Summer 1978

Flexibility and Fiscal Conservatism: Provisions of the 1978 Constitutional Revision Relating to Bond Financing

Arnold L. Greenfield

Follow this and additional works at: http://ir.law.fsu.edu/lr

Part of the Constitutional Law Commons, Secured Transactions Commons, and the State and Local Government Law Commons

Recommended Citation


http://ir.law.fsu.edu/lr/vol6/iss3/11

This Article is brought to you for free and open access by Scholarship Repository. It has been accepted for inclusion in Florida State University Law Review by an authorized editor of Scholarship Repository. For more information, please contact bkaplan@law.fsu.edu.
# FLEXIBILITY AND FISCAL CONSERVATISM: PROVISIONS OF THE 1978 CONSTITUTIONAL REVISION RELATING TO BOND FINANCING

**ARNOLD L. GREENFIELD**

## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I. Introduction</strong></td>
<td>822</td>
</tr>
<tr>
<td><strong>II. Substantive Revisions Relating to Bond Programs</strong></td>
<td>822</td>
</tr>
<tr>
<td>A. General</td>
<td>822</td>
</tr>
<tr>
<td>B. Article VII, § 11</td>
<td>824</td>
</tr>
<tr>
<td>C. Article VII, § 12</td>
<td>825</td>
</tr>
<tr>
<td>D. Article VII, § 14</td>
<td>828</td>
</tr>
<tr>
<td>E. Article VII, § 16 (New)</td>
<td>829</td>
</tr>
<tr>
<td>F. Article VII, § 17, (New)</td>
<td>833</td>
</tr>
<tr>
<td>G. Article XII, § 9</td>
<td>837</td>
</tr>
<tr>
<td><strong>III. Substantive Revisions Affecting Bond Financing</strong></td>
<td>839</td>
</tr>
<tr>
<td>A. Proposed Repeal of Article IV, § 4 (Cabinet)</td>
<td>839</td>
</tr>
<tr>
<td>B. Revisions Relating to Taxation</td>
<td>841</td>
</tr>
<tr>
<td><strong>IV. Nonsubstantive Revisions</strong></td>
<td>842</td>
</tr>
<tr>
<td><strong>V. Conclusion</strong></td>
<td>844</td>
</tr>
<tr>
<td><strong>VI. Appendix</strong></td>
<td>845</td>
</tr>
<tr>
<td>A. Proposed Changes in Article VII</td>
<td>845</td>
</tr>
<tr>
<td>B. Proposed Changes in Article XII</td>
<td>848</td>
</tr>
</tbody>
</table>
FLEXIBILITY AND FISCAL CONSERVATISM: PROVISIONS OF THE 1978 CONSTITUTIONAL REVISION RELATING TO BOND FINANCING

ARNOLD L. GREENFIELD*

I. INTRODUCTION

The Constitution Revision Commission has proposed several significant constitutional changes in the field of public bond financing, in addition to many changes of a "polishing" or nonsubstantive nature. These proposed revisions are found primarily in articles VII and XII. The manner in which state bond programs are administered in the future will also be affected by other proposed changes in the structure of state government if the changes are approved by the electorate.

This article summarizes the effects of these proposed revisions and comments on the presumed intent of the commissioners in suggesting these revisions. It is hoped that these observations about the background and intent of some of these proposed revisions will not appear to be too presumptuous. They are made possible by the extensive experience afforded the author in this area by commission work.

Several revisions have also been proposed by the commission in the field of taxation relating to bond programs. Where appropriate, these relationships will be noted. However, extensive treatment of the subject of taxation is outside the scope of this article.

This article will address the major substantive revisions dealing with bond financing in the order in which these revisions appear in the revised document. The article will then deal with the substantive changes relating to taxation or governmental reorganization which would significantly affect the bonding programs if adopted. Finally, this article will explain briefly the several stylistic, nonsubstantive changes proposed in the relevant portions of the constitution.

II. SUBSTANTIVE REVISIONS RELATING TO BOND PROGRAMS

A. General

The basic provisions of the Florida Constitution governing state
and local bond issues are found in article VII, sections 11 and 12. Section 11 deals with state bonds, and section 12 deals with local government bonds.¹ Both these sections were products of the constitutional revision of 1968. Section 11 in particular radically altered the prior law relating to state bonds by permitting the state to pledge its full faith and credit and by expressly permitting the state to issue revenue bonds.

Theoretically, the state had been barred by the constitution of 1885 from issuing bonds except to repel invasions or to suppress insurrections.² Of course, other provisions generally provided for certain types of state revenue bonds for educational purposes and for local bonds secured by real property taxes if approved by a referendum.³ In addition, other types of revenue bond programs had been developed through judicial interpretation and legislation. The 1968 revision lent credence to some of these programs by giving them constitutional sanction. These changes also injected an element of uniformity into an area of the law which had developed by the somewhat haphazard process of accretion in response to needs perceived at various times.

