

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 1821 CS PCB STA 05-01 State Planning and Budgeting
SPONSOR(S): State Administration Appropriations Committee
TIED BILLS: HB 1823 **IDEN./SIM. BILLS:** CS/SJR 2144

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: State Administration Appropriations Committee	9 Y, 1 N	Belcher	Belcher
1) Fiscal Council	17 Y, 0 N, w/CS	Overton	Kelly
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The House Joint Resolution (HJR) proposes to amend Section 19 of Article III of the State Constitution. The HJR provides:

- The amount of non-recurring General Revenue that may be used to fund the recurring costs of state programs is limited to 3 percent of total General Revenue (approximately \$800 million). The limitation may be waived by a 3/5 vote of the Legislature.
- The Joint Legislative Budget Commission (JLBC) is established in the Florida Constitution. The membership is to be an equal number of Representatives and Senators, but the number is not set in the HJR. The members and the alternating chairs are appointed by the President and Speaker.
- No later than September 15th of each year, the JLBC shall issue a long-range financial outlook setting out fiscal strategies for the state and its departments and agencies. The purpose of the outlook is to “assist the legislature in making budget decisions.” The outlook must include major workload and revenue estimates. Each department and agency must submit a legislative budget request that is based upon the long-range financial outlook adopted by Joint Legislative Budget Commission or explain any variance from the plan.
- The Legislature is granted authority to “prescribe by general law conditions under which limited adjustments to the budget, as recommended by the governor or the chief justice of the supreme court, may be approved without concurrence of the full legislature.”
- The Government Efficiency Task Force is created in 2007, and every 4 years thereafter. The Task Force is composed of legislators and private sector appointees who will make recommendations to improve government and reduce costs. The Task Force shall complete its work within one year and shall submit its report to the JLBC, the governor, and the chief justice of the supreme court.
- General law shall provide for a long-range state planning document which shall be updated every 2 years. The plan shall provide statewide strategic goals and objectives, and be consistent with the long-range financial outlook.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—The HJR creates the Joint Legislative Budget Commission and the Government Efficiency Task Force.

B. EFFECT OF PROPOSED CHANGES:

Background

Section 19 of Article III of the State Constitution was originally proposed in 1992 by the Taxation and Budget Reform Commission. It was approved by the voters on November 4, 1992. The Taxation and Budget Reform Commission is a constitutional revision body, established by Section 6 of Article XI of the Florida Constitution in 1988.

Proposed Amendments to Section 19 of Article III of the Florida Constitution

Subsection (a) of Section 19 of Article III

The HJR amends subsection (a) to limit the amount of non-recurring General Revenue that may be used to fund the recurring costs of state programs to 3% of total General Revenue (approximately \$800 million). This limitation may be waived by a 3/5 vote of the Legislature. No similar limitation currently exists.

The HJR also requires each agency to submit a legislative budget request based on the long-range financial outlook (required in Section 19(c) of Article III, described below) adopted by the Joint Legislative Budget Commission (established in Section 19(j) of Article III, described below). If the legislative budget request varies from the long-range financial outlook, the agency must specifically explain the reason for the variance.

Subsection (c) of Section 19 of Article III

The HJR amends subsection (c) to require the Joint Legislative Budget Commission (JLBC) to issue a long-range financial outlook setting out recommended fiscal strategies for the state and its agencies in order to assist the legislature in making budget decisions. The outlook must include major workload and revenue estimates. The JLBC must use official estimates from the consensus estimating conferences and may request additional estimates.

The HJR requires the JLBC to seek input from the public and from the executive and judicial branches when developing and implementing the long-range financial outlook.

The HJR authorizes the Legislature to set by law the process for budget amendments to be approved without the concurrence of the full Legislature. Currently, s. 216.177, F.S., allows the Governor and Chief Justice to submit proposed adjustments to the current-year budget, with legislative review and objection procedures. Certain budget amendments also require approval of the JLBC.

The HJR repeals the requirement that general law require agencies to submit planning documents and related budget requests to the Legislature, and that the Legislature compare the major issues included by the agencies to the Governor's recommended budget.

Subsection (e) of Section 19 of Article III

The HJR amends subsection (e) to provide that a final budget report for the state's budget shall be produced no later than 120 days after the beginning of the fiscal year. Presently the report must be produced no later than 90 days after the beginning of the fiscal year. The state's budget is very complex so it is difficult to complete the final budget report before the current deadline.

Subsection (f) of Section 19 of Article III

The HJR amends subsection (f) to require that state trust funds be re-created by a three-fifths vote of the membership of each house in a separate bill. Currently only bills that create trust funds must pass by a three-fifths vote.

Currently trust funds must be reviewed within 4 years after their creation and then every 4 years. Subsection (f) is amended to provide that state trust funds shall terminate not more than 4 years after the effective date of the act authorizing the initial creation of the trust fund. The practical effect of this provision will be to end the requirement to re-create existing trust funds, which have now been re-created by the Legislature 3 times each since 1994. The HJR also deletes outdated language referring to a date that has passed.

