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September 22, 2008

The Volusia Council of Governments (VCOG), an organization consisting of representatives from Volusia's sixteen cities, the County of Volusia and the Volusia County School Board, has adopted a position regarding the November 7, 2008 ballot questions on the State of Florida Constitutional Amendments as follows:

Amendment #1:

Official Title: Relating to Property Rights/Ineligible Aliens
Sponsor: The Florida Legislature

Official Ballot Summary: Proposing an amendment to the State Constitution to delete provisions authorizing the Legislature to regulate or prohibit the ownership, inheritance, disposition, and possession of real property by alien's ineligible for citizenship.

VCOG position: No position taken

Amendment #2

Official Title: Florida Marriage Protection Amendment
Sponsor: Florida4Marriage.org

Official Ballot Summary: This amendment protects marriage as the legal union of only one man and one woman as husband and wife and provides that no other legal union that is treated as marriage or the substantial equivalent thereof shall be valid or recognized.

VCOG position: No position taken

Amendment # 3

Official Title: Changes and Improvements Not Affecting the Assessed Value of Residential Real Property
Sponsor: Florida Taxation and Budget Reform Commission

Official Ballot Summary: Authorizes the Legislature, by general law, to prohibit consideration of changes or improvements to residential real property which increases resistance to wind damage and installation of renewable energy source devices as factors in assessing the property's value for ad valorem taxation purposes. Effective upon adoption, repeals the existing renewable energy source device exemption no longer in effect.

VCOG Position: This is something that could have been satisfied by state statute and not by a constitutional amendment. There are many ways to promote home improvement for both wind damage and renewable energy savings device through legislative enactment, not constitutional change. **OPPOSE Amendment**

Amendment # 4

Official Title: Property Tax Exemption of Perpetually Conserved Land; Classification and Assessment of Land Used for Conservation

Sponsor: Florida Taxation and Budget Reform Commission

Official Ballot Summary: Requires Legislature to provide a property tax exemption for real property encumbered by perpetual conservation easements or other perpetual conservation protections, defined by general law. Requires Legislature to provide for classification and assessment of land used for conservation purposes, and not perpetually encumbered, solely on the basis of character or use. Subjects assessment benefit to conditions, limitations, and reasonable definitions established by general law. Applies to property taxes beginning in 2010

- **VCOG Position:** This amendment will encourage private land owners to keep conservation property in perpetuity rather than developing the land. **SUPPORT Amendment**

Amendment # 5 – (Florida Supreme Court ruling stated that the language of this amendment is misleading and unconstitutional it will not be included in the November count)

Official Title: Eliminating State Required School Property Tax and Replacing with Equivalent State Revenues to Fund Education

Sponsor: Florida Taxation and Budget Reform Commission

Official Ballot Summary: 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

- **VCOG Position:** This amendment would remove necessary funding for schools and replace it with inadequate and unreliable funding for public education. **OPPOSE Amendment**

Amendment # 6

Official Title: Assessment of Working Waterfront Property Based Upon Current Use

Sponsor: Florida Taxation and Budget Reform Commission

Official Ballot Summary: Provides for assessment based upon use of land used predominantly for commercial fishing purposes; land used for vessel launches into waters that are navigable and accessible to the public; marinas and drystacks that are open to the public; and water-dependent marine manufacturing facilities, commercial fishing facilities, and marine vessel construction and repair facilities and their support activities, subject to conditions, limitations, and reasonable definitions specified by general law.

- **VCOG Position:** This amendment will allow property appraisers to appraise property for the present and not potential future use. This will not only protect marinas but also the small hotels that are presently being driven out of business by surrounding big development. **SUPPORT Amendment**

Amendment # 7– (Florida Supreme Court ruling stated that the language of this amendment is misleading and unconstitutional it will not be included in the November count)

Official Title: Religious Freedom

Sponsor: Florida Taxation and Budget Reform Commission

Official Ballot Summary: Proposing an amendment to the State Constitution to provide that an individual or entity may not be barred from participating in any public program because of religion and to delete the prohibition against using revenues

from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution

- **VCOG Position:** The Amendments 5, 7 and 9 are giant steps toward voucher schools and away from a state funded public school system in Florida. Based on the Florida Constitution clearly provides that it is the State's responsibility to fund schools and provide education to the public. **OPPOSE Amendment**

Amendment # 8

Official Title: Local Option Community Funding

Sponsor: Florida Taxation and Budget Reform Commission

Official Ballot Summary: Proposing an amendment to the State Constitution to require that the Legislature authorize counties to levy a local option sales tax to supplement community college funding; requiring voter approval to levy the tax; providing that approved taxes will sunset after 5 years and may be reauthorized by the voters