The 1968 revisions, however, expressly eliminated some state revenue bond programs which had been authorized by statute and approved by the courts.⁴ The 1968 revision was largely silent about local revenue bonds,⁵ leaving a void to be filled by the legislature, subject to judicial approval.

The proposed 1978 revisions represent an attempt to provide a more consistent constitutional structure for the fundamental law governing local revenue bond issues and to prevent certain abuses in Florida which have unfortunately plagued local and state governments elsewhere in the United States. Because of the thorough job of revision on state bonds in 1968, the changes proposed in section

---

¹ For text of proposed changes as well as current language, see appendix.

² Fla. Const. of 1885, art. IX, § 6 read as follows: "The Legislature shall have power to provide for issuing State bonds only for the purpose of repelling invasion or suppressing insurrection, or for the purpose of redeeming or refunding bonds already issued, at a lower rate of interest."


⁴ For example, revenue bonds which were funded from "rents" from public buildings were eliminated by the 1968 revisions in article VII, § 11(c):

Revenue bonds may be issued by the state or its agencies without a vote of the electors only to finance or refinance the cost of state capital projects and shall be payable solely from funds derived from sources other than state tax revenues or rents or fees paid from state tax revenues.

Fla. Const. art. VII, § 11(c).

⁵ See id. § 12.
11 by the revision commission in 1978 are relatively minor compared to the newly proposed changes in section 12.

B. Article VII, § 11

The first revision proposed in section 11 is to change the authorized purpose for the issuance of bonds pledging the full faith and credit of the state under subsection (a) and state revenue bonds under subsection (c) from financing or refinancing "state capital projects" to financing "fixed capital outlay projects authorized by law, and purposes incidental thereto" (new language italicized).

This revision is intended to make clear that long-term bonded indebtedness should be incurred only to finance long-term improvements with a useful life that will not be substantially less than the amortization period of the debt. Otherwise, "capital projects" could be construed to include so-called "operating capital outlay" items with a relatively short useful life, while the bonds issued to finance such "projects" could remain outstanding long after the items acquired with the proceeds had been discarded. This revision is consistent with the philosophy that long-term debt should not be incurred to fund recurring expenditures which in turn cause pyramiding principal and interest obligations. Experiences in other states have indicated that there is just a short step to disaster when current expenses are included in an entity's capital budget.

Although this abuse has not been prevalent in Florida, this proposed change in section 11, and the same recommended change in section 12, as noted below, should make it much more difficult for ingenious lawyers, accountants, and budget officers to indulge their creative impulses in the future, under the pressure of immediate budgetary needs, to the detriment of the taxpayers in later fiscal years. For this reason, these seemingly innocuous changes in sections 11 and 12 of article VII could someday prove to be among the most important financial safeguards written into the 1978 revision.

The next substantive revision proposed in section 11 appears at the end of subsection (a)(1), with the addition of the phrase

6. See Fla. C.R.C., Proposed Revision to Article VII, Section 11: Declaration of Intent, Interim Report by Committee on Bonding and Investments (Group A) 7 (Dec. 6, 1977):

The intent of the proposed revision to Article VII, Section 11 is to ensure that full faith and credit bonds for capital projects be used to finance or refinance fixed capital outlay projects only. In other words, this financing mechanism may not be used to finance operating capital outlay items, such as typewriters and copy machines.

7. The near bankruptcy of New York City in attempting to meet its capital debt obligations is a prime example of what can happen when current expenses are included in an entity's capital budget.
“excluding any tax revenues held in trust under the provisions of this constitution” to the debt limitation formula for state full faith and credit bonds issued under this section. The existing language provides that: “The total outstanding principal of state bonds issued pursuant to this subsection (a) shall never exceed fifty per cent of the total tax revenues of the state for the two preceding fiscal years.”

The existing language apparently includes so-called “trust” funds as well as “general revenue” funds. Certain trust funds are dedicated by the state constitution for specific purposes and, therefore, cannot be appropriated by the legislature to meet the state’s general debts or obligations. For this reason, it seems prudent to exclude such constitutional trust funds from the debt limitation and to base the limitation formula on monies to which the legislature has access for appropriations. Statutory trust funds are not so excluded because the legislature can alter these dedications for specific purposes—except to any extent necessary to satisfy the requirements of outstanding debts.

It is estimated that this revision will reduce the debt limitation by about thirty percent, compared to the current formula. This should still allow the state ample latitude for financing needed fixed capital outlay projects, while protecting the taxpayers from an eventual accumulation of debts in excess of the ability of the legislature to provide for debt service requirements from readily available sources.

C. Article VII, § 12

As noted above, the provision restricting state bonds to finance only “fixed capital outlay projects” also has been proposed for local governments under section 12. The reasons for this limitation and the benefits to be achieved are identical to those discussed for state bond programs.

