IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN
AND FOR LEON COUNTY, FLORIDA

Beverly Slough, ET AL.,

Plaintiff(s),

vs.

Department Of State Of The
State Of Florida,

Defendant,

Vote Yes On 5 For Property Tax Relief, Inc.,

Intervenor.
_____/

Case No. 2008-CA-2164

FINAL JUDGMENT FOR PLAINTIFFS

In this action, Plaintiffs contend that the ballot title and summary for Amendment 5 are defective. The parties have agreed that there is no need for additional motions or for discovery, that the case requires expedited treatment, and that it is ready for final adjudication. The Defendant and Intervenor have filed motions for summary judgment. The Plaintiffs' complaint and memorandum of law in support will be considered a motion for summary judgment. There is no dispute that this Court has jurisdiction and that the Plaintiffs have standing.

The Court, having reviewed the respective motions for summary final judgment and supporting memoranda of the parties and Intervenor, heard argument on August 13, 2008,

and finding no genuine issues of material fact, finds and concludes, for the Plaintiffs and against the Defendant and Intervenor. Therefore, the Plaintiffs' motion for summary judgment is granted and the summary judgment motions of the Defendant and Intervenor are denied. For the reasons expressed herein the Department of State is ordered to remove Amendment 5 from the November 2008 general election ballot.

BACKGROUND

The Taxation and Budget Reform Commission (TBRC) meets every twenty years and is charged to carry out certain functions in accordance with Article XI, § 6, Florida Constitution.[1] Following its 2007-2008 session, the TBRC proposed seven constitutional amendments.

In this case, the Plaintiffs challenge the TBRC's Amendment 5. The TBRC's resolution regarding Amendment 5 states:

> A resolution proposing an amendment to Sections 4 and 9 and the creation of Section 19 of Article VII and Section 28 of Article XII of the State Constitution to limit the growth of assessments of certain real property for the purposes of ad valorem taxation, to mandate the elimination of property taxes set as required local effort, to reduce the maximum millage for school purposes, and to replace the revenues from property taxes set as required local effort with other funds.

A copy of the full text of the resolution proposing Amendment 5 is attached hereto as Exhibit A.

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[1]For a detailed discussion of the history and authority of the TBRC see this Court's discussion in its Summary Final Judgment For Defendant And Intervenors (August 4, 2008), Ford, et.al. v. Browning, Second Judicial Circuit, Case No. 2008-CA-1905.

STANDARD OF REVIEW

Judicial review of a proposed constitutional amendment is deferential. The court "will not address the merits or wisdom of the proposed amendment."[2] A court "must act with extreme care, caution, and restraint" before removing "a constitutional amendment from the vote of the people." A court "has no authority to inject itself in the process, unless the laws governing the process have been 'clearly and conclusively' violated." Advisory Op. to the Att'y Gen. re: Fla. Marriage Protection Amendment, 926 So.2d 1229,1233 (Fla. 2006). On the other hand, a court must be equally cautious of approving the validity of a ballot summary that is not clearly understandable. Advisory Op. to the Att'y Gen. re: Restricts Laws Related to Discrimination, 632 So.2d 1018, 1021 (Fla. 1994).

With regard to a legislatively submitted amendment, "if there is any reasonable theory under which it can be done" it must be submitted to the voters. Armstrong v. Harris, 773 So.2d 7, 14 (Fla. 2000)(quoting Gray v. Golden, 89 So.2d 785, 790 (Fla. 1956). This deference is not unlimited, for the Constitution and applicable statutes impose strict minimum requirements that apply to all proposed amendments. Id. at 14. While this case discussed legislatively proposed amendments, the same principles logically apply to amendments proposed by the TBRC.

The title and summary of a proposed constitutional amendment must be accurate and informative and must "provide fair notice of the content of the proposed amendment so that the voter will not be misled as to its purpose, and can cast an intelligent and informed ballot." Advisory Op. to the Att'y Gen. re: Voluntary Universal Pre-Kindergarten

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[2]This final judgment does not constitute a comment on the merits or wisdom of Amendment 5.