- **VCOG Position:** This amendment allows a means for the State to remove itself from the fiscal responsibility to fund Community Colleges and place it on the local community to support. Presently Community Colleges are funded by State and Federal Funds. **OPPOSE Amendment**

Amendment # 9– (Florida Supreme Court ruling stated that the language of this amendment is misleading and unconstitutional it will not be included in the November count)

Official Title: Requiring 65 Percent of School Funding for Classroom Instruction; State's Duty for Children's Education

Sponsor: Florida Taxation and Budget Reform Commission

Official Ballot Summary: Requires at least 65 percent of school funding received by school districts be spent on classroom instruction, rather than administration; allows for differences in administrative expenditures by district. Provides the constitutional requirement for the state to provide a "uniform, efficient, safe, secure, and high quality system of free public schools" is a minimum, nonexclusive duty. Reverses legal precedent prohibiting public funding of private school alternatives to public school programs without creating an entitlement.

- **VCOG Position:** This amendment opens the door to voucher schools and inadequate funding for public schools. **OPPOSE Amendment**

Note: Official title, sponsor and summary came from 2008 VoteSmartFlorida.org

Summary of Proposed 2008 General Election Constitutional Amendments

Copies of the proposed constitutional amendments for the November 2008 ballot are available on the Florida Department of State Division of Elections Web site at <http://election.dos.state.fl.us/initiatives/2008proposedConstAmend.shtml>.

Amendment 1 – Relating to Property Rights/Ineligible Aliens

Amendment Type: Legislative Joint Resolution, (SJR 166, 2007 Legislative Session)

Sponsor: Florida Legislature

Summary: Amendment 1 would delete provisions from the Florida Constitution that authorize the Legislature to regulate or prohibit the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship. This would essentially be a repeal of the "Alien Land" law originally put in place to restrict immigrants from owning property. Originally inserted into the constitution to affect Chinese and Asian immigrants, Florida is one of the last states to repeal such a law. If passed by the electors, this proposal would go into effect January 6, 2009.

Supporters: Organization of Chinese Americans

www.ocanational.org/index.php?option=com_content&task=view&id=176&Itemid=59

Amendment 2 – Florida Marriage Protection Amendment

Amendment Type: Citizen Initiative by Petition

Sponsor: Florida4Marriage.org

Summary: Amendment 2 would place into the Florida Constitution language that defines "marriage" as "the legal union of only one man and one woman." The amendment would further prohibit the state from recognizing any other legal union that is treated as marriage or the equivalent of such a relationship.

Supporters: Florida4Marriage, Florida Family Association

www.yes2marriage.org

Opponents: Florida Red and Blue, Florida ACLU, AFL-CIO, NAACP of Florida, Unitarian Church, Florida Professional Firefighters, and generally the gay, lesbian, bi-sexual and transgendered community

www.sayno2.com

Arguments:

FOR:

- Marriage must be defined as the union of one man and one woman in the Florida Constitution because the courts could one day rule that Florida laws defining marriage are unconstitutional.
- Amendment 2 does not prevent the government or private companies from providing certain employee benefits.

AGAINST:

- Amendment 2 would limit the rights of domestic partnerships and their ability to share health-care and pension benefits.
- Amendment 2 is an unnecessary intrusion into the private lives of Floridians.
- Amendment 2 allows the government to make decisions that are best left to individuals and their families.
- Same sex marriage is already illegal in Florida law.

Amendment 3 – Changes and Improvements Not Affecting the Assessed Value of Residential Real Property

Amendment Type: Taxation and Budget Reform Commission Proposal, CP 0004

Sponsor: Taxation and Budget Reform Commission

Summary: Amendment 3 authorizes the Legislature, by general law, to prohibit the consideration of the following in assessing the value of real property used for residential purposes: any change or improvement made for the purpose of improving the property's resistance to wind damage; or the installation of a renewable energy

source device. The proposal also repeals a current Florida constitutional provision relating to a renewable energy source property tax exemption. If passed by the electors, this proposal takes effect January 1, 2009.

Supporters: Property insurers, businesses that support renewable energy

Amendment 4 – Property Tax Exemption of Perpetually Conserved Land; Classification and Assessment of Land Used for Conservation

Amendment Type: Taxation and Budget Reform Commission Proposal, combined proposals CP 0015 and 0016

Sponsor: Taxation and Budget Reform Commission

Summary: Amendment 4 requires the Legislature to provide by general law for an ad valorem tax exemption for real property dedicated in perpetuity for conservation purposes. Further, the proposal requires land used for conservation purposes to be classified and assessed solely on the basis of character or use for the purposes of ad valorem taxation. If passed by the electors, the proposal shall be implemented by January 1, 2010.