In fact, the reasons for imposing this constitutional limitation at the local level are even more compelling than those for applying it to state bond programs because the legislature cannot possibly (and probably should not) exercise the same degree of oversight and control over all units of local government as is routinely exercised over state operations. This is true because of the sheer number and vari-

---

8. See, e.g., Fla. Const. art. XII, § 9(c) (motor vehicle fuel taxes).
10. Fla. Const. art. VII, § 11(b); Fla. C.R.C., Rev. Fla. Const. art. VII, § 11(a)(2) (May 11, 1978) (as renumbered): “Moneys sufficient to pay debt service on state bonds as the same becomes due shall be appropriated by law.”
ety of local governmental bodies\textsuperscript{11} and the prevalent desire for "home rule" as permitted by legislation authorizing almost any local action not prohibited by law.\textsuperscript{12}

This proposed revision would at least impose a minimum constitutional limitation on the purposes for which long-term debt could be incurred by local government in Florida—especially for local revenue bonds, for which there is now no limitation whatsoever in the constitution. The proposed revision would add this limitation in a new subsection (b) of section 12.

At the same time, this suggested provision expressly regulating local revenue bonds should eliminate any future problems caused by the absence of any constitutional provision on this subject. For example, in the recent case of \textit{State v. City of Sunrise}, the Florida Supreme Court first published an opinion relating to this subject that aroused a storm of legal controversy and then apparently recognized the errors in the first opinion and issued a drastically different opinion on rehearing.\textsuperscript{13} Such a contretemps could be avoided in the future by including a provision on this subject in the revised constitution.

The proposed revision also would add two additional subsections to section 12. These proposed new subsections, (c) and (d), are closely related and are designated to prevent abuses of short-term borrowing by local governments.\textsuperscript{14} The impetus for limitations of

\textsuperscript{11} There are 67 counties, \textit{Fla. Stat.} ch. 7 (1977); approximately 390 municipalities, Dept't of Community Affairs; and 67 school districts in Florida, \textit{Fla. Stat.} § 230.01 (1977), each having special tax districts.

\textsuperscript{12} The "home rule" doctrine for municipalities can be found in \textit{Fla. Const.} art. VIII, § 2(b) and in \textit{Fla. Stat.} § 166.021(1) (1977).

\textsuperscript{13} 354 So. 2d 1206 (Fla. 1978). The State of Florida took a direct appeal to the Florida Supreme Court from a final judgment validating certain "double advance refunding" bonds issued by a municipality. These revenue bonds were to be used in part to refinance and refund money borrowed under bonds issued in 1973, the proceeds of which were used to advance refund bonds issued in 1970. In its original opinion, the court held that in order to be validated, the proposed bonds had to meet the "lower net average interest cost" requirement found in \textit{Fla. Const.} art. VII, § 12(b). The court reasoned that since article VII, § 12(b) was the only place in the constitution which mentioned refunding bonds, such bonds would have to be issued in accordance with that section or not at all. On rehearing, the court changed its position and held that the provisions of article VII, § 12(b) applied only to "bonds . . . payable from \textit{ad valorem taxation}," 354 So. 2d at 1209, and were not applicable to the issuance of revenue bonds. Accordingly, the court concluded that the municipality could issue "double advance refunding bonds" under their constitutional "home rule" powers found in article VIII, § 2, the only limitation on that power being that it must be exercised for a valid "municipal purpose."

\textsuperscript{14} See Fla. C.R.C., Proposed Revision to Article VII, Section 12: Declaration of Intent, Interim Report by Committee on Bonding and Investments (Group A) 10 (Dec. 6, 1977):

The intent of this revision is (1) to allow tax increment financing of redevelopment projects by local governmental bodies; (2) to limit projects that can be financed with revenue bonds and \textit{ad valorem} tax bonds to fixed capital outlay
this nature has grown out of the financial crises recently experienced by cities in other states, most notably New York City. Although no such catastrophes have yet occurred in Florida, it is certainly better to forestall or avoid such problems than to wait to legislate in an atmosphere of crisis.

Subsection (c) would provide that so-called "tax or revenue anticipation certificates," which are short-term obligations anticipating the receipt of future taxes or other revenues, may be issued for any legally authorized purpose, including current noncapital expenditures (this is already permitted by statute). These certificates and all renewals, however, would have to be repaid within twelve months of issuance, and the certificates and the interest thereon could not be paid from the proceeds of subsequent issues of similar short-term obligations. This limitation should effectively prevent the "rolling over" of short-term local debts from one fiscal year to the next, with gradual or rapid incremental increases.

This potential problem does not exist on the state level, since no borrowing is permitted for any purpose other than capital outlay financing and purposes incidental to such financing under article VII, section 11(a)(1), and the other provisions discussed in this article.

The proposed subsection (d) of article VII, section 12 addresses the same problem area with regard to so-called "bond anticipation notes," which are short-term obligations issued in anticipation of the future receipt of proceeds of longer term bond issues. These notes are permitted by present law with no constitutional limitations. This proposed revision would limit such notes to a maximum maturity of five years and would provide that such notes could be issued only to finance or refinance fixed capital outlay projects (the same purpose for which the anticipated bonds can be issued). This should prevent evasion of subsection (c), explained above, by the issuance of short-term debt obligations in the form of "bond anticipation notes" to finance current operating expenses or operating capital outlay items, while regulating the issuance of such notes for legitimate purposes.