Education, 824 So. 2d 161, 166 (Fla. 2002). The voter "must be able to comprehend the sweep of each proposal from a fair notification in the proposition itself that is neither less nor more extensive than it appears to be." Askew v. Firestone, 421 So. 2d 151, 155 (Fla. 1982). The application of these principles requires a reviewing court to focus on two questions: "(1) whether the ballot title and summary, in clear and unambiguous language, fairly inform the voter of the chief purpose of the amendment; and (2) whether the language of the title and summary, as written, misleads the public." Advisory Op. to the Att'y Gen. re: Florida Marriage Protection Amendment, 926 So. 2d 1218, 1236 (Fla. 2006). The ballot title and summary must provide "voters with fair notice of the contents of the proposed initiative so that the voter will not be misled as to its purpose and can cast an intelligent and informed ballot." "Simply put, the ballot must give the voter fair notice of the decision he must make." Advisory Op. to the Att'y Gen. re: Protect People, Especially Youth, From Addiction, Disease, And Other Health Hazards Of Using Tobacco, 926 So.2d 1186,1194 (Fla. 2006). However, "[i]t is not necessary to explain every ramification of a proposed amendment, only the chief purpose." Carroll v. Firestone, 497 So. 2d 1204, 1206 (Fla. 1986). "The seventy-five word limit placed on the ballot summary...does not lend itself to an explanation of all of a proposed amendment's details." Advisory Op. to the Att'y Gen. re Limited Casinos, 644 So. 2d 71, 75 (Fla. 1994).

Ballot titles and summaries cannot "fly under false colors" or "hide the ball" as to the proposed amendment's true effect. Armstrong v. Harris, 773 So.2d 7, 16 (Fla. 2000). A title and summary may not leave a key term undefined so that the meaning of the proposal is ambiguous or misleading. Advisory Op. to the Att'y Gen. re: People's Prop. Rights Amendments Providing Confirmation for Restricting Real Prop. Use May Cover Multiple

Subjects, 699 So. 2d 1304, 1308-1310 (Fla. 1997). A reviewing court may take into account what a summary does not say as well as what it says. Askew v. Firestone, 421 So.2d 151,156 (Fla. 1982). "The burden of informing the public should not fall only on the press and opponents of the measure - the ballot title and summary must do this." Askew, at 156. "Finally, the ballot title and summary may not be read in isolation, but must be read together in determining whether the ballot information properly informs the voters." Advisory Op. to the Att'y Gen. re Voluntary Universal Pre-Kindergarten Education, 824 So. 2d 161, 166 (Fla. 2002).

LEGAL DISCUSSION

I

The Plaintiffs assert that the ballot title and summary erroneously indicate that the amendment would result in a balanced constitutional trade-off with respect to school funding. The ballot title states that the amendment would replace revenue lost by elimination of the required school property tax with "equivalent state revenues to fund education." The ballot summary states that the amendment replaces state required school property taxes with state revenues generating "an equivalent hold harmless amount for schools." These statements, they say, represent that the amendment would effect a balanced trade-off: loss of revenue from the required school property tax in return for constitutionally guaranteed equivalent new state tax revenues for schools.

The Plaintiffs maintain that the phrase in the title, "replacing with equivalent state revenues," and the statement in the summary, "replacing state required school property taxes with state revenues generating an equivalent hold harmless amount for schools" indicate that the amendment provides a constitutional mechanism to guarantee

replacement of any lost revenue for education. They contend the amendment would not do so for three reasons.

First, they argue that while elimination of the required local property tax occurs immediately upon the amendment taking effect, the "hold harmless amount" does not happen unless and until the Legislature chooses in its discretion to implement it. They contend that the ballot title and summary tell the voter that the amendment itself would replace and "hold harmless" the lost revenue. But, they say, the amendment does not do this because it simply instructs the Legislature to replace the lost revenue, something that the Legislature may or may not do. The crux of the Plaintiffs' position is that while the elimination of the required local school tax is constitutionally self-executing, the prospect of replacement revenue, on the other hand, is contingent upon less than certain legislative action.

