available for download at www.FloridaTaxWatch.org.



Kurt Wenner (left), Director of Tax Research, and Dominic M. Calabro (right), President and CEO, answer questions at a press conference in Tallahassee on the release of the analysis of Amendment 5.

The analysis also considered the provision of Amendment 5 that would create a 5% assessment cap for non-homesteaded property similar to the 3% cap on homestead property provided by Save Our Homes (except that it would not apply to remaining school taxes and there would be no portability). The report concludes that the same inequities and attendant legal challenges created by Save Our Homes for homestead properties would be created among non-homesteads by the

reducing the impact on those not immediately benefiting from the cap.

Summarizing the findings of the analysis, **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

"It takes some guts to oppose a 25 percent tax cut. It helps if that opposition is compelling... A wide coalition opposes Amendment 5 because it would be chaotic for a state that needs to settle down. TaxWatch has shown those opponents how to make their case."

Palm Beach Post Editorial, "Florida would suffer under Amendment 5," July 24, 2008

Local Government Corner by the Center for Local Government Studies

Pay Your Property Taxes or Pay the Price

by Ben Browning, Research Analyst

For local governments, **property tax collections** are a vital element in funding all manner of services provided to citizens and taxpayers. Recently there have been a number of legislative and constitutional efforts to reduce these revenues and put more money back into the pockets of homesteaded property owners.

These actions have furthered the necessity for **maximizing collections** and **investigating fraudulent claims** for exemptions, such as were mentioned in a June 26th article in *The Miami Herald*, “Thousands File Fraudulent Homestead Exemptions.” According to the article, between Miami-Dade and Broward Counties, a total of \$7.6 million dollars was collected in 2007 as a result of the investigations into fraudulent homestead claims. This method of revenue maximization pays for itself—several times over.

Individuals who willingly file incorrect homestead information are liable for the amount of taxes owed plus interest, and can potentially be assessed an additional fine (up to 25 percent of the total outstanding amount) and disqualified from the ability to file for a homestead exemption for 3 years—effectively increasing their future property tax bills as if they were a business, renter, snowbird, or owner of a second home for the next three years (Fla. Stat. Chap. 197.301 (2007)).

Additionally, according to Florida Statute 129.01, local governments are not allowed to budget more than 95 percent of all estimated revenues, thereby allowing a cushion for uncollected revenues in a given fiscal year. However, according to the most recent Department of Revenue Tax Data Books data for Tax Year 2007, of the 66 counties reported (Citrus County

unavailable), 56 collected 95 percent or more of all levies, with no reporting counties below 91 percent. Still, the statewide total of these uncollected levies owed to local taxing authorities is a little less than \$600 million.

Tax Collectors are required to vigilantly attempt to capture these funds and prosecute fraud, but often personnel concerns limit the number of investigations that can be pursued, especially in larger counties. As cited in the *Miami Herald* article, often neighbors are the ones that discover and report fraudulent claims.

Given these and other revenue issues facing local governments, the Florida TaxWatch Center for Local Government Studies urges all local officials to take measures to ensure rightfully-owed taxes are being collected.

Tampa Regional Meeting - A Special Thanks and Farewell to Alan Ciamporcero



Some 50 TaxWatch members and invited guests, including some candidates running for elected office, attended the Tampa Regional Meeting in late June. Special thanks to **Alan Ciamporcero** (*left*), Verizon regional president for Florida, North Carolina, and South Carolina, and Florida TaxWatch Executive Board Secretary, for hosting the event at the University Club in downtown Tampa. **Dominic Calabro** (*right*) briefed attendees on current research projects that Florida TaxWatch research staff is working on and solicited input concerning future research endeavors from members. There were also discussions on the challenges and opportunities for Florida’s taxpaying citizens and businesses and the state’s economy, the need for local governments to explore consolidating their services together to improve service delivery and cost efficiency, and the need to have tax relief for all citizens - especially non-homesteaders.

Attendees were also provided an overview of the two proposed constitutional amendments pertaining to school vouchers - Amendment 7 and Amendment 9 - by John Kirtley, Florida PRIDE (Parental Rights in Deciding Education).

Additionally, Florida TaxWatch wishes farewell to Mr. Ciamporcero, Executive Board Committee Secretary, as he retires from his position as Verizon Southeast President this month after nearly 20 years in the telecommunications industry. Mr. Ciamporcero has been a champion and influential leader of Florida TaxWatch and is a well respected business and civic leader throughout the Southeastern United States.

TaxWatch Urges Local Governments to Take Cost Savings Lessons From Each Other

Report shares cost-savings and service-delivery innovations by local governments

With the local government budget process in full swing around the state, Florida TaxWatch has released a new report, *Notable Practices of Florida's Counties, Cities, and Schools*, to share successful and innovative cost-savings ideas with local officials now looking for ways to trim costs.

“With tight budgets come tough choices. But no one wants to jeopardize valuable social services in order to balance the budget, so local government officials must find ways to do more with less,” explained **Dominic M. Calabro**, President and CEO of Florida TaxWatch.

