

Reference:

Creating Article III, Section 19; State Budgeting, Planning, And Appropriations Processes. Revising Article IV, Section 1; Governor Creating Article IV, Section 13; Revenue Shortfalls. Revising Article XII, Section 9; Bonds.

Ballot Title:

Improving Accountability and Public Review in Spending Taxpayers' Money and Maintaining a Balanced Budget

Ballot Summary:

A revision requiring: 72-hour public review for appropriation bills; a budget stabilization fund; performance measurement and productivity programs; a state planning document and department and agency planning processes; appropriation bills format; appropriations review; annual state budgeting and planning processes; processes for creating and sunseting trust funds; and a final budget report. Providing executive authority to maintain a balanced budget and to direct planning and budgeting. Expanding use of educational capital outlay funds.

Full Text:

ARTICLE III

LEGISLATURE

SECTION 19. State Budgeting, Planning and Appropriations Processes.--

(a) ANNUAL BUDGETING. Effective July 1, 1994, general law shall prescribe the adoption of annual state budgetary and planning processes and require that detail reflecting the annualized costs of the state budget and reflecting the nonrecurring costs of the budget requests shall accompany state department and agency legislative budget requests, the governor's recommended budget, and appropriation bills. For purposes of this section, the terms department and agency shall include the judicial branch.

(b) APPROPRIATION BILLS FORMAT. Separate sections within the general appropriation bill shall be used for each major program area of the state budget; major program areas shall include: education enhancement "lottery" trust fund items; education (all other funds); human services; criminal justice and corrections; natural resources, environment growth management, and transportation; general government; and judicial branch. Each major program area shall include an itemization of expenditures for: state operations; state capital outlay; aid to local governments and nonprofit organizations operations; aid to local governments and nonprofit organizations capital outlay; federal funds and the associated state matching funds; spending authorizations for operations; and spending authorizations for capital outlay. Additionally, appropriation bills passed by the legislature shall include an itemization of specific appropriations that exceed one million dollars (\$1,000,000.00) in 1992 dollars. For purposes of this subsection, "specific appropriation," "itemization," and "major program area" shall be defined by law. This itemization threshold shall be adjusted by general law every four years to reflect the rate of inflation or deflation as indicated in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, or successor reports as reported by the United States Department of Labor, Bureau of Labor Statistics or its successor.

Substantive bills containing appropriations shall also be subject to the itemization requirement mandated under this provision and shall be subject to the governor's specific appropriation veto power described in Article III, Section 8. This subsection shall be effective July 1, 1994.

(c) APPROPRIATIONS REVIEW PROCESS. Effective July 1, 1993, general law shall prescribe requirements for each department and agency of state government to submit a planning document and supporting budget request for review by the appropriations committees of both houses of the legislature. The review shall include a comparison of the major issues in the planning document and budget requests to those major issues included in the governor's recommended budget. For purposes of this subsection, the terms department and agency shall include the judicial branch.

(d) SEVENTY-TWO HOUR PUBLIC REVIEW PERIOD. Effective November 4, 1992, all general appropriation bills shall be furnished to each member of the legislature, each member of the cabinet, the governor, and the chief justice of the supreme court at least seventy-two hours before final passage thereof, by either house of the legislature.

(e) FINAL BUDGET REPORT. Effective November 4, 1992, a final budget report shall be prepared as prescribed by general law. The final budget report shall be produced no later than the 90th day after the beginning of the fiscal year, and copies of the report shall be furnished to each member of the legislature, the head of each department and agency of the state, the auditor general, and the chief justice of the supreme court.

(f) TRUST FUNDS.

(1) No trust fund of the State of Florida or other public body may be created by law without a three-fifths (3/5) vote of the membership of each house of the legislature in a separate bill for that purpose only.

(2) State trust funds in existence before the effective date of this subsection shall terminate not more than four years after the effective date of this subsection. State trust funds created after the effective date of this subsection shall terminate not more than four years after the effective date of the act authorizing the creation of the trust fund. By law the legislature may set a shorter time period for which any trust fund is authorized.