This Court does not accept the Plaintiffs' position on this ground. It agrees with the position asserted by the Defendant and Intervenor. The plain language of the proposed amendment directs the Legislature to replace lost revenue.[3] The new section 19(b)(1) provides that "[t]he legislature shall replace the revenue impact of the elimination of the required local effort as provided in subsection (a) through one or more of the following options...." (Emphasis added). In reviewing the proposed amendment, this Court does not, and cannot, presume that the legislature will ignore what the Constitution, if amended, requires it to do. See Williams v. State, 360 So. 2d 417, 421 n.9 (Fla. 1978)("Any suggestion that the people are in fear that the legislators will attempt to frustrate their will

[3]The issue of what constitutes "replace lost revenue" will be discussed later in this order.

is inappropriate on its face.").

Because the proposed amendment does not make legislative compliance optional, the ballot summary rightfully assumes that the Legislature will act in accordance with its directives and replace the revenue in the manner directed. Accordingly, the Plaintiffs' position on this first ground is rejected.

Second, the Plaintiffs contend that, while the proposed amendment directs the Legislature to replace the revenue impact of the elimination of the required local tax, it doesn't mandate that the revenue be earmarked for schools. They argue that the amendment is worded ambiguously and subject to an interpretation that would make the title and summary misleading.

The Court does not agree with the Plaintiffs that the replacement of revenue provisions of the amendment could be interpreted that the revenue could be used for something other than schools. A full reading of the new proposed Section 19 clearly shows that its intent is to raise new revenue by raising taxes and other options, and that this new state revenue is to replace the revenue impact on education of the elimination of the local effort ad valorem taxes - at least that is for one year. Accordingly, the Plaintiffs' position on the second ground is rejected.

Third, the Plaintiffs contend that while the elimination of the required local property tax is permanent, the proposed amendment directs the Legislature to implement the "hold harmless amount" referred to in the summary in only a single year - the 2010-2011 fiscal year. They assert that the title and summary give no hint of this significant limitation on the "hold harmless" provision. They argue that the language of the title and summary is actually misleading because it conveys the impression that the balance of lost revenue and

replacement revenue are continuing. The Plaintiffs are correct.

While the elimination of the required local property tax is permanent, the proposed amendment directs the Legislature to implement the "hold harmless amount" referred to in the summary in only a single year - the 2010-2011 fiscal year:

> (2) In implementing this section, the amount appropriated and set in the General Appropriations Act in the 2010-2011 fiscal year shall not be less than the amount appropriated and set in the 2008-2009 fiscal year for the funding of public schools under the Florida Education Finance Program as increased by the average historical growth for such amounts during state fiscal years 2006-2007 and 2007-2008, which appropriated and set amount shall be referred to as the "education hold harmless amount." (Emphasis Supplied)

Proposed Section 19(b)(2).

The ballot title and summary give no indication of this significant limitation on the "hold harmless" provision. To the contrary, the language of the title and summary convey the distinct impression that the balance of lost revenue and replacement revenue are continuing. Even if the title and summary did not imply a trade-off, the limitation on the implementation of the "hold harmless amount" is a material fact of which the voter must be given notice if the title and summary are to meet the requirement that the voter be given fair notice of the content and sweep of the proposal.

Courts have not hesitated to strike from the ballot propositions that omitted material facts from the title and summary. See Advisory Op. to the Att'y Gen. re: Term Limits Pledge, 718 So. 2d 798 (Fla. 1998); Advisory Op. to the Att'y Gen. re: Fish and Wildlife Com'n, 705 So. 2d 1351 (Fla. 1998); Advisory Op. to the Att'y Gen. re: Tax Limitation, 644 So. 2d 486 (Fla. 1994); Advisory Op. to the Att'y Gen. re: Limited Political Terms, 592 So. 2d 225 (Fla. 1991); Florida Association of Realtors v. Smith, 825 So. 2d 532 (Fla. 1st DCA

2002); and Evans v. Bell, 651 So. 2d 162 (Fla. 1st DCA 1995).

