Florida TaxWatch

THE FLORIDA TAXWATCH

2014 VOTER GUIDE

TO FLORIDA'S CONSTITUTIONAL AMENDMENTS

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Dear Fellow Voter,

I am pleased to present the *2014 Florida TaxWatch Voter Guide*. Florida TaxWatch is honored to provide this service to the taxpayers of Florida in order to help educate voters on the issues before them on this year's ballot. We hope this information is useful to you. Most of all, we hope that you vote.

Sincerely,

Dominic M. Calabro

President & CEO

On November 4, 2014, Floridians will vote on three proposed amendments to the Florida Constitution. This Florida TaxWatch Voter Guide is designed to provide voters with information about each of the amendments to help them cast well-informed votes. The full text of the amendments and the financial impact statements are available in the back of this report. (Note: Financial impact statements are not required for amendments proposed by the Legislature, so Amendment 3 does not have one.)

This is a relatively short list of amendments for Florida voters to consider, and substantially shorter than the 2012 General Election, when 11 amendments were put in front of the voters. It is in fact the shortest list since 2000, when there was only one proposed amendment on the ballot.

AMENDMENT 1

TITLE

WATER AND LAND CONSERVATION - DEDICATES FUNDS TO ACQUIRE AND RESTORE FLORIDA CONSERVATION AND RECREATION LANDS

PLACED BY

Citizens, via signature gathering

AMENDING

Article X, creating Section 28

BALLOT SUMMARY

Funds the Land Acquisition Trust Fund to acquire, restore, improve, and manage conservation lands including wetlands and forests; fish and wildlife habitat; lands protecting water resources and drinking water sources, including the Everglades, and the water quality of rivers, lakes, and streams; beaches and shores; outdoor recreational lands; working farms and ranches; and historic or geologic sites, by dedicating 33 percent of net revenues from the existing excise tax on documents for 20 years.

A YES VOTE MEANS

The Florida Constitution would mandate that 33 percent of the state's documentary stamp tax proceeds be directed into the Land Acquisition Trust Fund for a number of environmental programs, irrespective of budget needs and the availability of revenue for any given fiscal year.

A NO VOTE MEANS

The Florida Legislature would continue to make funding decisions on environmental programs as it traditionally has, in concert with other state funding needs and each fiscal year's revenue circumstances.

THE ARGUMENTS

SUPPORTERS

Supporters say that Amendment 1 will provide a stable source of funding for critical conservation and environmental programs. Allison DeFoor, chair of the Vote Yes on 1 campaign, says "Without raising new taxes, it will enhance sources of drinking water, manage fish and wildlife habitats, add and restore lands, protect beaches and shores and maintain state and local parks." They point out that the environment is critical to Florida's economy.

OPPONENTS

Opponents warn against putting unchangeable budget decisions in the constitution and say it could reduce funding for other programs funded from documentary stamp taxes, such as transportation and affordable housing. Senate President Don Gaetz contends the amendment would shift too much land to state control.

ANALYSIS

OVERVIEW

Amendment 1 would require that 33 percent of the state's documentary stamp tax be automatically transferred to the Land Acquisition Trust Fund (LATF) for a number of environmental purposes each year for 20 years. Although the focus of the ballot title and summary is the acquisition of conservation and recreational land, the amendment language likely authorizes funding for numerous environmental activities.

Under the latest official revenue estimates, Amendment 1 would direct $653 million to the LATF next year (FY2015-16).[1] The state's official financial impact statement estimates that the amount would increase to $1.3 billion by 2034-35, the last year required by the amendment, amounting to a **20-year total of $19.1 billion.**[2]

THE DOCUMENTARY STAMP TAX

The documentary stamp tax is comprised of two taxes: 1) a tax on real estate documents (mainly deeds) at a rate of 70 cents per $100; and 2) a tax on loan documents at a rate of 35 per $100. The tax is probably the most widely distributed revenue source in the state. It is expected to raise $1.98 billion in the current fiscal year. Through a complex formula, more than one-third of net collections currently go to General Revenue (which can be appropriated by the Legislature for any purpose). The rest goes to fund transportation, economic development, state and local housing programs, and a variety of trust funds to fund environmental programs, including debt service on Florida Forever and Everglades Restoration bonds, state and water management land programs, lake restoration, water quality assurance, invasive plant control, and oyster management and restoration programs.

