



## VOTER GUIDE FOR THE 2010 STATE BALLOT PROPOSALS

Editor's Note: Three amendments -- approved by the Legislature and originally scheduled to be numbered as Amendments 3, 7, and 9 on the November ballot -- were struck down by the Florida Supreme Court and removed from the ballot. Therefore, no discussion of them appears in this article. To read about the amendments that were removed, [click here](#).

Meanwhile, as of this writing, the Florida Supreme Court had also agreed to review a challenge to Amendment 8, which would modify the 2002 Class Size Amendment. The teachers union sued, alleging that Amendment 8's ballot language could confuse voters. A circuit court judge disagreed with the union's argument, but the case ultimately will be decided by the high court. If the Court agrees with the union, then any votes actually cast for or against Amendment 8 will be null and void.

### AMENDMENT 1

#### CONSTITUTIONAL AMENDMENT, ARTICLE VI, SECTION 7

**REPEAL OF PUBLIC CAMPAIGN FINANCING REQUIREMENT.** Proposing the repeal of the provision in the State Constitution that requires public financing of campaigns of candidates for elective statewide office who agree to campaign spending limits.

[To read the full text of the proposed amendment, click here.](#)

**Sponsor:** The Florida Legislature

**Background:** Since 1986, Florida law has offered public financing for the political campaigns of certain candidates for statewide office. In 1998, Florida's Constitution Revision Commission placed on the ballot an amendment -- subsequently approved by voters -- enshrining this option in the State Constitution. Candidates may receive public funds, but only if they agree to limit their own campaign spending. Participating candidates may receive contributions from the Election Campaign Financing Trust Fund, plus additional subsidies if a non-participating opponent spends more than \$2 per registered voter -- currently just under \$25 million. In June, gubernatorial candidate Rick Scott sued in federal court to challenge the practice of providing subsidies to his opponent if Scott exceeded the \$2-per-registered-voter limit. He argued that the spending limit was a burden on his right of free speech. The 11<sup>th</sup> U.S. Circuit Court of Appeals agreed and issued an injunction that

prohibited his primary opponent, Bill McCollum, from receiving the additional public funds for his campaign. If Amendment 1 passes, Article VI, Section 7 of the Florida Constitution would be repealed, leaving only the statutory provisions for public campaign financing.

**Analysis:** Several recent court decisions suggest that some of the spending-limit provisions found in many public campaign financing laws, including Florida's, may very well violate certain candidates' First Amendment rights. Supporters of these laws claim they help ensure fairness, but the 11<sup>th</sup> U.S. Circuit Court's recent ruling in the case brought by Rick Scott affirmed that it is not fair to penalize candidates for spending their own money for their political campaign, regardless of the amount spent. It's also worth recognizing that the financial and economic situation in 1998 when Florida's Constitution Revision Commission placed the original public campaign financing requirement on the ballot was much better than it is today. At present it is difficult to justify potentially spending millions of taxpayer dollars in each election cycle on campaigns when that money could either stay in the pockets of taxpayers or be applied to fund essential state services.

**Pro:** Proponents of Amendment 1 wish to repeal the state Constitution's provision on campaign financing. They argue that tax dollars should not be used to fund political campaigns, especially during periods of budget austerity. They also note that in the nine states where public funds can be used to aid political campaigns, there is no evidence to support the notion that this practice has helped lesser-known or minor party candidates compete more effectively.

**Con:** Opponents of Amendment 1 point out that voters in 1998 approved a constitutional amendment providing for public financing of political campaigns, and that the problem the amendment was intended to address persists: that candidates who lack personal wealth necessary to fund a statewide campaign from their own pocket find it difficult to compete against wealthy individuals or well-established candidates, particularly incumbents.

**Recommendation:** On balance, the proponents' positions are more persuasive. Therefore, we recommend **YES on Amendment 1.**

## **AMENDMENT 2**

### **CONSTITUTIONAL AMENDMENT ARTICLE VII, SECTION 3; ARTICLE XII, SECTION 31**

#### **HOMESTEAD AD VALOREM TAX CREDIT FOR DEPLOYED MILITARY**

**PERSONNEL.** Proposing an amendment to the State Constitution to require the Legislature to provide an additional homestead property tax exemption by law for members of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard who receive a homestead exemption and were deployed in the previous year on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. The exempt amount will be based upon the number of days in the previous calendar year that the person was deployed on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. The amendment is scheduled to take effect January 1, 2011.