Supporters: Agricultural interests, large land owners, environmental interests

Amendment 5 – Eliminating State-Required School Property Tax and Replacing with Equivalent State Revenues to Fund Education

Amendment Type: Taxation and Budget Reform Commission Proposal, CP 0002

Sponsor: Taxation and Budget Reform Commission

Summary: Amendment 5 would remove a portion of school district property taxes and have these revenues replaced by a possible one-cent increase in the state sales tax and the elimination of various sales tax exemptions.

The proposal states that beginning with the 2010-2011 fiscal year, the Legislature is 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. The Legislature must replace the equivalent of the lost required local effort revenue through one or more of the following options: 1) The repeal of sales tax exemptions, except for 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 the state for export; sales of real property; and sales of intangible personal property. 2) An increase of up to 1 percentage point to the sales and use tax rate in existence on January 6, 2009. 3) Spending reductions for other components of state budget and revenue increases resulting from economic growth attributable to lower property taxes. 4) Other revenues identified or created by the Legislature.

The proposal imposes an "education hold harmless amount" based upon various legislative appropriations for education. The proposal states that nothing contained in it is to 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.

The proposal requires that each law creating a sales tax exemption must 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.

The Florida Constitution currently provides that for all levies other than school district levies, non-homestead property assessments cannot exceed 10 percent of the assessment for the prior year. The proposal changes this percentage to 5 percent. The Florida Constitution currently authorizes school districts to levy up to 10 mills for school purposes. The proposal reduces this millage to 5 mills.

If passed by the electors, reducing the maximum annual change in assessments for non-homestead properties to 5 percent from 10 percent takes effect January 1, 2009, and reducing to 5 mills from 10 mills the authorized ad valorem millage for school purposes takes effect January 1, 2010.

Supporters: Florida Association of Realtors' "Give Me 5 for Florida's Future" campaign
www.giveme5florida.com/

Opponents: Schools, hospitals, nursing homes, agriculture (more specifically, the Florida Education Association, Florida School Boards Association, Florida School District Superintendents, Florida Farm Bureau Federation, Associated Industries of Florida, Florida Institute of CPAs, the National Federation of Independent Businesses, Printing Association of Florida, Fruit and Vegetable Association)

www.fsba.org/briefsupdates.asp#2008electionsconstitutionalamendments

<http://www.floridataxwatch.org/resources/pdf/072308BriefingUncertaintyMakesAmendment5BadBet.pdf>

Arguments:

FOR:

- Amendment 5 is a tax cut for everyone. It abolishes the state's required local effort (RLE) property tax levy for school boards in 2010.
- ▽ Schools will be held harmless, just funded differently. The Legislature will have several options to fund schools (repeal sales tax exemptions, increase statewide sales tax rate 1 percent, or other taxes and revenues).
- Amendment 5 reduces from 10 percent to 5 percent the assessment cap on non-homestead property and makes the cap permanent.

AGAINST:

- Amendment 5 is not a true tax cut but is merely a tax "swap," reducing property taxes only to make the Legislature replace the lost tax revenue.
- Amendment 5 seeks to eliminate \$9.5 billion to \$11.5 billion from the local revenue portion of the funding formula and replace it primarily with state sales tax revenue.
- A one penny increase in sales tax is estimated to generate \$3.3 billion.
- Eliminating all sales tax exemptions (not including exemptions for food; prescription drugs; health services; charitable and religious institutions; and residential rent, electricity and heating fuel) is estimated to generate \$4 billion.
- Combining a state sales tax increase and eliminating most sales tax exemptions would at most generate a total of \$7.3 billion, leaving a \$2 billion to \$4 billion shortfall in the replacement of RLE property taxes the first year.
- The Legislature would be forced to drastically reduce spending in other areas, raise additional taxes or both to make up for the shortfall.

Amendment 6 – Assessment of Working Waterfront Property Based Upon Current Use

Amendment Type: Taxation and Budget Reform Commission Proposal, combined proposals CP 0006, 0008, and 0034

Sponsor: Taxation and Budget Reform Commission

Summary: Amendment 6 provides for the assessment of working waterfront property based upon the property's current use. Current uses of property are: land used predominantly for commercial fishing purposes; land that is accessible to the public and used for vessel launches into waters that are navigable; marinas and dry stacks that are open to the public; and water-dependent marine manufacturing facilities, commercial fishing facilities, and marine vessel construction and repair facilities and their support activities. The Legislature may, by general law, establish conditions and limitations and reasonable definitions to implement the proposal. If passed by the electors, the proposal shall first apply to assessments for tax years beginning January 1, 2010.