1 The Financial Impact Estimating Conference, which prepares a fiscal impact statement on all proposed amendments brought to the ballot by petition, estimated $648 million based on March 2013 estimates. The $653 million estimate was calculated by Florida TaxWatch based on August 2014 revenue estimates.

2 Financial Impact Estimating Conference, Summary of Financial Information Statement, http://edr.state.fl.us/Content/constitutional-amendments/2014Ballot/LandAcquisitionTrustFund33percentDocStamp/SummaryofFinancialInformationStatement.pdf

Documentary stamp tax revenues are not stable. The housing bubble caused total collections to more than triple in five years, reaching $4 billion in FY2005-06. The Great Recession then led to collections falling to just over $1 billion in FY2009-10.

IMPACT OF THE AMENDMENT ON STATE EXPENDITURES

The amendment does not directly affect total state revenues or taxes, and it is impossible to estimate how this amendment will impact total state expenditures, or even if it will result in increased funding for conservation and environmental programs. The Legislature will have to amend the documentary stamp tax distribution statute to incorporate the 33 percent for the LATF, and could choose to fund some current environmental programs out of the LATF, rather than with GR and/or non-documentary stamp tax revenues, as they do currently. For example, the acquisition of historic properties and funding for local water projects, currently not funded with documentary stamp revenues, might be paid out of the LATF under the amendment.

Additionally, by mandating a certain amount of spending for environmental conservation, the amendment has the potential to reduce spending for non-environmental programs, particularly in tight budget years. There is evidence that the Legislature often spends more on qualifying programs than would be required under the amendment. For FY2013-14, Florida TaxWatch calculations show that if Amendment 1 were in effect, $546 million in documentary stamp tax revenues would have been directed to the LATF, and the Financial Impact Estimating Conference identified at least $563 million in FY2013-14 appropriations that may satisfy the requirements of the amendment (although this amount may not include all qualifying expenditures). However, in the previous year (FY 2012-13), there were $340 million in actual qualifying expenditures in FY2012-13, while $496 million would have gone into the LATF under Amendment 1.

Historically, since 2003-04, actual expenditures would have exceeded required LATF deposits in five of those eleven years, meaning that it is possible that the required amount could actually reduce legislative efforts to provide conservation funding from other sources.

How the amendment will ultimately impact funding for any program is unknown, since it is dependent on future legislative decisions. There is no guarantee the amendment would increase spending on conservation and environmental programs compared to what would happen without the amendment. Therefore, it is also not certain the amendment would reduce spending for non-environmental programs. If there is a program that would have its funding negatively affected, a likely candidate would be affordable housing, which is also funded with documentary stamp taxes and has seen its trust funds frequently swept.

CONCLUSION

It is clear that the amendment would decrease legislative flexibility in budgeting, which Florida TaxWatch has consistently held to be a vital tool for responsible budget decisions. Regardless of the merits of either argument on this issue, this is a policy decision that does not belong embedded in "constitutional concrete" in the Florida Constitution.

AMENDMENT 2

TITLE

USE OF MARIJUANA FOR CERTAIN MEDICAL CONDITIONS

PLACED BY

Citizens, via signature gathering

AMENDING

Article X, creating Section 28

BALLOT SUMMARY

Allows the medical use of marijuana for individuals with debilitating diseases as determined by a licensed Florida physician. Allows caregivers to assist patients' medical use of marijuana. The Department of Health shall register and regulate centers that produce and distribute marijuana for medical purposes and shall issue identification cards to patients and caregivers. Applies only to Florida law. Does not authorize violations of federal law or any non-medical use, possession or production of marijuana.

A YES VOTE MEANS

The Florida Constitution would authorize physician certification of medical-grade marijuana for individuals by Florida-licensed physicians; the sale of which would be regulated by the state Department of Health; would not require that any insurance company or government agency cover or reimburse the cost of such a prescription; and would not authorize patients to grow their own supply.