Thus, the proposed additions to section 12 would complete the revision of local government financing begun in 1968.

---

16. Id.
D. Article VII, § 14

The next major substantive revision relating to bonds appears in section 14 of article VII. This section, originally adopted by amendment in 1970, relates to the financing of "air and water pollution control and abatement and solid waste disposal facilities." The proposed revision of section 14(a) would also permit the financing of "water facilities," other than those required for water pollution control and abatement, in the same manner now permitted for pollution control facilities, when authorized by law.

The 1970 amendment was intended to permit the issuance of state bonds, primarily secured by and payable from revenues pledged by local governmental agencies, and additionally secured by the full faith and credit of the state. This arrangement allows local governments to finance needed facilities at the lowest possible interest rates because of the additional security of the state's credit. This is accomplished at no cost to the state treasury since the local revenues pay the annual debt service requirements.

A state agency designated by law is required to make a determination that the debt service requirements on such bonds will not exceed 75% of the pledged revenues in any fiscal year. This requirement results in a 1.33 times coverage of annual debt service from the pledged revenues, which, together with reserves established for such loans, virtually assures as a practical matter that the state's credit will not be called upon to service the debt.

Several series of state bonds have been sold under this authority at very favorable interest rates since the original amendment was adopted. The proposed revision would extend the same method of financing to include other water facilities which may be required locally or regionally. Traditionally, local governments have been able to finance both water and waste water treatment facilities on a joint basis because the two are very closely related. This revision

17. For text of proposed changes as well as current language, see appendix.
18. See Fla. C.R.C., Proposed Revision to Article VII, Section 14: Declaration of Intent, Interim Report by Committee on Bonding and Investments (Group A) 17 (Dec. 6, 1977):

The intent of this proposed revision is to allow presently covered pollution control and abatement facilities to be refinanced with state full faith and credit bonds and extends these provisions to other water facilities authorized by law. The proposal also corrects several unclear and verbose sentences; none of these changes are substantively important.

The Committee recommends the inclusion of water facilities because bond buyers today are seriously concerned about the ability and commitment of the state to provide a solution to its potentially dangerous water resource situation. The Committee believes this bonding mechanism will provide that assurance.

would permit such joint financing and would allow the same interest cost benefits for other water facilities as are now available for water pollution control facilities.

Another rationale for this program is the increasing need for development of water supply facilities on a broader scale than can be done economically on the local level without some form of state assistance. The hydrological characteristics of a given region do not necessarily coincide with the jurisdictional boundaries of cities and other political subdivisions. This proposal is designed to permit the financing of water supply facilities to meet regional needs at the lowest possible interest rates, without placing the entire financial burden of such regional water requirements on one local area.

Another proposed revision of section 14 would impose the same reduced aggregate debt limit as discussed above for section 11 by excluding constitutionally dedicated trust funds from the debt limitation formula in subsection (d). This would mean, among other things, that the total amount of bonds which could be outstanding at any one time under section 14 would be reduced, although the purposes for which such bonds could be issued would be broadened somewhat to include water facilities not solely restricted to pollution control.

Although the words "or refinance" would be added to section 14(a), this would not be a substantive revision for the circuit courts have held in suits validating pollution control bonds that such bonds may be used to refinance existing debt under the present provisions. Therefore, the real effect of inserting these words would be to provide this authority expressly, thereby removing any ambiguity and making the section consistent with other sections authorizing the issuance of bonds which contain similar language.

Some minor nonsubstantive revisions to section 14 are also proposed. They will be discussed later in this article.

E. Article VII, § 16 (New)

Two major new bond authorizations are proposed as additions to

---

20. See note 18 supra.
21. See Fla. C.R.C., Proposed Revision to Article VII, Section 14: Declaration of Intent, Interim Report by Committee on Bonding and Investments (Group A) 19 (Dec. 6, 1977):

The intent of this proposed revision is to limit the total outstanding principal of bonds issued to finance or refinance pollution control and abatement facilities (and water facilities, if included in this section by action on the separate water facilities bonding proposal) with reference only to state revenues not held in trust under the Constitution.

The Committee believes that this standard better reflects the state's ability to secure its bonds.
article VII, through creation of new sections 16 (relating to housing and related facilities) and 17 (relating to redevelopment of slum and blighted areas through the issuance of so-called "tax increment" revenue bonds). 22

The housing bond provision in section 16 would allow the creation of a state housing finance agency. 23 It would permit the issuance of revenue bonds not payable from ad valorem taxation to "finance or refinance housing and related facilities in Florida" when authorized by law. The phrase "related facilities" refers to necessary utilities,

22. For text of proposed changes as well as current language, see appendix.
23. A similar proposal was defeated in the 1976 general election by a vote of 1,023,416 to 974,184. Florida Dep't of State, Division of Elections, Tabulation of Official Votes: Florida General Election, November 2, 1976, at 17. The text of the proposal is set out below for comparison.