(3) Trust funds required by federal programs or mandates; trust funds established for bond covenants, indentures, or resolutions, whose revenues are legally pledged by the state or public body to meet debt service or other financial requirements of any debt obligations of the state or any public body; the state transportation trust fund; the trust fund containing the net annual proceeds from the Florida Education Lotteries; the Florida retirement trust fund; trust funds for institutions under the management of the Board of Regents, where such trust funds are for auxiliary enterprises and contracts, grants, and donations, as those terms are defined by general law; trust funds that serve as clearing funds or accounts for the comptroller or state agencies; trust funds that account for assets held by the state in a trustee capacity as an agent or fiduciary for individuals, private organizations, or other governmental units; and other trust funds authorized by this Constitution, are not subject to the requirements set forth in paragraph (2) of this subsection.

(4) All cash balances and income of any trust funds abolished under this subsection shall be deposited into the general revenue fund.

(5) The provisions of this subsection shall be effective November 4, 1992.

(g) BUDGET STABILIZATION FUND. Beginning with the 1994-1995 fiscal year, at least 1% of an amount equal to the last completed fiscal year's net revenue collections for the general revenue fund shall be retained in a budget stabilization fund. The budget stabilization fund shall be increased to at least 2% of said amount for the 1995-1996 fiscal year, at least 3% of said amount for the 1996-1997 fiscal year, at least 4% of said amount for the 1997-1998 fiscal year, and at least 5% of said amount for the 1998-1999 fiscal year. Subject to the provisions of this subsection, the budget stabilization fund shall be maintained at an amount equal to at least 5% of the last completed fiscal year's net revenue collections for the general revenue fund. The budget stabilization fund's principal balance shall not exceed an amount equal to 10% of the last completed fiscal year's net revenue collections for the general revenue fund. The legislature shall provide criteria for withdrawing funds from the budget stabilization fund in a separate bill for that purpose only and only for the purpose of covering revenue shortfalls of the general revenue fund or for the purpose of providing funding for an emergency, as defined by general law. General law shall provide for the restoration of this fund. The budget stabilization fund shall be comprised of funds not otherwise obligated or committed for any purpose.

(h) STATE PLANNING DOCUMENT AND DEPARTMENT AND AGENCY PLANNING DOCUMENT PROCESSES. The governor shall recommend to the legislature biennially any revisions to the state planning document, as defined by law. General law shall require a biennial review and revision of the state planning document, shall require the governor to report to the legislature on the progress in achieving the state planning document's goals, and shall require all departments and agencies of state government to develop planning documents consistent with the state planning document. The state planning document and department and agency planning documents shall remain subject to review and revision by the legislature. The department and agency planning documents shall include a prioritized listing of planned expenditures for review and possible reduction in the event of revenue shortfalls, as defined by general law. To ensure productivity and efficiency in the executive, legislative, and judicial branches, a quality management and accountability program shall be implemented by general law. For the purposes of this subsection, the terms department and agency shall include the judicial branch. This subsection shall be effective July 1, 1993.

ARTICLE IV

EXECUTIVE

SECTION 1. Governor.--

(a) The supreme executive power shall be vested in a governor. He shall be commander-in-chief of all military forces of the state not in active service of the United States. He shall take care that the laws be faithfully executed, commission all officers of the state and counties, and transact all necessary business with the officers of government. He may require information in writing from all executive or administrative state, county or municipal officers upon any subject relating to the duties of their respective offices. The governor shall be the chief administrative officer of the state responsible for the planning and budgeting for the state.

SECTION 13. Revenue Shortfalls.--In the event of revenue shortfalls, as defined by general law, the governor and cabinet may establish all necessary reductions in the state budget in order to comply with the provisions of Article VII, Section 1(d). The governor and cabinet shall implement all necessary reductions for the executive budget, the chief justice of the supreme court shall implement all necessary reductions for the judicial budget, and the speaker of the house of representatives and the president of the senate shall implement all necessary reductions for the legislative budget. Budget

reductions pursuant to this section shall be consistent with the provisions of Article III, Section 19(h).