A NO VOTE MEANS

Leaving the law as it currently stands, under which marijuana is an illegal drug, except in very specific circumstances.

THE ARGUMENTS

SUPPORTERS

Proponents say the amendment is all about compassion for those with debilitating diseases, and point to evidence that marijuana provides safe and effective therapy for conditions such as nausea, appetite loss, muscle spasms, and chronic pain resulting from a number of diseases. They claim it would provide an alternative to pill mills, and would reduce the number of fatalities related to pain medication such as oxycodone, hydrocodone, and morphine. They further claim that the law has sufficient safeguards and the allowance of "other conditions" is important, because medical decisions should be made by doctors and their patients, not lawyers, politicians, or bureaucrats.

OPPONENTS

Opponents contend the law is too broad and would allow almost anyone to secure marijuana. They point to the state's history with pill mills as evidence there will be no shortage of doctors to provide approval for questionable conditions. Others warn of the social costs of increased marijuana use and say it will be expensive to regulate and provide added law enforcement resources. Opponents also say that studies from Colorado (where all marijuana has now been decriminalized) show that significant amounts of medical marijuana will be diverted to recreational use. There is also the contention that "the approval of medicines and the protection of consumers are the responsibility of the FDA, not state legislators, not voters and not governors petitioning for marijuana to be rescheduled."[3]

3 Save Our Society from Drugs, in written testimony to the Financial Impact Estimating Conference, Oct. 25, 2013

ANALYSIS

APPROVED USE AND REGULATION OF MEDICAL MARIJUANA

The amendment specifies the approved use of medical marijuana for cancer, glaucoma, HIV/AIDS, hepatitis C, ALS, Crohn's disease, Parkinson's disease, and multiple sclerosis; however, treatment for other conditions is also allowed if recommended by a Florida physician. It also established a process for the sale of the drug to patients and caregivers to be regulated by the Department of Health. It provides that no insurance provider or government agency can be required to reimburse the cost. It does not allow the operation of a motor vehicle, boat of aircraft when under the influence of marijuana. The amendment does not affect laws relating to non-medical use, possession, production or sale of marijuana.

FLORIDA'S MARIJUANA LAWS

While state law prohibits the use, possession, and sale of marijuana, there is some precedent for medical use of marijuana in Florida. Florida courts have found that "medical necessity" can circumvent the application of criminal penalties. In a case where a married couple suffered from uncontrollable nausea from AIDS treatment and their physician testified that no effective alternative treatment could be found,[4] the First District Court of Appeal found that Florida law "does not preclude the defense of medical necessity" for the use of marijuana if the defendant: did not intentionally bring about the circumstance which precipitated the unlawful act; could not accomplish the same objective using a less offensive alternative available; and the evil sought to be avoided was more heinous than the unlawful act.

4 Jenks vs. State, 582 So. 2d 676

The 2014 Legislature also took its first limited foray into medical use of marijuana when it passed the Compassionate Medical Cannabis Act of 2014. The legislation legalized low-THC cannabis, such as the strain Charlotte's Web, for patients suffering from cancer or chronic seizures. This low-THC marijuana does not produce an euphoric effect, and the law requires physician approval and the determination that "no other satisfactory alternative treatment options exist for that patient."

In both the 2013 and 2104 Florida legislative sessions, bills were introduced to enact a medical marijuana process similar in concept to the amendment. None of the bills were heard in committee.

NATIONAL AND FEDERAL CONTEXT

How do the qualifying conditions in this amendment match up with other states? At the end of the list of qualifying diseases, the amendment includes what could be seen as a rather broad qualifier: "or other conditions for which a physician believes that medical use of marijuana would likely outweigh the potential health risks for a patient." Currently, 20 states and the District of Columbia have a law permitting some form of medical marijuana, and while most states allow for other conditions, most have a process for approval of those conditions, such as approval by a state board. Florida would only require a recommendation from a licensed physician, and only Massachusetts and California offer physicians such broad leniency. Despite this difference, several provisions in the amendment are stricter than some states, such as requiring treatment centers and state licensing and regulation.