The ballot title and summary of Amendment 5 give the clear but inaccurate impression that state revenues will replace all eliminated school property tax revenues. The summary, by stating that the new state revenues will generate an "equivalent hold harmless amount for schools," is misleading. The impression given to the voters is that this is a guarantee that the eliminated local taxes will be permanently replaced by new state revenue. The clear implication is that the school funding lost by the cut in ad valorem taxes will be fully replaced by the State of Florida on a permanent basis. The proposed amendment does not do this. It provides a hold harmless for schools for only one year. After the 2010 -2011 fiscal year, there is nothing in the proposed amendment that would prohibit the State from cutting the replacement funding to an amount less than was generated by the ad valorem tax before the cut. The ballot title and summary do not fairly inform the voter, in clear and unambiguous language, of the chief purposes of the amendment and the language of the title and summary, as written, is misleading on this issue. The Plaintiffs' position on this ground is correct and accepted. This requires that Amendment 5 be removed from the November 2008 ballot.

II

The Plaintiffs also contend that the title and summary are misleading because they indicate that the proposed amendment is limited to school taxes and funding when it contains several significant changes that are unrelated to those issues. This Court agrees with the Plaintiffs' position, in part, as set forth below.

The Defendant and Intervenor contend that the "chief purpose of Ballot Initiative 5 is to eliminate the requirement that local governments levy ad valorem taxes on property,

the 'required local effort,' for school funding and replace those funds with state revenues." (Defendant's Memorandum, p. 10). The ballot title and summary focus on this purpose. The proposed amendment, however, contains a significant change in ad valorem taxing that is not related to eliminating school ad valorem taxes and replacing them with state revenues. The amendment would also reduce the annual maximum increase in real property assessments by local government for other than school taxes from 10% to 5%. The Intervenor describes the applicable provision as follows:

> Amendment 5 amends Article VII, section 4, Florida Constitution, to reduce from ten percent to five percent the maximum increase in annual assessments on non-homestead property for all levies other than school district levies. Such reduction closes the disparity in treatment between homestead and non-homestead property under the limits in annual assessment increases in the Florida Constitution. Such constitutional disparity is the subject of pending litigation. (Emphasis Supplied)

Intervenor's Memorandum, p. 9.

A voter reading the title may well be misled into voting for or against the amendment without reading further because the title gives assurance that the amendment deals only with the required local school tax and replacement state funding. The Supreme Court has held that the title and summary must be read together, but this does not save the proposal in the case at bar. The cases so holding dealt with titles that were broad enough to encompass all provisions in the amendment, but required the additional specificity provided by the summary.

Principles announced by the Supreme Court in connection with legislative bill titles are instructive and have equal application to referendum titles. Those cases hold that the sponsor of such legislation may make the title general, so long as it is broad enough to include all provisions in the act and is not employed as a mere guise to cover incongruous

legislation. Alternatively, the sponsor may make the title restrictive, but in such case the legislation cannot validly include any provisions not noticed in the title. State v. Tindell, 88 So. 2d 123 (Fla. 1956); State ex rel. Crump v. Sullivan, 128 So. 478 (Fla. 1930); and Smith v. Chase, 109 So. 94 (Fla. 1926). In this case, the Commission has used a very restrictive title and the voter could reasonably conclude that the proposed amendment contains nothing beyond what is referenced in the title.