The report contains more than 150 best practices of Florida counties, cities, and schools that have been recognized by state and national entities in recent years. The report is intended as a tool for government officials, managers, and citizens to consider for their own community to help improve service delivery and stretch resources.

The report is part of the ongoing effort by Florida TaxWatch to work constructively with local governments to encourage each to examine its own budgeting process to find ways to reduce waste and duplication and achieve greater efficiency, effectiveness, and service delivery.

Florida TaxWatch has distributed copies to each county commissioner,

county administrator, clerk of the court, property appraiser, and tax collector for every county in Florida, and to the mayors of Florida's 170 largest cities. Florida TaxWatch encourages these local officials to identify and adapt suitable cost-savings ideas and service-delivery improvements explained in the report.

We encourage TaxWatch members to urge your local government officials to read this report (and the other local government cost-savings reports) and to make a good faith effort and adapt these practices into your local government. The packet sent to local government officials also included an information piece about the Center for Local Government Studies and how it is available, upon invitation from a local government or civic or business group, to do a budget analysis of their town, county, school board, or other taxing district.

Through the Center for Local Government Studies, Florida TaxWatch has the capacity to join with local government officials and analyze unique local entities to identify specific ways that your local government can provide high quality services at the lowest possible cost, thus maximizing taxpayer value.

Some examples of programs cited in the report include:

Prudent Budgeting Hillsborough County

The Board of County Commissioners limited annual spending increases to the rate of inflation plus the county's population growth. This policy has been a recommendation by Florida TaxWatch to local governments across Florida, and consistent with cost cutting and tax saving proposals outlined in a Florida TaxWatch budget study on Hillsborough County in 1999.

Reusable Concrete Form Board City of Palm Bay

The city uses plastic form boards to build concrete sidewalks. Dramatic cost savings and productivity enhancements resulted in the staff member who initiated the program being recognized as public works employee of the year by the Florida Association of County Engineers and Road Superintendents.

Florida TaxWatch also unveiled a new “Citizen Feedback” section of its main webpage. The opportunity will allow citizens to submit ideas and observations about their government (state and local) for consideration by TaxWatch staff for inclusion in future reports.

You can find out more information about the Center for Local Government Studies at Florida TaxWatch by visiting www.FloridaTaxWatch.org/CLGS, or by contacting Deborah Harris at dharris@FloridaTaxWatch.org.

“The information packet sent out by Florida TaxWatch was full of useful and interesting information. Thank you for providing this information throughout our state. The resulting effects, I am confident, will be noticeable. We appreciate the efforts of Florida TaxWatch, and are reviewing the information for possible implementation in our town.”

Thomas W. Cadden, Mayor, Town of Indian River Shores, in a letter to Dominic M. Calabro

Escambia County Taxing Outpaced Inflation and Population Growth by Five Times

by Ben Browning, Research Analyst

A team from Florida TaxWatch recently traveled to Pensacola to unveil a much-anticipated Center for Local Government Studies report that focused in on Escambia County government financials.

Headed by Dominic Calabro, President and CEO of TaxWatch (*below right*), the Center for Local Government Studies Escambia team included Kaye Kendrick, Sr. VP of Research (not pictured), Ben Browning, Research Analyst (*left*), and Larry Reese, Project Consultant (*center*). Harvey Bennett, Sr. VP of Membership (behind the camera) also made the trip.



The team released the report to an eager audience of journalists, civic leaders, government officials, and concerned citizens alike. Among the numerous highlights of the findings was the fact that Escambia County's operating millage rate remained unchanged over an eight-year period (2000-2007), while their total taxable value doubled—virtually doubling the citizens' tax burden, while significantly growing the public coffers.

Florida TaxWatch arrived in Pensacola to a front-page welcome in the local

newspaper, followed by television and media interviews throughout the day.



Dominic Calabro answers questions concerning the Florida TaxWatch analysis of Escambia county government financials at a press conference in Pensacola, Florida in late June.

President Calabro began the press conference by describing the “perfect storm” that awaits the Florida economy, depicting an image of cities and counties being washed away in the tide of bad taxing and spending policies. Calabro explained that the combination of economic, social, and political factors that comprise this storm can be seen all around and unless something is done to curtail wasteful spending and senseless taxation of citizens, the ship will not be righted, nor will it be diverted, and Florida will head into a no-win situation.

As is often the case at the county level, the Sheriff's Department is the biggest spender, accounting for over 50% of the general fund budget annually. The Escambia Sheriff's Department's spending far outpaces it peers in Leon and Marion Counties (two of three chosen as comparable counties within the study).

The findings contained within the report point to a lack of accountability and an unnecessary level of duplicity between the County's Board of County

Commissioners (BOCC) and the five elected Constitutional Officers.