It should be noted that federal law lists marijuana and a Schedule 1 drug with no accepted medical use and its possession, manufacturing, and distribution is a crime. State laws, including Florida's proposed amendment, would not protect patients from federal prosecution. Up to this point, the federal government has not chosen to prosecute medical marijuana patients and has in fact changed its policy on low level drug offenses, essentially leaving prosecution up to the states;[5] however, this policy could change again when a new administration takes office in January 2017.

JUDICIAL RULING ON THE STATE'S CHALLENGE TO THE AMENDMENT

One of the major points of opposition to the amendment is the assertion that the law is too broad and will allow far more people than those with debilitating diseases to secure the drug. In Florida, all ballot titles and summaries must be approved by the state Supreme Court. In a brief to the Court, Florida Attorney General Pam Bondi argued that

> *The proposal [language] hides the fact that the Amendment would make Florida one of the most lenient medical-marijuana states, allowing use for limitless 'other conditions' specified by any physician. With no 'condition' off limits, physicians could authorize marijuana for anything, any time, to anyone, of any age. But rather than tell voters of this extraordinary scope, the summary uses language to prey on voters' understandable sympathies for Florida's most vulnerable patients, those suffering from 'debilitating diseases.'*

5 See http://www.justice.gov/ag/smart-on-crime.pdf, as cited by the Financial Impact Estimating Conference in its *Summary of Initiative Financial Information Statement*

The Supreme Court ruled 4-3 that the amendment would be "accurately represented on the ballot," and *Politifact Florida* rated General Bondi's statement about Florida becoming one of the most lenient states "mostly true."

COSTS OF IMPLEMENTATION

The Financial Information Statement prepared by the state Financial Impact Estimating Conference estimates that it will cost the Department of Health $1.1 million annually to carry out its regulatory functions pursuant to this amendment. The Department of Highway Safety and Motor Vehicles, the Police Chiefs Association, and the Sheriffs Association expect additional, non-quantified law enforcement costs based on the experience from other states. It is expected any added government cost would be at least partially offset by fees imposed on the industry.

The taxation of medical marijuana would have to be addressed by the Legislature as the applicability of the sales tax is unclear. It is not thought medical marijuana would qualify for a prescription medicine exemption, but it may qualify for the common household remedy exemption, and questions also exist as to the taxability of equipment and property used in cultivation due to agricultural exemptions.

CONCLUSION

The legalization of medical marijuana is still an experiment, and various states have enacted it with different approaches. It certainly runs counter to the traditional government policy on illegal drugs, although the general concept has been adopted by nearly half of the states.

If Florida decides to go that route, the law may need some changes as we learn more about how it is working and what the impacts are. The creation of new government programs often results in unintended consequences, and sometimes the wording of the law is not interpreted as expected. Putting such a law in the Florida Constitution would make nuanced changes extremely difficult to accomplish.

Regardless of the merits of either argument on this issue, this is a policy decision that does not belong embedded in "constitutional concrete" in the Florida Constitution.

AMENDMENT 3

TITLE

PROSPECTIVE APPOINTMENT OF CERTAIN JUDICIAL VACANCIES

PLACED BY

The Florida Legislature

AMENDING

Article V, Sections 10, 11

BALLOT SUMMARY

Proposing an amendment to the State Constitution requiring the Governor to prospectively fill vacancies in a judicial office to which election for retention applies resulting from the justice's or judge's reaching the mandatory retirement age or failure to qualify for a retention election; and allowing prospective appointments if a justice or judge is not retained at an election. Currently, the Governor may not fill an expected vacancy until the current justice's or judge's term expires.

A YES VOTE MEANS

Under this amendment, the Florida Constitution would require a sitting governor to fill "prospective vacancies" on the Florida Supreme Court or district courts of appeal prior to the end of the term of those judges or justices required to vacate a seat, or upon the announcement of a judge or justice's resignation, retirement, or failure to be retained, rather than the governor in office on the first day of either vacancy.