Even when the title and summary of Amendment 5 are read together, the voter is not fairly informed of what it will do if passed. The title and summary read:

> ELIMINATING STATE REQUIRED SCHOOL PROPERTY TAX AND REPLACING WITH EQUIVALENT STATE REVENUES TO FUND EDUCATION.
>
> Replacing state required school property taxes with state revenues generating an equivalent hold harmless amount for schools through one or more of the following options: repealing sales tax exemptions not specifically excluded; increasing sales tax rate up to one percentage point; spending reductions; other revenue options created by the legislature. Limiting subject matter of laws granting future exemptions. Limiting annual increases in assessment of non-homestead real property. Lowering property tax millage rate for schools. (Emphasis Supplied)

The underlined sentence does make reference to a limitation on increases in assessment of non-homestead property. The statement is technically accurate, but technical accuracy will not save a summary if, within the full context of the title and summary, it is misleading. Askew v. Firestone, 421 So. 2d 151 (Fla. 1982). This is the case here.

The Florida Constitution deals with assessments for school funding and assessments for non-school funding in separate subsections. When read within the context of the title and surrounding text of the summary, all of which refer to limits on taxes and on funding only with respect to schools, a voter could well conclude that the cited

sentence also refers to a change in the constitutional section dealing with school tax levies. The reference to a limit on annual assessment of real property is, at best, ambiguous, likely to mislead some voters into thinking that it refers only to assessments for school funding and leaving others guessing as to the amendment's true reach. The title and summary must "clearly and unambiguously" inform the voter of all material changes effected by the proposed amendment, and the Supreme Court has consistently removed measures containing ambiguities such as the one in the present measure from the ballot. Advisory Op. to the Att'y Gen. re: Right of Citizens to Choose Healthcare Providers, 705 So. 2d 563, 566 (Fla. 1998); Advisory Op. to the Att'y Gen. re: People's Property Rights, 699 So. 2d 1304, 1308-09 (Fla. 1997); Advisory Op. to the Att'y Gen. re: Casino Authorization, 656 So. 2d 466 (Fla. 1995); Advisory Op. to the Att'y Gen. re: Tax Limitation, 644 So. 2d 486 (Fla. 1994); Smith v. American Airlines, 606 So. 2d 618 (Fla. 1992); and Evans v. Firestone, 457 So. 2d 1351 (Fla. 1984). Therefore, the ballot title and summary do not fairly inform the voter, in clear and unambiguous language, of the chief purposes of the amendment and the language of the title and summary, as written, is misleading on this issue. This requires that Amendment 5 be removed from the November 2008 ballot.

CONCLUSION

For the reasons state above, the Court finds that the ballot title and summary provided in the proposition for Amendment 5 fail to fairly inform the voter, in clear and unambiguous language, of the chief purposes of the amendment and the language of the title and summary, as written, is misleading in the foregoing respects.

Accordingly, it is

ORDERED AND ADJUDGED that the Defendant shall remove Amendment 5 from the November 2008 general election ballot.

DONE AND ORDERED in Tallahassee, Leon County, Florida on this 14th day of August, 2008.

JOHN C. COOPER
CIRCUIT JUDGE

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Resolution of the Taxation and Budget Reform Commission

A resolution proposing an amendment to Sections 4 and 9 and the creation of Section 19 of Article VII and Section 28 of Article XII of the State Constitution to limit the growth of assessments of certain real property for the purposes of ad valorem taxation, to mandate the elimination of property taxes set as required local effort, to reduce the maximum millage for school purposes, and to replace the revenues from property taxes set as required local effort with other funds.

Be It Resolved by the Taxation and Budget Reform Commission:

That the following amendment to Sections 4 and 9, and the creation of Section 19 of Article VII, and Section 28 of Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

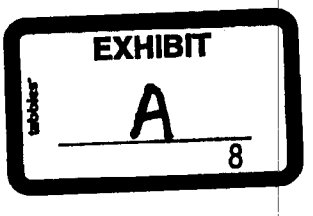
FINANCE AND TAXATION

SECTION 4. Taxation; assessments.--By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) Pursuant to general law tangible personal property

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(c) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided herein.

(1) Assessments subject to this provision shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

(2) No assessment shall exceed just value.

(3) After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year, unless the provisions of paragraph (8) apply. Thereafter, the homestead shall be assessed as provided herein.