ARTICLE XII

SCHEDULE

Section 9. Bonds.--

(a) ADDITIONAL SECURITIES.

(1) Article IX, Section 17, of the Constitution of 1885, as amended, as it existed immediately before this Constitution, as revised in 1968, became effective, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim, except revenue bonds, revenue certificates or other evidences of indebtedness hereafter issued thereunder may be issued by the agency of the state so authorized by law.

(2) That portion of Article XII, Section 9, Subsection (a) of this Constitution, as amended, which by reference adopted Article XII, Section 19 of the Constitution of 1885, as amended, as the same existed immediately before the effective date of this amendment is adopted by this reference as a part of this revision as completely as incorporated herein verbatim, for the purpose of providing that after the effective date of this amendment all of the proceeds of the revenues derived from the gross receipts taxes, as therein defined, collected in each year shall be applied as provided therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds or certificates issued before the effective date of this amendment or any refundings thereof which are secure by such gross receipts taxes. No bonds or other obligations may be issued pursuant to the provisions of Article XII, Section 19, of the Constitution of 1885, as amended, but this provision shall not be construed to prevent the refunding of any such outstanding bonds or obligations pursuant to the provisions of this subsection (a)(2).

Subject to the requirements of the first paragraph of this subsection (a)(2), beginning July 1, 1975, and for 50 years thereafter, all of the proceeds of the revenues derived from the gross receipts taxes collected from every person, including municipalities, as provided and levied pursuant to the provisions of chapter 203, Florida Statutes, (hereinafter called "gross receipts taxes"), as in existence as of the date of the adoption of this amendment or as such chapter is amended from time to time, shall, as collected, be placed in a trust fund to be known as the "public education capital outlay and debt service trust fund" in the state treasury (hereinafter referred to as "capital outlay fund"), and used only as provided herein.

The capital outlay fund shall be administered by the state board of education as created and constituted by Section 2 of Article IX of the Constitution of Florida as revised in 1968 (hereinafter referred to as "state board"), or by such other instrumentality of the state which shall hereafter succeed by law to the powers, duties and functions of the state board, including the powers, duties and functions of the state board provided in this subsection (a)(2). The state board shall be a body corporate and shall have all of the powers provided herein in addition to all other constitutional and statutory powers related to the purposes of this subsection (a)(2) heretofore or hereafter conferred by law upon the state board, or its predecessor created by the Constitution of 1885, as amended.

State bonds pledging the full faith and credit of the state may be issued, without a vote of the electors, by the state board pursuant to law to finance or refinance capital projects theretofore authorized by the legislature, and any purposes appurtenant or incidental thereto, for the state system of public

education provided for in Section 1 of Article IX of this Constitution (hereinafter referred to as "state system"), including but not limited to institutions of higher learning, junior colleges, vocational technical schools, or public schools, as now defined or as may hereafter be defined by law. All such bonds shall mature not later than July 1, 2025. All other details of such bonds shall be as provided by law or by the proceedings authorizing such bonds; provided, however, that no bonds, except refunding bonds, shall be issued, and no proceeds shall be expended for the cost of any capital project, unless such project has been authorized by the legislature.

Bonds issued pursuant to this subsection (a)(2) shall be primarily payable from such revenues derived from gross receipts taxes, and shall be additionally secured by the full faith and credit of the state. No such bonds shall ever be issued in an amount exceeding ninety percent of the amount which the state board determines can be serviced by the revenues derived from the gross receipts taxes accruing thereafter under the provisions of this subsection (a)(2), and such determination shall be conclusive.

The moneys in the capital outlay fund in each fiscal year shall be used only for the following purposes and in the following order of priority:

- a. For the payment of the principal of and interest on any bonds maturing in such fiscal year;
- b. For the deposit into any reserve funds provided for in the proceedings authorizing the issuance of bonds of any amounts required to be deposited in such reserve funds in such fiscal year;
- c. For direct payment of the cost or any part of the cost of any capital project for the state system theretofore authorized by the legislature, or for the purchase or redemption of outstanding bonds in accordance with the provisions of the proceedings which authorized the issuance of such bonds;or for the purpose of maintaining, restoring, or repairing existing public educational facilities.