Supporters: Commercial fishing industry, owners of marinas, marine construction interests

Amendment 7 – Religious Freedom

Amendment Type: Taxation and Budget Reform Commission Proposal, CP 0020

Sponsor: Taxation and Budget Reform Commission

Summary: Amendment 7 provides that an individual or entity may not be barred from participating in any public program because of religion. The proposal repeals a current Florida Constitutional prohibition ("the Blaine amendment" or "No Aid" provision) against using public revenues in aid of any church, sect or religious denomination or any sectarian institution.

Supporters: Proponents of school vouchers, Foundation for Florida's Future, Florida Catholic Conference, James Madison Institute, Institute for Justice

www.flacathconf.org/PublicPolicyLegislation/LegSes08/Correspondence/Bense3-24-08.pdf

Opponents: Public education interests, public school teachers unions (more specifically, the Florida Education Association, Florida School Boards Association, Florida Association of District School Superintendents, Florida Association of School Administrators, Florida ACLU, Americans United for Separation of Church and State)

www.fsba.org/briefsupdates.asp#2008electionsconstitutionalamendments

www.aclufl.org/news_events/index.cfm?action=viewRelease&emailAlertID=3609

Arguments:

FOR:

- The "No Aid" provision threatens the funding for several public programs and services, such as prekindergarten programs and various college scholarship programs, that are affiliated with religious organizations.
- Amendment 7 would repeal the constitutional ban on state aid to religious institutions.

AGAINST:

- The "No-Aid" provision does not threaten funding for any of these programs provided the programs and services are delivered in a secular and nondiscriminatory manner.
- Amendment 7 would only serve to repeal the portion of the state constitution that underpins the court rulings that declared private school vouchers unconstitutional.

Amendment 8 – Local Option Community College Funding

Amendment Type: Taxation and Budget Reform Commission Proposal, CP 0035

Sponsor: Taxation and Budget Reform Commission

Summary: Amendment 8 requires the Legislature to authorize countywide local option sales taxes to supplement funding for public community colleges. The tax may not be levied unless approved by the electors of each county served by the public community college; requiring voter approval to levy the tax; providing that approved taxes will sunset after five years and may be reauthorized by the voters. The tax must sunset after five years and may be reauthorized by the electors.

Supporters: Community colleges

Amendment 9 – Public Education

Amendment Type: Taxation and Budget Reform Commission Proposal, combined proposals CP 0026 and 0040

Sponsor: Taxation and Budget Reform Commission

Summary: Amendment 9 relates to various aspects of public education. The proposal provides that the Florida Constitution establishes the state's minimum duty to educate the children residing within the state. This duty must be fulfilled, at a minimum and not exclusively, through adequate provision of free public schools. The proposal states that the provision of a publicly funded education does not create an entitlement to a publicly financed private program. At least 65 percent of the school funding received by school districts must be spent on classroom instruction, rather than on administration. If passed by the electors, the 65 percent funding requirement shall first be applicable to school years commencing during the state fiscal year 2009-2010.

Supporters: Proponents of school vouchers, Foundation for Florida's Future

Opponents: Public education interests, public school teachers unions (more specifically, the Florida Education Association, Florida School Boards Association, Florida Association of District School Superintendents, Florida Association of School Administrators, Americans United for Separation of Church and State, Florida ACLU)

www.fsba.org/briefsupdates.asp#2008electionsconstitutionalamendments

www.aclu.org/religion/govtfunding/35646prs20080613.html

Arguments

FOR:

- Amendment 9 would remove the constitutional barriers for vouchers to be used for private schools.
- Amendment 9 would also specify that 65 percent of school funding be used in the classroom rather than on administration.

AGAINST:

- With declining state revenues and teacher layoffs, it does not make sense to give money to private schools.
- According to the Nation Center for Education Statistics (NCES), Florida currently spends more than 65 percent of funds on the NCES definition of "classroom instruction" and Florida is well below the average on spending for administration.
- This proposal demands that Florida school districts do what they are already doing.

This document was compiled by the Florida League of Cities for informational purposes and is in no way intended to provide any type of legal advice or guidance. This brochure is only intended to provide a brief synopsis of each of the proposed constitutional amendments. 7-28-08

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