(4) New homestead property shall be assessed at just value as of January 1st of the year following the establishment of the homestead, unless the provisions of paragraph (8) apply. That assessment shall only change as provided herein.

(5) Changes, additions, reductions, or improvements to

homestead property shall be assessed as provided for by general law; provided, however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided herein.

(6) In the event of a termination of homestead status, the property shall be assessed as provided by general law.

(7) The provisions of this amendment are severable. If any of the provisions of this amendment shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of this amendment.

(8)a. A person who establishes a new homestead as of January 1, 2009, or January 1 of any subsequent year and who has received a homestead exemption pursuant to Section 6 of this Article as of January 1 of either of the two years immediately preceding the establishment of the new homestead is entitled to have the new homestead assessed at less than just value. If this revision is approved in January of 2008, a person who establishes a new homestead as of January 1, 2008, is entitled to have the new homestead assessed at less than just value only if that person received a homestead exemption on January 1, 2007. The assessed value of the newly established homestead shall be determined as follows:

1. If the just value of the new homestead is greater than or equal to the just value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned, the assessed value of the new homestead shall be the just value of the new homestead minus an amount equal to the lesser of $500,000 or the difference between the just value and the

assessed value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned. Thereafter, the homestead shall be assessed as provided herein.

2. If the just value of the new homestead is less than the just value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned, the assessed value of the new homestead shall be equal to the just value of the new homestead divided by the just value of the prior homestead and multiplied by the assessed value of the prior homestead. However, if the difference between the just value of the new homestead and the assessed value of the new homestead calculated pursuant to this sub-subparagraph is greater than $500,000, the assessed value of the new homestead shall be increased so that the difference between the just value and the assessed value equals $500,000. Thereafter, the homestead shall be assessed as provided herein.

b. By general law and subject to conditions specified therein, the Legislature shall provide for application of this paragraph to property owned by more than one person.

(d) The legislature may, by general law, for assessment purposes and subject to the provisions of this subsection, allow counties and municipalities to authorize by ordinance that historic property may be assessed solely on the basis of character or use. Such character or use assessment shall apply only to the jurisdiction adopting the ordinance. The requirements for eligible properties must be specified by general law.

(e) A county may, in the manner prescribed by general law, provide for a reduction in the assessed value of homestead

property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. Such a reduction may not exceed the lesser of the following:

(1) The increase in assessed value resulting from construction or reconstruction of the property.

(2) Twenty percent of the total assessed value of the property as improved.

(f) For all levies other than school district levies, assessments of residential real property, as defined by general law, which contains nine units or fewer and which is not subject to the assessment limitations set forth in subsections (a) through (c) shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on the date of assessment provided by law; but those changes in assessments shall not exceed <u>five</u> ~~ten~~ percent <u>(5%)</u> ~~(10%)~~ of the assessment for the prior year.

(2) No assessment shall exceed just value.

(3) After a change of ownership or control, as defined by general law, including any change of ownership of a legal entity that owns the property, such property shall be assessed at just value as of the next assessment date. Thereafter, such property shall be assessed as provided in this subsection.

(4) Changes, additions, reductions, or improvements to such property shall be assessed as provided for by general law;

however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(g) For all levies other than school district levies, assessments of real property that is not subject to the assessment limitations set forth in subsections (a) through (c) and (f) shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on the date of assessment provided by law; but those changes in assessments shall not exceed five ~~ten~~ percent (5%) ~~(10%)~~ of the assessment for the prior year.

(2) No assessment shall exceed just value.

(3) The legislature must provide that such property shall be assessed at just value as of the next assessment date after a qualifying improvement, as defined by general law, is made to such property. Thereafter, such property shall be assessed as provided in this subsection.

(4) The legislature may provide that such property shall be assessed at just value as of the next assessment date after a change of ownership or control, as defined by general law, including any change of ownership of the legal entity that owns the property. Thereafter, such property shall be assessed as provided in this subsection.