BUDGET STABILIZATION FUND: The Commission found that Florida is one of 38 states with a "rainy day" or budget stabilization fund, known currently as the Working Capital Fund. Further, Florida requires approximately \$30 million to be available each day to pay for the General Revenue Fund expenditures. Thus, the recent practice of maintaining a "rainy day" Working Capital Fund of approximately \$150 million would pay for only 5 days of Florida's General Revenue expenditures in the event of an emergency. In addition, Florida's Working Capital Fund has a statutory cap of 10% of the previous fiscal year's net revenue collections, but no statutory floor. Thus, the fund could be virtually empty in any one year, leaving no money in the fund for emergencies or revenue shortfalls. The Commission found that most experts recommend that states hold at least 5% of their budget in reserve as a "rainy day fund." There is currently no established process for a dedicated revenue source or amount to be deposited into the fund, and the only references to the fund are statutory. The Commission found that the existing Working Capital Fund currently serves the following purposes:

- appropriations;
- transfers to the General Fund to help mitigate revenue shortfalls;
- temporary one-year loans to other funds;
- payment of claims from the state's self-insurance program; and
- payment for "state emergencies," as defined by statute.

The fund does not serve to offset program funding deficiencies or to transfer to a trust fund to help mitigate a revenue shortfall in the fund. The Commission intends that the "Working Capital Fund" be renamed the "Budget Stabilization Fund," in order to denote the purpose of the fund more clearly and to avoid confusion with other funds.

The Commission also intends that at least 5% of an amount equal to the last completed fiscal year's net revenue collections for the General Revenue Fund be retained in the Budget Stabilization Fund, but that the principal balance of the Fund not exceed an amount equal to 10% of the last completed fiscal year's net revenue collections for the General Revenue Fund. The Budget Stabilization Fund shall be comprised of funds not otherwise obligated or committed for any other purpose. It is also the Commission's intent that the money in the Budget Stabilization Fund be used only for the purpose of covering revenue shortfalls of the General Revenue Fund or to provide funding in the event of an emergency, as defined by general law.

The Commission recognizes that it would not be possible to place 5% in the Fund immediately unless there were a tax increase for that purpose, which is not the Commission's intent. The Commission recommends that the Fund be increased to the 5% level gradually. In the 1994-1995 fiscal year, the Fund shall contain an amount equal to at least 1% of the last completed fiscal year's net revenue collections for the general revenue fund. The Fund shall be increased to at least 2% of said amount for the 1995-1996 fiscal year, at least 3% of said amount for 1996-1997, at least 4% of said amount for the 1997-1998 fiscal year, and at least 5% of said amount for the 1998-1999 fiscal year and shall be maintained thereafter at a minimum of 5% of the last fiscal year's net revenue collections except as provided in the provision.

Further, in order to maintain optimal levels in the Budget Stabilization Fund for emergencies and to encourage fiscal responsibility on behalf of the State, the Legislature shall adopt in a separate bill for that purpose only, criteria for withdrawal of funds by the Governor and Cabinet and by the Legislature. The Legislature shall by general law require that funds taken from the Budget Stabilization Fund during a revenue shortfall be restored. It is the Commission's intent that the provisions adopted by the Legislature for restoring withdrawn funds may permit the Fund to fall temporarily below the 5% minimum level in the event of an emergency or extended economic recession as defined by general law. When the emergency or recession has ended, provision shall be made for restoring the funds to the 5% level in a manner that does not create or extend a financial emergency. It is the intent of the Commission that the term "emergency" not be used lightly or freely, but rather be defined as an event with some major significance, such as natural disasters or economic recession causing substantial unemployment.

It is the overall intent of the Commission that the State of Florida have a permanent financial reserve for difficult economic times or other exigent circumstances, without sacrificing important goals of the State in the meantime. It is not the intent of the Commission that this Budget Stabilization Fund be used as any sort of an "escape hatch" from poor fiscal planning. The Legislature is still under a duty to make appropriations based on anticipated general revenue; the Legislature may not rely on the Budget Stabilization Fund to provide monies that the Legislature could have anticipated would be deficiency in general revenue.