House Joint Resolution No. 1779
A JOINT RESOLUTION proposing an amendment to Article VII of the State Constitution to provide a new Section 16 relating to bonds for housing and related facilities.

Be It Resolved by the Legislature of the State of Florida:
That the following addition of Section 16 to Article VII of the Constitution of the State of Florida, as an amendment to such article, is hereby agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November, 1976; said Section 16 to be effective immediately upon ratification by the electors:
SECTION 16. Bonds for housing and related community development facilities.—
(a) When authorized by law, revenue bonds may be issued without an election to finance or refinance housing and related facilities in Florida (herein referred to as "facilities").
(b) The bonds shall be secured by a pledge of and shall be payable primarily from all or any part of revenues to be derived from the financing, operation or sale of such facilities, mortgage or loan payments, and any other revenues or assets that may be legally available for such purposes derived from sources other than ad valorem taxation, including revenues from other facilities, or any combination thereof (herein collectively referred to as "pledged revenues").
(c) No bonds shall be issued unless a state fiscal agency, created by law, has made a determination that in no state fiscal year will the debt service requirements of the bonds proposed to be issued and all other bonds secured by the same pledged revenues exceed the pledged revenues available for payment of such debt service requirements, as defined by law.
(d) The total bonds outstanding shall not exceed $100,000,000 in any one fiscal year.
BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the substance of the amendment proposed herein shall appear on the ballot as follows:
Proposes an amendment to Article VII of the State Constitution to provide a new Section 16 which authorizes the issuance of revenue bonds to finance or refinance housing and related facilities in Florida, secured primarily by pledged revenues at least equal to the annual bond payments. Limiting the bonds which may be outstanding in one fiscal year, to $100,000,000.

Filed in Office Secretary of State June 14, 1976.
paving, and other amenities without which housing facilities would not be habitable. These details could be spelled out in implementing legislation and regulations.

The purpose of including the words “in Florida” is to assure that funds raised through this financing mechanism would not flow out of the state to finance projects in areas where prevailing interest rates may be higher. It is common for mortgage money to flow across state lines. The object of this proposed program is to encourage the inflow of such dollars. Therefore, it is appropriate to prohibit any such outflow when the public credit is used to raise capital.

The proposed section 16 would limit the sources of security for such revenue bonds to revenues derived from the financing, operation, or sale of the authorized facilities; mortgage or loan payments; other revenues or assets which are legally available for such purpose from sources other than ad valorem taxation; or any combination thereof. The object of this language is to permit the acquisition of mortgages and the use of mortgage, operating, or sale income to pay the principal of and interest on the revenue bonds. It also would permit a “loans to lenders” program under which a financial institution makes or holds the actual mortgage and is obligated to pay the lending agency, which in turn pays the required amounts of principal and interest to the holders of the bonds which funded the loans.

It is important to note that, under this proposal, direct mortgage loans to mortgagors would be expressly prohibited. Thus, the state lending agency would only be permitted to operate through financial institutions in the private sector. This would afford an additional layer of protection against delinquencies or defaults, avoid competition in the mortgage market between the public lending agency and private mortgage lenders, reduce administrative costs and personnel to a minimum, and assure greater efficiency in the administration of the program by taking advantage of existing institutionalized expertise rather than creating “bureaucratic” duplication.

The proposed section 16 would provide further that all “mort-

24. See Fla. C.R.C., Proposed Revision to Article VII, New Section 16: Declaration of Intent, Interim Report by Committee on Bonding and Investments (Group A) 23 (Dec. 6, 1977):

The Committee recommends addition of a new section, providing for finance or refinance with revenue bonds of housing and related facilities (such as utilities, cafeterias, and laundry facilities, directly related to housing facilities).

The provision adopted by the Committee is substantially similar to that proposed to the electors in 1976. However, the amendment proposed in 1976 carried a $100,000,000 limitation on the amount of bonds which could be outstanding in one fiscal year.
gages or loans derived from the proceeds of such revenue bonds shall be insured or guaranteed by” a federal agency or “shall be secured by the deposit by a lending institution of approved collateral obligations in an amount sufficient to pay the principal and interest of such loans.” These restrictions mean that only federally insured or guaranteed mortgages could be acquired by the housing finance agency and that any loans to a financial institution able to make conventional mortgage loans would have to be secured by collateral of a satisfactory type at least equal to the principal and interest which such lending institution is required to pay to the public agency.

Both these limited approaches have been successful in other states and have resulted in highly rated revenue bonds because of the multiple protection which is provided. Almost every major state except Florida has some program of this type in operation.

Subsection (c) of section 16 would require a state fiscal agency designated by law to determine that the annual debt service requirements of such revenue bonds would not exceed the available pledged revenues in any state fiscal year.25 This would assure an independent review of each proposed issue of bonds and the structuring of each proposed bond issue so as to achieve a positive cash flow on an annual basis. It would otherwise be possible for the public agency’s assets to exceed the outstanding bonded indebtedness and still have a default in meeting current bond payments.