Currently, three Supreme Court justices are legally required to retire at the end of their term in January 2019. Under this amendment, the individual elected governor in the 2014 general election would be required to appoint three new Supreme Court justices to begin their terms in 2019, regardless of who wins the 2018 gubernatorial election.

A NO VOTE MEANS

Leaving the Florida Constitution as it currently reads, wherein a vacancy does not occur until the expiration of the term of the outgoing judge or justice.

THE ARUGMENTS

SUPPORTERS

Proponents say this amendment is needed to avoid a "constitutional crisis," because current law is unclear as to whether the outgoing or incoming governor has the responsibility to appoint three new Supreme Court Justices on January 8, 2019 when three justices are slated to retire on the same day a new Governor is sworn in. They claim that it is not political because the state's next governor has yet to be elected; and some also say that it may reduce the length of judicial vacancies, thereby easing workload issues in the court.

OPPONENTS

Some opponents say it is political, that the amendment was brought to the ballot by the Republican-majority Legislature to ensure that Governor Scott, if re-elected, would be able to appoint three new justices, which has the potential to have a substantial impact on the ideological balance of the Court. Others say that regardless of any political implications, it is more appropriate for the incoming governor to appoint the justices that will serve during that governor's term.

ANALYSIS

This is the only amendment brought to this year's ballot by the Florida Legislature, and is based on the belief that current law is unclear as to whether the incoming or outgoing governor has the authority to appoint the new justices when a justice's term expires on the same day as a new governor is sworn in. The resolution passed along party lines, with Republicans voting in favor and Democrats opposed.

The Florida Constitution requires Supreme Court Justices to retire at age 70, or at the end of their term when their birthday falls in the second half of their term. This requirement sets up a situation where three justices are set to retire on January 8, 2019.

Current law does not allow the governor to fill a vacancy until that judge or justice's term expires. A vacancy refers to the seat left unfilled at the beginning of the term for that seat. The terms of judges and justices last for 6 years (followed by retention elections every 6 years), and begin on the first Tuesday following the first Monday of January in the year following a general election (i.e. January 2015 following the November 2014 election), which every four years is the same day as a new governor is sworn into office. Because the sitting governor is still in office until a new governor takes over in the middle of that day, some believe that the Constitution is unclear as to whether the outgoing governor has the authority to appoint a new judge or justice to a vacant seat.

Amendment 3 creates a new distinction: the "prospective vacancy." The amendment would require a Governor to fill vacancies that are known to be forthcoming on the Florida Supreme Court or a district court of appeal when a judge or justice retires, resigns, or fails to qualify for or loses a retention election. Except in the case of a governor beginning their second term, the outgoing (either through loss in the election, or term limits) governor would appoint the judge(s) or justice(s) to the Court(s) to begin their terms under the new governor.

Specifically, it would have the effect of requiring whoever wins the 2014 gubernatorial election to appoint three new justices in 2019, rather than the person elected governor in November 2018.

CONCLUSION

Unlike the other two amendments on this year's ballot, which are essentially policy decisions, and therefore best resolved through statutory changes, this is a Constitutional issue, and can therefore only be solved through an amendment to the Constitution.

FINANCIAL IMPACT STATEMENTS AND FULL TEXT OF THE AMENDMENTS

AMENDMENT 1 – WATER AND LAND CONSERVATION - DEDICATES FUNDS TO ACQUIRE AND RESTORE FLORIDA CONSERVATION AND RECREATION LANDS

FINANCIAL IMPACT STATEMENT:

This amendment does not increase or decrease state revenues. The state revenue restricted to the purposes specified in the amendment is estimated to be $648 million in Fiscal Year 2015-16 and grows to $1.268 billion by the twentieth year. Whether this results in any additional state expenditures depends upon future legislative actions and cannot be determined. Similarly, the impact on local government revenues, if any, cannot be determined. No additional local government costs are expected.