STATE PLANNING DOCUMENT AND FUNCTIONAL PLAN PROCESSES: The Commission found that the Florida State and Regional Planning Act of 1984 required the development and adoption of a state planning document called the State Comprehensive Plan (SCP) and established an integrated planning and budgeting system, throughout which the SCP was to serve as the guide for agencies and their programs. The SCP was to provide long-range guidance for the orderly growth of the state

in all respects. The plan was to be composed of goals and policies, stated in unambiguous language. The SCP which became law in 1985 lacked quantifiable, measurable goals and specific timeframes for outcomes. The Commission further found that, without clear goals and measurable objectives in the state planning document, it is difficult to link budgetary decisions with state policies and to evaluate the effectiveness of public programs.

The state agency and department planning document called the Agency Functional Plan (AFP), now known as the Agency Strategic Plan, was designed to serve as the basis of a strategic management process for developing and tracking agency objectives. In addition, this agency planning document was to be used by departments and agencies to develop their Legislative Budget Requests. However, the Commission found that the agency planning documents have essentially become compliance documents. They are not being used as the strategic plans for the agencies, nor to prepare the agency budget requests. The Commission found that the state plan and the agency planning documents need to be reviewed and revised to reflect current trends and conditions and to provide meaningful, measurable goals and priorities which are linked to the budget. The Commission further found that the State has not yet developed a means to reconsider and revise the state planning document on a regular basis, nor a means by which the progress of the State in meeting the goals of the state planning document can be tracked.

Therefore, the Commission intends that the Governor be required to report to the Legislature on the progress in achieving the goals of the state planning document and to recommend any necessary revisions to the state planning document every two years. It is the Commission's intent that the term "state planning document" be read to mean the State Comprehensive Plan or any subsequent planning documents adopted by the Legislature. It is not the Commission's intent to constitutionalize a particular planning document, but to require some type of state-wide planning document to provide priorities and guidance for funding the growth of the State. Further, the Commission intends that the Legislature prescribe a method for the biennial review and revision of the state planning document. Each department and agency of the state should likewise be required to develop a planning document, known as a functional or strategic plan or any subsequent name, consistent with the state planning document. By the term "agency planning document," it is the Commission's intent to encompass both the current system of Agency Strategic Plans and any subsequent plans required by the Legislature for the strategic management and budgetary planning of the agencies and departments. It is further the intent of the Commission that such agency planning documents be reviewed by the Governor to ensure consistency with the state planning document. The Commission intends that Legislature shall review and revise the agency planning documents.

It is further intended that, in implementing these constitutional requirements, the Legislature look to the local government comprehensive planning concepts that have been relatively successfully developed to date and to existing regional plans, in order to create a state comprehensive plan and to maintain its currency in terms of measurable goals and specific timeframes. It is the intent of the Commission that the agency planning documents directly relate to and derive from this reconstituted state plan and local and regional plans and that all of these plans reflect the known or anticipated budgetary impacts of the plans on a time-phased basis.

It is the overall intent of the Commission that revision and integration of these processes be implemented to increase the ability of the citizens of Florida to understand where money for state expenditures comes from, how that money is appropriated, what goals are being met by that appropriation, how that money is eventually spent to further the goals of the state planning document, and the results achieved.

The Commission found that the Governor and Cabinet and the Legislature should have some empirical basis on which to assess how government is responding to major issues and on which to inform the public of its performance. Public expenditures should be directed toward the achievement of specific goals and objectives, and state managers and employees should be held accountable for the achievement of those goals and objectives. The Commission intends that "quality management" shall mean that productivity and performance measures should be an integral part of the budget process in order to provide a means of tracking the state budget expenditures, measuring goal accomplishment, eliminating duplication, promoting efficiency, and increasing public confidence in government. The Commission found that such measures, while necessary, would be best implemented by the Legislature. Thus, the Commission intends that a quality management and accountability be implemented by general law.