With these safeguards, a housing revenue bond program could serve to alleviate shortages of available capital for mortgage loans during periods of restricted inflows from more traditional sources or actual outflows (“disintermediation”). Also, it could provide such mortgage money at somewhat lower interest rates due to the tax-exempt borrowing rate on state revenue bonds.26 With these relatively limited objectives, such a program could be beneficial to the housing market and to the Florida economy, which is heavily dependent on construction activities.

However, absent substantial subsidies from sources other than state funds, it is doubtful that such a program could provide housing to “poor” people who could not otherwise qualify for mortgage loans. The proposed program is best understood as an economic stabilizer and as a potential source of housing capital for consumers who might be just beyond the limits of the supply of mortgage

25. Although not explicitly addressed in the proposed constitution, the “state fiscal agency” most likely to make this determination would be the Division of Bond Finance.

money at reasonable interest rates without this additional source of funding.

There is no restriction as to single family or multifamily housing, so presumably both types would have access to capital provided by this source.

**F. Article VII, § 17 (New)**

The proposed new section 17 deals with redevelopment of slums and blighted areas generally and would provide a method for financing such redevelopment program through the issuance of “tax increment” revenue bonds. In addition to the issuance of such bonds,

---

27. A similar proposal was defeated in the 1976 general election by a vote of 1,099,055 to 949,480. Florida Dep't of State, Division of Elections, Tabulation of Official Votes: Florida General Election, November 2, 1976, at 17. The text of the proposal is set out below for comparison.

Committee Substitute for House Joint Resolution No. 3982

A JOINT RESOLUTION proposing amendments to Sections 3 and 4 and the creation of Section 16 of Article VII of the State Constitution relating to the valuation and taxation of property lying within certain community redevelopment areas and to the financing of, and issuance of bonds for, certain community redevelopment projects.

WHEREAS, it is found and declared that there exist in counties and municipalities of the state slum and blighted areas which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state, and

WHEREAS, the prevention and elimination of slums and blight through community redevelopment plans, adopted for community redevelopment purposes, are found and declared to be matters of state policy and concern, and

WHEREAS, it is found and declared that such community redevelopment purposes include:

1. The clearance, replanning, reconstruction, conservation, or rehabilitation of residential or nonresidential slum or blighted areas contributing to the spread of disease and crime, constituting an economic or social liability, contributing to a decrease in the tax base, or impairing sound growth, and

2. The resale of such property to any private person or entity or the resale or gift of such property to any public or governmental entity, NOW, THEREFORE,

Be It Resolved by the Legislature of the State of Florida:

That the amendments to Sections 3 and 4 and the creation of Section 16 of Article VII of the State Constitution set forth below are agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 1976:

**ARTICLE VII**

**FINANCE AND TAXATION**

**SECTION 3. Taxes; exemptions.—**

(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominately for educational, literary, scientific, religious or charitable purposes may be exempted by general law from taxation.

(b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or person who is blind or totally and perma-
nently disabled, property to the value fixed by general law not less than five hundred dollars.

(c) When authorized and as defined by general law passed by a two-thirds vote of the membership of each house, any community redevelopment plan as approved by the elected governing body may provide for such total or partial exemption from taxation to be given to the improvements on lands within a community redevelopment area, by such method or methods, for such period or periods of time, not exceeding twenty-five years in any instance.

SECTION 4. Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land or land used exclusively for non-commercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value.

(c) Pursuant to general law passed by a two-thirds vote of the membership of each house, real property within a community redevelopment area may be valued for taxation at the value of the land, exclusive of improvements, for the year immediately prior to redevelopment for such period or periods of time, not to exceed twenty-five years, and upon such terms, conditions, and restrictions as may be prescribed by general law.

SECTION 16. Financing of community redevelopment projects.—

(a) When provided by general law passed by a two-thirds vote of the membership of each house, ad valorem tax collections by the taxing authority of the taxing unit within which the community redevelopment project is located exceeding ad valorem tax collections produced at the rate of tax levy each year by such taxing authority upon the assessed valuation of taxable property within each community redevelopment area as reflected in the just value tax roll existing prior to the adoption by the governing body of the taxing authority of the community redevelopment plan may be allocated to and used by a community redevelopment agency to finance or refinance each community redevelopment project.

(b) Community redevelopment projects as may be authorized by general law may:

(1) Redevelop property for residential, recreational, commercial, or industrial uses;
(2) Acquire property by eminent domain by any city, county, or authority created by general or special law; and
(3) Resell or transfer such property to any private person pursuant to criteria as may be established by general law.

(c) Community redevelopment plans as may be authorized by general law shall:

(1) contain the findings and determinations of the elected governing body that the community redevelopment area is a slum or blighted area; and

(2) contain the findings and determinations of the elected governing body that the community redevelopment agency has a feasible method or plan, to include replacement housing, for the relocation of persons temporarily or permanently displaced from housing facilities within the community redevelopment area.

(d) When authorized by general law passed by a two-thirds vote of the membership of each house, any municipality, county, district, or authority created by general or special law may issue revenue bonds secured solely by a pledge of and payable from tax revenues derived pursuant to subsection (a) to finance or refinance community redevelopment projects within the community redevelopment area from which such taxes were derived.