FULL TEXT:

SECTION 28. Land Acquisition Trust Fund.—

a) Effective on July 1 of the year following passage of this amendment by the voters, and for a period of 20 years after that effective date, the Land Acquisition Trust Fund shall receive no less than 33 percent of net revenues derived from the existing excise tax on documents, as defined in the statutes in effect on January 1, 2012, as amended from time to time, or any successor or replacement tax, after the Department of Revenue first deducts a service charge to pay the costs of the collection and enforcement of the excise tax on documents.

b) Funds in the Land Acquisition Trust Fund shall be expended only for the following purposes:

1) As provided by law, to finance or refinance: the acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands including wetlands, forests, and fish and wildlife habitat; wildlife management areas; lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge for groundwater

and aquifer systems; lands in the Everglades Agricultural Area and the Everglades Protection Area, as defined in Article II, Section 7(b); beaches and shores; outdoor recreation lands, including recreational trails, parks, and urban open space; rural landscapes; working farms and ranches; historic or geologic sites; together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.

2) To pay the debt service on bonds issued pursuant to Article VII, Section 11(e).

c) The moneys deposited into the Land Acquisition Trust Fund, as defined by the statutes in effect on January 1, 2012, shall not be or become commingled with the General Revenue Fund of the state.

AMENDMENT 2 – USE OF MARIJUANA FOR CERTAIN MEDICAL CONDITIONS

FINANCIAL IMPACT STATEMENT:

Increased costs from this amendment to state and local governments cannot be determined. There will be additional regulatory and enforcement activities associated with the production and sale of medical marijuana. Fees will offset at least a portion of the regulatory costs. While sales tax may apply to purchases, changes in revenue cannot reasonably be determined since the extent to which medical marijuana will be exempt from taxation is unclear without legislative or state administrative action.

FULL TEXT:

ARTICLE X, SECTION 29. Medical marijuana production, possession and use.—

(a) PUBLIC POLICY.

(1) The medical use of marijuana by a qualifying patient or personal caregiver is not subject to criminal or civil liability or sanctions under Florida law except as provided in this section.

(2) A physician licensed in Florida shall not be subject to criminal or civil liability or sanctions under Florida law for issuing a physician certification to a person diagnosed with a debilitating medical condition in a manner consistent with this section.

(3) Actions and conduct by a medical marijuana treatment center registered with the Department, or its employees, as permitted by this section and in compliance with Department regulations, shall not be subject to criminal or civil liability or sanctions under Florida law except as provided in this section.

(b) DEFINITIONS. For purposes of this section, the following words and terms shall have the following meanings:

(1) "Debilitating Medical Condition" means cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, multiple sclerosis or other conditions for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient.

(2) "Department" means the Department of Health or its successor agency.

(3) "Identification card" means a document issued by the Department that identifies a person who has a physician certification or a personal caregiver who is at least twenty-one (21) years old and has agreed to assist with a qualifying patient's medical use of marijuana.

(4) "Marijuana" has the meaning given cannabis in Section 893.02(3), Florida Statutes (2013).

(5) "Medical Marijuana Treatment Center" means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments),

transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers and is registered by the Department.

(6) "Medical use" means the acquisition, possession, use, delivery, transfer, or administration of marijuana or related supplies by a qualifying patient or personal caregiver for use by a qualifying patient for the treatment of a debilitating medical condition.

(7) "Personal caregiver" means a person who is at least twenty-one (21) years old who has agreed to assist with a qualifying patient's medical use of marijuana and has a caregiver identification card issued by the Department. A personal caregiver may assist no more than five (5) qualifying patients at one time. An employee of a hospice provider, nursing, or medical facility may serve as a personal caregiver to more than five (5) qualifying patients as permitted by the Department. Personal caregivers are prohibited from consuming marijuana obtained for the personal, medical use by the qualifying patient.

(8) "Physician" means a physician who is licensed in Florida.

(9) "Physician certification" means a written document signed by a physician, stating that in the physician's professional opinion, the patient suffers from a debilitating medical condition, that the potential benefits of the medical use of marijuana would likely outweigh the health risks for the patient, and for how long the physician recommends the medical use of marijuana for the patient. A physician certification may only be provided after the physician has conducted a physical examination of the patient and a full assessment of the patient's medical history.