**[To read the full text of the proposed amendment, click here.](#)**

**Sponsor:** The Florida Legislature

**Background:** On February 11, 2009, Rep. Mike Horner filed House Joint Resolution 833 which originally proposed this constitutional amendment. The Senate version, Senate Joint Resolution 1302, was subsequently filed by Sen. Andy Gardiner. After clearing committee assignments, the amendment passed out of the Legislature unanimously on May 1, 2009.

**Analysis:** There are more than 25,000 active duty military personnel who live in Florida. Allowing this additional tax exemption would recognize their service and sacrifice.

**Pro:** Proponents argue that this additional property tax exemption would provide financial help to military personnel and their families when the personnel are deployed abroad.

**Con:** There is no formal opposition to this measure, but it could slightly reduce property tax revenues that support services provided by local governments and school districts.

**Recommendation:** The fiscal impact on local governments would be minor, while the financial aid for military personnel who are deployed abroad could pay dividends by solidifying Florida's standing as a place where military personnel are welcome to live and to retire when their active duty ends. Therefore, we recommend **YES on Amendment 2**.

## **AMENDMENT 4**

### **CONSTITUTIONAL AMENDMENT, ARTICLE II, SECTION 7**

**REFERENDA REQUIRED FOR ADOPTION AND AMENDMENT OF LOCAL GOVERNMENT COMPREHENSIVE LAND USE PLANS.** Establishes that before a local government may adopt a new comprehensive land use plan, or amend a comprehensive land use plan, the proposed plan or amendment shall be subject to vote of the electors of the local government by referendum, following preparation by the local planning agency, consideration by the governing body and notice. Provides definitions.

[To read the full text of the proposed amendment, click here.](#)

**Sponsor:** Florida Hometown Democracy, Inc.

**Background:** Amendment 4 is a citizen-driven, initiative petition proposal led by Florida Hometown Democracy, Inc. and Lesley Blackner, an environmental lawyer from West Palm Beach. This amendment was originally approved by the Division of Elections in June 2005, and the ballot summary was approved by the Florida Supreme Court in September 2006. The proposed amendment made the ballot in June 2009 after the necessary 676,811 signatures were gathered and certified by the State. Since this time, the amendment has withstood several legal challenges, and complaints to the Florida Elections Commission, to remain active for the November ballot.

**Analysis:** This proposed amendment would require voter approval of proposals that change local growth-management plans. Comprehensive or "comp" plans, as they are known, are blueprints that cities and counties use to lay out a vision of future communities. An argument can be made that voters are already in control of comprehensive plans by electing city and county officials who best represent their views on development.

**Pro:** Supporters claim that voters deserve "a seat at the table" on growth decisions in their city or county for issues affecting their homes and our communities. They say Amendment 4 will end the atmosphere of corruption and distrust in local government by giving voters the ability to veto or

approve new projects and changes to existing developments, thereby fixing the broken system currently in place. Proponents also claim that Florida's real estate bust and the related foreclosure crisis were caused in part by overdevelopment that occurred when elected city and county officials too easily approved the plans of developers from whom they regularly receive large campaign contributions.

**Con:** Opponents say that Amendment 4 will cost jobs and hurt Florida's economy by stifling growth, thereby costing taxpayers millions of dollars. They also claim that the amendment is poorly written and doesn't provide exceptions for vital community needs such as hospitals, police stations, and schools. Some opponents also claim that Amendment 4 paradoxically could create more of the urban sprawl that its advocates decry by forcing developers to look for lands on the urban fringes where their plans would be less likely to meet resistance from nearby neighborhoods. Opponents also note that because of the large numbers of comprehensive plan amendments proposed in many jurisdictions during each election cycle, the presence on the ballot of scores of highly technical questions may exacerbate Election Day congestion at polling places. However, by far the most persuasive argument against Amendment 4 may be the experience of St. Petersburg Beach, where a local version this measure has been blamed for causing higher taxes, a loss of jobs, and endless litigation.

**Recommendation:** The evidence against Amendment 4 is overwhelming. Currently, more than 334 organizations, associations, and local governments, plus every daily newspaper in the state, have taken a position against this amendment...and for good reason. Because of the detrimental impacts this amendment would have on Florida's economy and on citizens' property rights, we recommend **NO on Amendment 4.**

## **AMENDMENT 5**

### **CONSTITUTIONAL AMENDMENT, ARTICLE III, SECTION 21**

#### **STANDARDS FOR LEGISLATURE TO FOLLOW IN LEGISLATIVE REDISTRICTING.**

Legislative districts or districting plans may not be drawn to favor or disfavor an incumbent or political party. Districts shall not be drawn to deny racial or language minorities the equal opportunity to participate in the political process and elect representatives of their choice. Districts must be contiguous. Unless otherwise required, districts must be compact, as equal in population as feasible, and where feasible must make use of existing city, county, and geographical boundaries.