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the substance of the amendments proposed herein shall appear on the ballot as follows:

Proposing amendments to Sections 3 and 4 and the creation of Section 16 of Article VII of the State Constitution authorizing tax exemptions and assessments at less than just valuations for purposes of community redevelopment or renewal of slum or blighted areas and authorizing the use of portions of the ad valorem tax revenues derived from a community redevelopment project, and the issuance of bonds pledged to such revenues, for the purpose of financing or refinance such community redevelopment activity.

Filed in Office Secretary of State June 10, 1976.

Fla. CS/HJR 3982 (1976), 1976 Fla. Laws 935 (new language is underlined).
section 17 would permit a county, municipality, or authority, pursuant to a general law passed by two-thirds vote of the membership of each house of the legislature, to:

(a) Provide for the redevelopment of such [slums or blighted areas] for residential, recreational, commercial, or industrial uses;
(b) Acquire by eminent domain or otherwise, for purposes of redevelopment, property located in such area;
(c) Sell or transfer property acquired in such area to any private person or public entity; and
(d) Allocate tax increments to finance or refinance the redevelopment of such area . . . .

A detailed discussion of the redevelopment powers authorized by this section other than revenue bond financing is outside the scope of this article, except to note that any revenue bond program of this type should be part of an overall redevelopment plan both for reasons of public policy and to help assure the financial feasibility of the bonds.

Since this would be a new type of financing in Florida and is relatively rare in the country, some general explanation is called for. This type of financing is based on the premise that, absent such a redevelopment plan, slums and blighted areas will remain stagnant and decline in value on the real property tax rolls. The belief is that a successful redevelopment program would result in new improvements being created which would add assessed values to the tax rolls in areas which would otherwise have a stable or deteriorating tax base. These improvements resulting from planned redevelopment of such an area are, therefore, said to produce a "tax increment" which would otherwise not have been collected.

The "tax increment" is defined by section 17(d) as

that portion of the ad valorem tax revenues, for any or all taxing authorities, collected each year from property located in a designated slum or blighted area, which exceeds the tax revenues that would have been collected at the current year's millage had such property been assessed at its value shown on the assessment roll in the year immediately prior to the year in which the area was designated as a slum or blighted area.

As noted above, such a tax increment might either be directly allocated to finance or refinance the redevelopment of the area from which the increment was derived or might be used to pay revenue bonds issued for the same purpose, together with other revenues from the redevelopment project.
In chapter 77-391, Laws of Florida, which amended chapter 163, Florida Statutes, sometimes referred to as the "Community Redevelopment Act," the legislature has already authorized such redevelopment programs and the issuance of revenue bonds of this type.\(^{28}\) However, there is some doubt as to whether such revenue bonds, none of which have been issued to date, can withstand the test of court validation absent a constitutional revision relating to this subject.

Objections might otherwise be lodged under article VII, section 10,\(^{29}\) relating to lending public credit to private persons and corporations, and article VII, section 12,\(^{30}\) relating to the use of ad valorem tax funds to pay bond issues without a vote of the electors. This revision is designed to cure any such possible legal problems.

Similar constitutionally authorized bond programs have been used with notable success in California to help redevelop formerly blighted areas into properties containing modern and productive improvements.\(^{31}\)

The "tax increment" concept is sometimes linked to or confused with the "tax abatement" concept, which was also approved by the revision commission as a part of the proposed revisions to section 4 of the article VII. Though intended for the same general purpose, these two concepts should not be confused. There are at least two highly significant distinctions between "tax increment" and "tax abatement" programs.

First, "tax increment" programs do not excuse anyone from paying taxes, even temporarily. In fact, the "tax increment" is added to the tax rolls but is channeled for a specific purpose—the redevelopment of the area from which the additional increment is obtained. The general taxing authorities continue to get the same amounts of taxes from the redevelopment area as they got before the redevelopment plan was instituted. Eventually, after completion of the redevelopment program, the additional tax increment will flow into the general tax coffers. During the redevelopment period, renewed economic activity in the area should result in additional tax collections for other purposes.

\(^{28}\) 1977 Fla. Laws 1630 (codified at Fla. Stat. § 163.385 (1977)).

\(^{29}\) Fla. Const. art. VII, § 10 provides that "[n]either the state nor any county, school district, municipality, special district, or agency of any of them, shall become a joint owner with, or stockholder of, or give, lend or use its taxing power or credit to aid any corporation, association, partnership or person . . . ."

\(^{30}\) Fla. C.R.C., Rev. Fla. Const. art. VII, § 12(b) (May 11, 1978) provides that "[r]evenue bonds payable from sources other than ad valorem taxation may be issued by local governmental bodies, without a vote of the electors, only to finance or refinance fixed capital outlay projects authorized by law, and purposes incidental thereto."