Recommended actions included the institution of a comprehensive performance measurement system, an independent audit function, and the ability for audits across organizational lines. Currently the Clerk of the Circuit Court has only the ability to perform audits for his office and those of the BOCC. On hand at the press conference, the County's Clerk of the Circuit Court, Ernie Magaha, pledged to work towards the implementation of many of the goals TaxWatch has outlined within its report in an attempt to correct the perceived misdeeds and fraud, waste, and abuse that is reported by citizens and the local media.

Other highlights centered around data that told the story of Escambia County's collection and use of funding over a period between fiscal year 2001 and fiscal year 2006. One example can be found in Exhibit 5 of the report, which shows that Escambia County's spending increased 6.6% annually, compared to the 67-county average of 6.1%. Likewise, Escambia's revenue generation outpaced that of the average Florida county's, but by a slimmer margin of an annual increase of 6.7%, opposed to 6.6% for the state.

Recently released information on fiscal year 2007 (which was not within the scope of the study but was mentioned in the report anyway) shows that expenditures increased a whopping 18% while revenues increased 27% from fiscal year 2006 to 2007 alone.

For a copy of the CLGS report, please visit the Florida TaxWatch Center for Local Government Studies website at www.FloridaTaxWatch.org/CLGS.



2008 Florida TaxWatch Legislative & TBRC Accomplishments

Unitary Taxation – Florida TaxWatch testified in a March 2008 House committee that unitary taxation through “combined reporting” of corporate income would be complicated and costly to administer for taxpayers and the state. The bill to create a unitary system was voted down.

Working Waterfronts – Florida TaxWatch research presented to the Taxation and Budget Reform Commission supported much-needed property tax reform to require assessments on these properties be based on current use, instead of “highest and best” use. The Commission put this into a constitutional amendment for the November 2008 ballot.

Value Adjustment Board Reforms – Florida TaxWatch supported a bill before the legislature to make the local Value Adjustment Boards more uniform and accountable in their makeup and policies. The legislature passed this bill, adding a late TaxWatch-supported amendment to loosen the “highest and best use requirement.” Another TaxWatch-supported bill to reduce the burden of proof on taxpayers in disputes with property appraisers failed to pass the Senate.

Streamlining Government – Florida TaxWatch, in several meetings with House Speaker Rubio, provided specific suggestions to eliminate duplication and to streamline government operations. One outcome was the legislature passing a bill eliminating the use of DOR form 219 (collection of property sales information), estimated to save more than \$12 million annually.

Education Budget Cuts – Research by our Center for Educational Performance and Accountability provided insightful comparisons of Florida’s education spending with other states and suggested specific areas the state education budget could be reduced in these tight budget times, without hurting the quality of education.

Vouchers & 65-Percent Classroom Spending – Florida TaxWatch provided research to the Taxation and Budget Reform Commission that supported the benefits of more classroom spending and a robust and accountable voucher program. The Commission put a constitutional amendment covering both subjects on the November 2008 ballot.

Remote Sales Tax – Florida TaxWatch successfully encouraged the Taxation and Budget Reform Commission to recommend statutory changes to require Florida to begin collecting rightfully-owed, but largely uncollected, sales and use tax from out-of-state vendors. The Legislature chose not to act on it, but leaders vowed to take it up next year.

Early Return to School – Florida TaxWatch testified against a local option to start public schools earlier than two weeks before Labor Day. The proposal to do so was later voted down in committee.

Florida TaxWatch – Research that Gets Results!

Member Congratulations

April Salter Herrle, Florida TaxWatch Executive Board member and President of Salter>Mitchell, the advertising and public relations firm that won the nation's highest award in public relations, the 2008 Sliver Anvil Award, for the "Fifth Guy" hygiene campaign, which was recognized as the country's top public service campaign for government.

Howard L. Lance, TaxWatch member and Chairman, President & CEO of Harris Corporation, won the 2008 Ernst & Young Florida Entrepreneur of the Year award for the Florida region, which recognizes outstanding entrepreneurs

who are building and leading dynamic, growing businesses. Mr. Lance was the recipient in the "Master" category, which recognizes entrepreneurs who are well established in their industry and careers.

Thomas A James, TaxWatch member and Chairman & CEO of Raymond James Financial, received the "Lifetime Achievement Award" from the Ernst & Young 2008 Florida Entrepreneur of the Year Awards.

Dr. J. Antonio (Tony) Villamil, Vice-Chairman of the Florida Council of

Economic Advisors at Florida Tax Watch and former United States Under Secretary of Commerce for Economic Affairs, was named the new Dean of the St. Thomas University School of Business in Miami Gardens.

Jim Harpham, TaxWatch member and past corporate president of GTE Wireless, for his service on the Community Advisory Board of Clothes To Kids, Inc., which was awarded the Tampa Bay Business Journal's Non-Profit of the Year Award in the category of Children's services.

David A. Smith, Chairman; Dominic M. Calabro, President and Publisher;
 Steve Evans, Chief Operating Officer; Harvey Bennett, Senior Vice President for Marketing and Membership;
 Robert Weissert, Esq., Director of Communications and External Relations
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Florida TaxWatch is a private, 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. Our 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 Government. On the web at www.FloridaTaxWatch.org.



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