**[To read the full text of the proposed amendment, click here.](#)**

**Sponsor:** Fair Districts Florida

**Background:** Reform of the redistricting process emerged as a major issue in recent years, after the two major political parties became competitive in Florida following decades of dominance by one party. According to *Orlando Sentinel* writer Aaron Deslatte, the fact that Republicans "hold 15 of the state's 25 U.S. House seats and 102 of 160 seats in the Legislature ... prompted unions, personal-injury lawyers and other Democrat-leaning groups to spend more than \$4.2 million during the past three years to place Amendments 5 and 6 before voters this fall."

**Analysis:** Amendment 5 dealing with legislative redistricting -- and its companion, Amendment 6 dealing with congressional redistricting -- might have been workable, though still cumbersome, if the Florida Supreme Court had not removed Amendment 7 from the ballot. That amendment, passed by the Legislature, sought to clarify the application of the standards set forth in Amendments 5 and 6. In a 5-2 ruling, however, the Court held that it was unconstitutional because the ballot summary did not accurately represent the amendment.

**Pro:** Supporters of Amendment 5 complain that the legislators choose their constituents rather than the other way around, intended primarily to protect incumbents and partisan advantage. They also note that some legislative and congressional districts are geographically so misshapen that many voters do not even realize who represents them in Tallahassee or Washington, D.C.

**Con:** Opponents of Amendment 5 say compliance with Amendment 5's standards would be difficult, if not impossible, because of the nature of Florida's diverse demographics. They complain that in practice these standards are contradictory and confusing – akin to the practical joke that some old-line college coaches used to play on their freshmen players by shouting, “All right, you guys! Line up alphabetically by height.”

**Recommendation:** Enactment of the confusing and contradictory standards mandated in Amendment 5 would increase the likelihood that any redistricting plan devised by the Florida Legislature would be subject to protracted litigation and would ultimately be replaced by a plan devised by appointed judges rather than by the people's elected representatives. Therefore, we recommend **NO on Amendment 5**.

## AMENDMENT 6

### CONSTITUTIONAL AMENDMENT, ARTICLE III, SECTION 20

**STANDARDS FOR LEGISLATURE TO FOLLOW IN CONGRESSIONAL REDISTRICTING.** Congressional districts or districting plans may not be drawn to favor or disfavor an incumbent or political party. Districts shall not be drawn to deny racial or language minorities the equal opportunity to participate in the political process and elect representatives of their choice. Districts must be contiguous. Unless otherwise required, districts must be compact, as equal in population as feasible, and where feasible must make use of existing city, county, and geographical boundaries.

[To read the full text of the proposed amendment, click here.](#)

**Sponsor:** Fair Districts Florida

**Background:** Amendment 6 is identical to Amendment 5 in its origins and philosophy. Indeed, they were initially presented as a single amendment, but the Florida Supreme Court correctly held that the proposals must be presented as two separate questions in case, for example, a voter wanted to reform redistricting for the Legislature but not for Congress – or vice versa. The only substantive difference between the two ballot measures is that Amendment 6 applies to congressional redistricting while Amendment 5 applies to legislative redistricting. There is one procedural difference, however: The Legislature's plan redrawing *congressional* districts is subject to

gubernatorial review and, potentially, to a veto. (The Governor – under the separation of powers doctrine – has no official role in the redistricting of the Legislature.)

**Analysis:** Amendment 6, with its confusing and contradictory standards for congressional redistricting, suffers from the same flaws as Amendment 5.

**Pro and Con:** See Amendment 5.

**Recommendation:** As with Amendment 5, enactment of the confusing and contradictory standards mandated in Amendment 6 would increase the likelihood that any redistricting plan devised by the Florida Legislature would be subject to protracted litigation and would ultimately be replaced by a plan devised by appointed judges rather than by elected representatives. Therefore, we recommend **NO on Amendment 6.**