Subsection (g) of Section 19 of Article III

The HJR amends subsection (g) to remove expired language on the phase-in of the Budget Stabilization Fund during the period from 1995 to 1999. The current constitutional requirement to maintain a balance in the Budget Stabilization Fund equal to no less than 5 percent, and no more than 10 percent, of the last completed fiscal year's net collections for the General Revenue Fund is continued unchanged.

Subsection (h) of Section 19 of Article III

The HJR amends subsection (h) to require state planning to be long-range (and updated every 2 years as is done now), with statewide strategic goals and objectives, and to be consistent with the long-range financial outlook. The long-range state planning document and the long-range financial outlook will be linked by requiring the long-range state planning document to include projections of future needs and resources that are consistent with the long-range financial outlook. The current State Comprehensive Plan is set out in detail as Chapter 187, F.S.

The HJR repeals the requirement for a separate quality management and accountability program. Outdated language referring to a date that has passed is also repealed.

Subsection (i) of Section 19 of Article III

The HJR creates subsection (i) which creates a Government Efficiency Task Force in 2007 and every 4 years thereafter to make recommendations to improve government and reduce costs. The Task Force is composed of legislators and private sector appointees. The Task Force will be staffed by as provided in law, with assistance from the private sector permitted, and will be required to complete its work in one year.

Subsection (j) of Section 19 of Article III

The HJR creates subsection (j) to establish the Joint Legislative Budget Commission (JLBC) in the Florida Constitution. The current statutory Legislative Budget Commission is created in s. 11.90, F.S. The membership of the JLBC is to be an equal number of Representatives and Senators, but the number is not set in the HJR. The members and the alternating chairs are appointed by the President and Speaker. Current law assigns this duty to the chairs of the appropriations committees.

The joint rules of the Legislature will continue to govern the JLBC. The HJR requires the JLCB to convene at least quarterly at the call of the presiding officers. Current law provides for the chair and vice chair to convene meetings at least quarterly.

As under law, a quorum consists of a majority of the members from each house plus one additional member from either house. Action by the JLBC will require a majority vote of the members present from each house. Members will continue to be allowed to attend by teleconference.

Finally, the HJR allows the Legislature to assign other powers and duties to the JLBC by general law.

Ballot and Ballot Summary

The HJR provides that the proposed amendment to the constitution shall be placed on the ballot at the next general election or at an earlier special election specifically authorized by law.

The proposed ballot summary follows:

PLANNING AND BUDGET PROCESS

Proposes an amendment to Section 19 of Article III of the State Constitution to limit the amount of nonrecurring general revenue that may be appropriated for recurring purposes in any fiscal year to 3 percent of the total general revenue funds estimated to be available, unless otherwise approved by a three-fifths vote of the Legislature; to limit constitutional termination of a trust fund to one time only, 4 years after initial creation, and require a three-fifths vote of each house of the Legislature to re-create a trust fund by law; to require preparation and biennial revision of a long-range state planning document, require the long-range state planning document to include projections of future needs and resources of the state consistent with the long-range financial outlook, and require all state agencies and departments to develop planning documents consistent with the long-range state planning document and to submit legislative budget requests based on the long-range financial outlook and justifying each variance therefrom; to establish the joint Legislative Budget Commission to issue an annual long-range financial outlook for the state and exercise other duties relating to the state planning and budgeting process as prescribed by the State Constitution, general law, or joint rule; to require the Legislature to prescribe by general law conditions under which limited budget adjustments may be approved without concurrence of the full Legislature; to require appointment of a Government Efficiency Task Force every 4 years to develop recommendations for improving governmental operations and reducing costs and submit them within one year to the joint Legislative Budget Commission, the Governor, and the Chief Justice of the Supreme Court.

C. SECTION DIRECTORY:

A House Joint Resolution is not divided into sections.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures: See fiscal comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS:

Each constitutional amendment is required to be published in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week preceding the general election. Costs for advertising vary depending upon the length of the amendment; however, the cost per amendment is estimated to be approximately \$35,000.

There will be indeterminate costs associated with meetings of the government efficiency task force for member travel and per diem and, if meetings are held outside Tallahassee, for appropriate staff.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

The HJR addresses concerns regarding whether the Legislature may delegate to a subset of its members the authority currently exercised by the Legislative Budget Commission, presiding officers, and appropriations chairs over mid-year adjustments to the current-year budget. The Florida Constitution provides that "no money shall be drawn from the treasury except in pursuance of appropriation made by law," art. VII, § 1(c), Fla. Const., and that "provision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period." Art. VII, § 1(d), Fla. Const.

The Florida Supreme Court has repeatedly held that, under the doctrine of separation of powers, the legislature may not delegate the power to enact laws or to declare what the law shall be to any other

branch. Any attempt by the legislature to abdicate its particular constitutional duty is void. *Pursley v. City of Fort Myers*, 87 Fla. 428, 432, 100 So. 366, 367 (1924); *Bailey v. Van Pelt*, 78 Fla. 337, 350, 82 So. 789, 793 (1919).

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 22, 2005, the Fiscal Council adopted an amendment that clarifies the long-range financial outlook is to assist the Legislature in planning and budgeting, but is not binding on the Legislature.