(10) "Qualifying patient" means a person who has been diagnosed to have a debilitating medical condition, who has a physician certification and a valid qualifying patient identification card. If the Department does not begin issuing identification cards within nine (9) months after the effective date of this section, then a valid physician certification will serve as a patient identification card in order to allow a person to become a "qualifying patient" until the Department begins issuing identification cards.

(c) LIMITATIONS.

(1) Nothing in this section shall affect laws relating to non-medical use, possession, production or sale of marijuana.

(2) Nothing in this section authorizes the use of medical marijuana by anyone other than a qualifying patient.

(3) Nothing in this section allows the operation of a motor vehicle, boat, or aircraft while under the influence of marijuana.

(4) Nothing in this law section requires the violation of federal law or purports to give immunity under federal law.

(5) Nothing in this section shall require any accommodation of any on-site medical use of marijuana in any place of education or employment, or of smoking medical marijuana in any public place.

(6) Nothing in this section shall require any health insurance provider or any government agency or authority to reimburse any person for expenses related to the medical use of marijuana.

(d) DUTIES OF THE DEPARTMENT. The Department shall issue reasonable regulations necessary for the implementation and enforcement of this section. The purpose of the regulations is to ensure the availability and safe use of medical marijuana by qualifying patients. It is the duty of the Department to promulgate regulations in a timely fashion.

(1) Implementing Regulations. In order to allow the Department sufficient time after passage of this section, the following regulations shall be promulgated no later than six (6) months after the effective date of this section:

a. Procedures for the issuance of qualifying patient identification cards to people with physician certifications, and standards for the renewal of such identification cards.

b. Procedures for the issuance of personal caregiver identification cards to persons qualified to assist with a qualifying patient's medical use of marijuana, and standards for the renewal of such identification cards.

c. Procedures for the registration of Medical Marijuana Treatment Centers that include procedures for the issuance, renewal, suspension, and revocation of registration, and standards to ensure security, record keeping, testing, labeling, inspection, and safety.

d. A regulation that defines the amount of marijuana that could reasonably be presumed to be an adequate supply for qualifying patients' medical use, based on the best available evidence. This presumption as to quantity may be overcome with evidence of a particular qualifying patient's appropriate medical use.

(2) Issuance of identification cards and registrations. The Department shall begin issuing qualifying patient and personal caregiver identification cards, as well as begin registering Medical Marijuana Treatment Centers no later than nine months (9) after the effective date of this section.

(3) If the Department does not issue regulations, or if the Department does not begin issuing identification cards and registering Medical Marijuana Treatment Centers within the time limits set in this section, any Florida citizen shall have standing to seek judicial relief to compel compliance with the Department's constitutional duties.

(4) The Department shall protect the confidentiality of all qualifying patients. All records containing the identity of qualifying patients shall be confidential and kept from public disclosure other than for valid medical or law enforcement purposes.

(e) LEGISLATION. Nothing in this section shall limit the legislature from enacting laws consistent with this provision.

(f) SEVERABILITY. The provisions of this section are severable and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction other provisions shall continue to be in effect to the fullest extent possible.

AMENDMENT 3 – PROSPECTIVE APPOINTMENT OF CERTAIN JUDICIAL VACANCIES

FULL TEXT:

SECTION 10. Retention; election and terms.—

(a) Any justice or judge may qualify for retention by a vote of the electors in the general election next preceding the expiration of the justice's or judge's term in the manner prescribed by law. When a justice or judge is ineligible for retention or fails to qualify for retention, a prospective vacancy is deemed to occur at the conclusion of the qualifying period for retention for the purpose of appointing a successor justice or judge, and a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge. When a justice or judge so qualifies, the ballot shall read substantially as follows: "Shall Justice (or Judge) (name of justice or judge) of the (name of the court) be retained in office?" If a majority of the qualified electors voting within the territorial jurisdiction of the court vote to retain, the justice or judge shall be retained for a term of six years. The term of the justice or judge retained shall commence on the first Tuesday after the first Monday in January following the general election. If a majority of the qualified electors voting within the territorial jurisdiction of the court vote to not retain, a prospective vacancy is deemed to occur immediately following the general election for the purpose of appointing a successor justice or judge, and a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge.