## AMENDMENT 8

### CONSTITUTIONAL AMENDMENT, ARTICLE IX, SECTION 1 and ARTICLE XII, SECTION 31

**REVISION OF THE CLASS SIZE REQUIREMENTS FOR PUBLIC SCHOOLS.** The Florida Constitution currently limits the maximum number of students assigned to each teacher in public school classrooms in the following grade groupings: for prekindergarten through grade 3, 18 students; for grades 4 through 8, 22 students; and for grades 9 through 12, 25 students. Under this amendment, the current limits on the maximum number of students assigned to each teacher in public school classrooms would become limits on the average number of students assigned per class to each teacher, by specified grade grouping, in each public school. This amendment also adopts new limits on the maximum number of students assigned to each teacher in an individual classroom as follows: for prekindergarten through grade 3, 21 students; for grades 4 through 8, 27 students; and for grades 9 through 12, 30 students. This amendment specifies that class size limits do not apply to virtual classes, requires the Legislature to provide sufficient funds to maintain the average number of students required by this amendment, and schedules these revisions to take effect upon approval by the electors of this state and to operate retroactively to the beginning of the 2010-2011 school year.

[To read the full text of the proposed amendment, click here.](#)

**Sponsor:** The Florida Legislature

**Background:** Florida voters approved the so-called “class size amendment” in 2002 by a relatively narrow margin that would be insufficient to meet the current requirement of 60 percent of the vote. The margin of victory came mainly from two Southeast Florida counties, Miami-Dade and Broward, where unions affiliated with the American Federation of Teachers (AFL-CIO) and compliant school boards had repeatedly negotiated contracts increasing class sizes in order to provide salary increases at percentages higher than the percentage increases in state and local funding per pupil. The boards achieved this by crowding more students into each classroom, triggering an outcry from parents. Then, having largely contributed to the problem, the unions pushed the class-size amendment as a solution. The smaller classes also meant the hiring of more teachers, meaning more dues revenue for the union coffers. Meanwhile, there is no conclusive evidence suggesting that class size alone is directly correlated with student achievement. On the

other hand, there is conclusive evidence to suggest that teacher competence has a direct bearing on student achievement. However, the same teachers unions that pushed for passage of the class size amendment in 2002 – and have gone to court this year in an effort to deny voters a chance to vote on Amendment 8 – have repeatedly resisted credible efforts to measure and reward teacher competence.

**Analysis:** Florida has spent an estimated \$16 billion to comply with the 2002 class size amendment, despite evidence suggesting that merely limiting class size does not have a significant impact on students' achievement. Now the state is facing many budget challenges. Therefore, the money still flowing into school construction and other measures necessary to comply with the rigid 2002 class size limits, which are finally taking full effect this fall, could be better spent on other approaches to improving student achievement – including rewards for the most effective teachers.

**Pro:** Amendment 8's slight relaxation of the class size amendment's overly rigid limits would solve the problem of "the 19<sup>th</sup> student." That is, if the absolute limit in the early grades is 18 students, what happens when all the classes are at the maximum and a 19<sup>th</sup> student shows up a couple of weeks after school starts? Or what happens when a high school senior needs one last math course to graduate and all of the sections are filled? Slightly modifying the overly rigid limits to allow for a school-wide average within the respective grade groupings would avoid these problems.

**Con:** The teachers unions and some parental groups argue that passage of Amendment 8 would allow class sizes to creep back upward to unacceptable levels at which teachers have too many students assigned to them and cannot provide students with enough individual attention. They also claim that the gains in student achievement are attributable to smaller classes rather than to the other reforms that have included charter schools, vouchers, and a testing regimen to measure students' academic progress.

**Recommendation:** In order to provide schools with a reasonable degree of flexibility with respect to class sizes, we recommend **YES on Amendment 8**.

## REFERENDUM 1

### BALANCING THE FEDERAL BUDGET A NONBINDING REFERENDUM CALLING FOR AN AMENDMENT TO THE UNITED STATES CONSTITUTION

In order to stop the uncontrolled growth of our national debt and prevent excessive borrowing by the Federal Government, which threatens our economy and national security, should the United States Constitution be amended to require a balanced federal budget without raising taxes?

[To read the full text of the proposed referendum, click here.](#)

**Sponsor:** The Florida Legislature

**Background:** Florida lawmakers passed this proposed constitutional amendment during the 2010 legislative session in response to the economic problems associated with large federal deficits. Lawmakers also passed Senate Concurrent Resolution 10, which calls on Congress to call a constitutional convention for the sole purpose of considering a balanced budget amendment. The passage of this resolution made Florida the 20th state to call for such an amendment. The U.S.

Constitution requires two-thirds of the states to call for a constitutional convention for one to actually convene.

**Analysis:** Although this referendum is nonbinding, a powerful message could be sent to Congress if a vast majority of Floridians expressed a desire see our federal deficits reduced by cutting spending.

**Recommendation:** We recommend **YES on Referendum 1.**