

Coming to Florida:

A rare chance to reform taxes and spending

By Robert F. Sanchez

Twenty-five Floridians will soon gain the power to do something that ordinarily requires the approval of at least 107 legislators or thousands of petitioners: the power to propose amendments to the state constitution and submit them to the voters.

They'll have this power as members of the Taxation and Budget Reform Commission (TBRC), which is due to be formed early next year. Back in 1988, the Legislature proposed – and voters approved -- a constitutional amendment to create such a group.

This occurred near the end of a tumultuous decade when burgeoning school enrollments and soaring crime rates had strained state budgets. Indeed, both of Florida's governors in the 1980s had tried and failed to broaden the state's tax base.

Gov. Bob Graham had touted a “unitary tax” on corporate earnings so multinational firms couldn't hide to their Florida profits in tax havens. It failed. Gov. Bob Martinez proposed extending the sales tax to “services.” Lawmakers obliged, then retreated six months later under withering fire from service providers ranging from trial lawyers to barbers.

Even some of Florida's liberal-leaning newspapers opposed the services tax. Editorial writers who previously had argued that state government urgently needed more money suddenly found that a tax on advertising was an affront to the First Amendment.

Upon repealing the services tax, lawmakers raised the sales tax on goods to 6 percent from 5 percent and asked voters to authorize a TBRC consisting of 25 members: 11 appointed by the Governor and seven apiece by the House Speaker and Senate President.

The first TBRC met in 1990-92 and proposed four constitutional amendments. The Florida Supreme Court invalidated one. Voters passed two. One tweaked the legislative budget process. The other required lawmakers to create a “taxpayer bill of rights” (TABOR).

Lawmakers responded by enacting an ineffective TABOR that has utterly failed to restrain state spending, which keeps growing faster than it would were it linked to inflation and population growth.

The 1990-92 TBRC's other proposed amendment -- to let cities to add a sales-tax surcharge of up to 1 percent with voter approval – was defeated.

Ironically, the most significant tax item on the 1992 ballot was the so-called “Save Our Homes” amendment capping annual increases on the property-tax appraisals of

residences that qualify for homestead exemption. It reached the ballot via voters' petitions, not the TBRC, and its cumulative impact has become a hot-button issue.

Under the TBRC's original mandate, the group wouldn't have been formed again until 2010. In 1998, however, voters approved a constitutional amendment adjusting the original timetable.

The revised schedule puts the TBRC's meetings at the halfway point of the Constitution Revision Commission's 20-year cycle. So the TBRC, having last met in 1990-92, will meet again in 2007-08 -- and every 20 years thereafter -- unless the schedule is altered again.

The new TBRC will gather at a time when many Floridians are complaining about glaring tax inequities as well as large property-tax hikes atop steep hikes in property insurance rates.

Even so, the experience of the first TBRC suggests one caveat: Although groups that are formed only once every 20 years can't entirely ignore the concerns of the moment, they also need to take the long view.

For TBRC members, this means anticipating fiscal problems, if any, requiring a constitutional remedy rather than a statutory remedy. After all, statutory remedies are available whenever the Legislature meets.

In contrast, the TBRC's opportunity to seek significant changes in the state constitution comes only once in a generation. The group's members should make the most of it.

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