(5) Changes, additions, reductions, or improvements to such property shall be assessed as provided for by general law; however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

SECTION 9. Local taxes.--

(a) Counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and may be authorized by general law to levy other taxes, for their respective purposes, except ad valorem taxes on intangible personal property and taxes prohibited by this constitution.

(b) Ad valorem taxes, exclusive of taxes levied for the payment of bonds and taxes levied for periods not longer than two years when authorized by vote of the electors who are the owners of freeholds therein not wholly exempt from taxation, shall not be levied in excess of the following millages upon the assessed value of real estate and tangible personal property: for all county purposes, ten mills; for all municipal purposes, ten mills; for all school purposes, five ~~ten~~ mills; for water management purposes for the northwest portion of the state lying west of the line between ranges two and three east, 0.05 mill; for water management purposes for the remaining portions of the state, 1.0 mill; and for all other special districts a millage authorized by law approved by vote of the electors who are owners of freeholds therein not wholly exempt from taxation. A county furnishing municipal services may, to the extent authorized by law, levy additional taxes within the limits fixed for municipal purposes.

SECTION 19. Replacement of ad valorem taxes required by the legislature with other funds for education.--

(a) Commencing in the 2010-2011 fiscal year, the legislature shall be prohibited from requiring school districts to levy an ad valorem tax as a required local effort for participation in the Florida Education Finance Program or a

successor program.

(b)(1) The legislature shall replace the revenue impact of the elimination of the required local effort as provided in subsection (a) through one or more of the following options:

a. the repeal of sales tax exemptions, which are determined not to advance or serve a public purpose, except for the current exemptions for: food; prescription drugs; health services; charitable organizations; religious organizations; residential rent, electricity and heating fuel; sales of tangible personal property purchased for resale or imported, produced, or manufactured in this state for export; sales of real property; and sales of intangible personal property.

b. an increase of up to one percentage point to the sales and use tax rate in existence on January 6, 2009.

c. spending reductions for other components of the state budget and revenue increases resulting from economic growth attributable to lower property taxes.

d. other revenues identified or created by the legislature.

(2) In implementing this section, the amount appropriated and set in the General Appropriations Act in the 2010-2011 fiscal year shall not be less than the amount appropriated and set in the 2008-2009 fiscal year for the funding of public schools under the Florida Education Finance Program, as increased by the average historical growth for such amounts during state fiscal years 2006-2007 and 2007-2008, which appropriated and set amount shall be referred to as the "education hold harmless amount."

(3) Nothing contained herein shall be construed to replace

or eliminate: the ad valorem tax millage dedicated to capital outlay, school renovation and repair, or for the payment of lease purchase obligations authorized by general law; voter-approved millage authorized in the constitution; or discretionary ad valorem millage for school districts authorized by law.

(c) Each law creating a sales tax exemption shall contain the single subject of a single exemption and a legislative finding that the exemption advances or serves the public purpose of: encouraging economic development and competitiveness; supporting educational, governmental, literary, scientific, religious, or charitable initiatives or organizations; or securing tax fairness.

ARTICLE XII

SCHEDULE

SECTION 28. Implementation of school property tax reform.--

(a) The amendments to Section 4 of Article VII reducing the maximum annual change in assessments for non-homestead properties to five percent (5%) from ten percent (10%) shall take effect January 1, 2009.

(b) The amendment to Section 9 of Article VII reducing to five mills from ten mills the authorized ad valorem millage for school purposes shall take effect January 1, 2010.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTIONS 4, 9, AND 19

ARTICLE XII, SECTION 28

ELIMINATING STATE REQUIRED SCHOOL PROPERTY TAX AND REPLACING WITH EQUIVALENT STATE REVENUES TO FUND EDUCATION.--Replacing state required school property taxes with state revenues generating an equivalent hold harmless amount for schools through one or more of the following options: repealing sales tax exemptions not specifically excluded; increasing sales tax rate up to one percentage point; spending reductions; other revenue options created by the legislature. Limiting subject matter of laws granting future exemptions. Limiting annual increases in assessment of non-homestead real property. Lowering property tax millage rate for schools.