It is the overall intent of the Commission that quality management processes be implemented to increase the ability of the citizens of Florida to understand where money for state expenditures comes from, how that money is appropriated, what goals are being met by that appropriation, and how that money is eventually spent.

EXECUTIVE BUDGET AUTHORITY: The Commission found that the Florida Constitution vests supreme executive authority in the Governor; yet, the Governor's budget authority has been restricted by statute. The Commission intends that, as chief administrative officer of the state, the Governor is to be responsible for the planning and budgeting of the state. This role is distinctive from the Legislature's responsibility to appropriate funds of the state. In developing the Recommended Budget which is submitted to the Legislature, the Governor should be able to review and recommend revisions to the budget requests of the legislative and judicial branches according to the same process used for the executive branch. The Commission intends that the Governor shall be able to modify the legislative budget requests of agencies and departments under the Governor's direct supervision before those "independent judgment" legislative budget requests go to the Legislature. It is further intended that the Governor may require departments and agencies to submit "target budgets" which prioritize budget issues and include multiple funding options. In the area of planning, the Governor shall be responsible for reviewing the state planning document biennially and recommending revisions to the Legislature. The Commission further intends that the Governor will review the agency and department planning documents to determine consistency with the state planning document.

The Governor is further charged to take care that all laws are faithfully executed. The Governor has direct executive authority over most executive departments, but shares authority over certain other executive departments with the elected Cabinet. The Governor and members of the Cabinet, unlike members of the legislative and judicial branches of government, are elected by voters state-wide.

The Commission further found that the Florida Constitution requires a balanced state budget. Reading these provisions in *pari materia*, the Commission found that one of the Governor's "take-care" duties is to ensure that the state budget is balanced. The Commission found that for many years, the Governor and Cabinet have acted quickly and effectively to balance the state budget by reducing state spending in the event of revenue shortfalls. This has been viewed positively by the financial markets of the nation, because some states have months of political debate before reaching legislative agreement on ways to cut spending or increase revenue. Thus, it is the Commission's intent that the results of the Florida Supreme Court decision in *Chiles v. Children A, B, C, D, E, and F*, 589 So. 2d 260 (Fla. 1991), be reversed and that the Governor and Cabinet continue to establish reductions to be made in the budget in the event of a revenue shortfall and use the Budget Stabilization Fund for that purpose, in a manner consistent with the criteria adopted by the Legislature

as required by Article III, Section 19(g). A "revenue shortfall" occurs when the state's revenues for a fiscal year fall below the amount which the Legislature has estimated and appropriated for that year by means of the General Appropriations Act.

It is the Commission's intent that the Governor and Cabinet use the prioritized listing of proposed expenditures and possible budget reductions which are included in the approved agency planning document to guide them in making budget reductions. The Governor and Cabinet shall also use any criteria which may be provided by the Legislature to determine budget reductions in the event of a revenue shortfall. It is the intent of the Commission that all three branches of government be subject to budget reductions in the event of revenue shortfalls. The Governor and Cabinet shall fairly and responsibly determine budget reductions in accordance with the priorities and responsibilities of the state, which were addressed by the General Appropriations Act.

After the Governor and Cabinet have established the reductions, it is further the Commission's intent that the Chief Justice of the Florida Supreme Court be required to implement those reductions for the judicial branch. Reductions for the legislative branch shall be implemented by the President of the Senate and the Speaker of the House. The Governor and Cabinet shall be responsible for implementing the necessary reductions in the executive branch. This section is intended to require the three branches to cooperate in determining the most practicable budget reductions. This provision shall be read in conjunction with Article III, section 19(g), regarding criteria for determining the existence of a revenue shortfall or emergency.

It is the intent of the Commission that the executive branch, which bears the brunt of the most criticism in times of revenue shortfalls, should have the authority to take positive steps to alleviate that shortfall. The Legislature has a constitutional responsibility to appropriate funds, and the Commission does not intend that the Legislature shall be prevented from meeting in special session to address any revenue shortfall even if the Governor and Cabinet have acted. It is further the intent of the Commission that all branches should work cooperatively to eliminate shortfalls in order to increase the confidence of the citizens of Florida in the government as a whole.