(b) (1) The election of circuit judges shall be preserved notwithstanding the provisions of subsection (a) unless a majority of those voting in the jurisdiction of that circuit approves a local option to select circuit judges by merit selection and retention rather than by election. The election of circuit judges shall be by a vote of the qualified electors within the territorial jurisdiction of the court.

(2) The election of county court judges shall be preserved notwithstanding the provisions of subsection (a) unless a majority of those voting in the jurisdiction of that county approves a local option to select county judges by merit selection and retention rather than by election. The election of county court judges shall be by a vote of the qualified electors within the territorial jurisdiction of the court.

(3) a. A vote to exercise a local option to select circuit court judges and county court judges by merit selection and retention rather than by election shall be held in each circuit and county at the general election in the year 2000. If a vote to exercise this local option fails in a vote of the electors, such option shall not again be put to a vote of the electors of that jurisdiction until the expiration of at least two years.

b. After the year 2000, a circuit may initiate the local option for merit selection and retention or the election of circuit judges, whichever is applicable, by filing with the custodian of state records a petition signed by the number of electors equal to at least ten percent of the votes cast in the circuit in the last preceding election in which presidential electors were chosen.

c. After the year 2000, a county may initiate the local option for merit selection and retention or the election of county court judges, whichever is applicable, by filing with the supervisor of elections a

petition signed by the number of electors equal to at least ten percent of the votes cast in the county in the last preceding election in which presidential electors were chosen. The terms of circuit judges and judges of county courts shall be for six years.

SECTION 11. Vacancies. —

(a) (1) Whenever a vacancy occurs in a judicial office to which election for retention applies, the governor shall fill the vacancy by appointing for a term ending on the first Tuesday after the first Monday in January of the year following the next general election occurring at least one year after the date of appointment, one of not fewer than three persons nor more than six persons nominated by the appropriate judicial nominating commission.

(2) Whenever a prospective vacancy occurs in a judicial office for which election for retention applies, the governor shall fill the prospective vacancy by appointing a justice or judge from among at least three persons but not more than six persons nominated by the appropriate judicial nominating commission. The term of the appointment commences upon the expiration of the term of the office being vacated and ends on the first Tuesday after the first Monday in January of the year following the next general election.

(b) The governor shall fill each vacancy on a circuit court or on a county court, wherein the judges are elected by a majority vote of the electors, by appointing for a term ending on the first Tuesday after the first Monday in January of the year following the next primary and general election occurring at least one year after the date of appointment, one of not fewer than three persons nor more than six persons nominated by the appropriate judicial nominating commission. An election shall be held to fill that judicial office for the term of the office beginning at the end of the appointed term.

(c) The nominations shall be made within thirty days from the occurrence of a vacancy or prospective vacancy unless the period is extended by the governor for a time not to exceed thirty days. The governor shall make the appointment within sixty days after the nominations have been certified to the governor.

(d) There shall be a separate judicial nominating commission as provided by general law for the supreme court, each district court of appeal, and each judicial circuit for all trial courts within the circuit. Uniform rules of procedure shall be established by the judicial nominating commissions at each level of the court system. Such rules, or any part thereof, may be repealed by general law enacted by a majority vote of the membership of each house of the legislature, or by the supreme court, five justices concurring. Except for deliberations of the judicial nominating commissions, the proceedings of the commissions and their records shall be open to the public.

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As an independent, nonpartisan, nonprofit taxpayer research institute and government watchdog, it is the mission of Florida TaxWatch to provide the citizens of Florida and public officials with high quality, independent research and analysis of issues related to state and local government taxation, expenditures, policies, and programs. Florida TaxWatch works to improve the productivity and accountability of Florida government. Its research recommends productivity enhancements and explains the statewide impact of fiscal and economic policies and practices on citizens and businesses.

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