\(^{31}\) See Cal. Const. art. XVI, § 16.
Second, "tax abatement" programs do not involve the issuance of bonds or the generation of tax revenues for redevelopment. The temporary abatements granted under such a program are intended to act as an incentive to the private sector to make capital investments in blighted areas. Otherwise, there may actually be a disincentive to make such improvements because of the resulting increases in assessed valuation.

For the purposes of this particular article, it is important to recognize that it is not necessary to favor or approve "tax abatement" in order to approve the creation of a "tax increment" revenue bond program, although both concepts are designed to provide an economic stimulus for cooperation between the private and public sectors to redevelop slums and blighted areas.

G. Article XII, § 9

Authority for the second major group of bond programs permitted by the Florida Constitution is found in article XII, section 9.32 Subsections (a) and (d) of this section concern bonds for outdoor recreation and education purposes. No substantive revisions have been proposed in these subsections.

Subsection (c) deals with bonds for roads—including bridges, urban expressways, and other road facilities. A major change is proposed in this subsection by eliminating the present expiration date of forty years from the effective date of the 1968 revision and substituting a provision that no bonds issued thereunder shall mature more than forty years from the date of issuance.33

This seemingly technical revision is of great importance. Ten years have elapsed since the 1968 revision, and, without the proposed change, it would no longer be possible after the end of 1978 to issue bonds for road purposes with a thirty-year maturity, which is considered fairly standard for long-term financing. Moreover, many large urban facilities, such as expressways in the Tampa, Orlando, and Jacksonville areas, have previously required amortization periods of up to forty years in order to be financially feasible.

32. For text of proposed changes as well as current language, see appendix.
33. See Fla. C.R.C., Proposed Revision to Article XII, Section 9: Declaration of Intent, Interim Report by Committee on Bonding and Investments (Group A) 35 (Dec. 6, 1977):

The intent of this proposal is to eliminate the fixed expiration date of the second gas tax, which indirectly limits the maturity date of road bonds secured by these moneys. The fixed expiration date is replaced by a provision limiting the maturity date of such bonds to not more than forty years from the date of issuance.

Further, the proposal allows other legally available pledged revenues, other than tolls and second gas tax revenues, to be pledged to secure bonds issued under this subparagraph.
The proposed revision to subsection (c) of section 9 would, therefore, allow orderly continuation of financing programs for transportation purposes throughout the state, particularly in the larger urban areas where capital intensive programs are essential due to extremely high right-of-way and construction costs.

Another proposed change to subsection (c) would permit other legally available revenues to be pledged to secure bonds issued for the authorized purposes in addition to the tolls and gasoline tax funds which may now be pledged.34

Any such additional revenues could be pledged only at the discretion of the governing body of the county in which the project to be financed is located and with the approval of the state agency responsible for supervision of the state road system.35

This additional authority could prove to be very significant in cases where tolls and gasoline tax allocations are not adequate to provide the required 1.33 times coverage of debt service.36 This authority to pledge other sources of revenue could also become increasingly important in the event of long-term reductions in the consumption or availability of gasoline or other motor fuels.

The only other major change in article XII, section 9, is not really substantive. That is, it is not intended to alter the basic law under which affected bond programs may operate in the future. However, it is certainly a very significant change.

A new subsection (f) is proposed to be added to section 9 providing that the foregoing subsections of section 9 would become statutes. They would not remain in the body of the constitution. (It should be remembered that the entire article XII is the so-called "schedule," all of which will eventually disappear from the constitution through automatic expiration dates or otherwise.) However, the statutes to be created by the transfer of most of section 9 from the constitution would not be ordinary statutes.

First, the proposed new subsection provides that such newly created statutes "shall not be subject to modification or repeal except by two-thirds vote of the membership of each house of the legislature." This provision in and of itself would not make such statutes especially distinctive because a two-thirds vote can usually be obtained for relatively noncontroversial amendments, and such higher-than-majority votes are also required for other purposes elsewhere in the constitution.

34. See note 33 supra.
35. Fla. Const. art. XII, § 9(c)(5).
36. This refers to the state agency determination that the debt service requirements on such bonds will not exceed 75% of the pledged revenues in any state fiscal year.
The truly unique feature of these proposed statutes is found in the following language: "The provisions of Article XII, Section 9, which are so transferred to the statutes, including the authority to pledge the full faith and credit of the state as provided therein, shall be exceptions to the provisions of Article VII, Section 11, to the extent of any inconsistency therewith."

The object of this transfer to the statutes is to remove relatively long and detailed provision from the schedule to the constitution at this time, rather than waiting until they die a natural death. The intent of the above-quoted sentence is to provide that during the period when the present schedule provisions remain in effect as statutes, those provisions will continue to be exceptions to the general constitutional rules governing bonds, which are found in article VII, section 11. The most important of these exceptions is the authority to pledge the full faith and credit of the state as additional security for education and transportation bonds without a vote of the electors.

This new subsection, which would remain in the constitution after the other subsections were transferred to the statutes, would authorize the resultant statutory language to constitute exceptions to general constitutional rules to the extent of any inconsistency with such general rules, subject to future amendment to the statutes by two-thirds vote of the legislature.

To avoid any possible impairment of contractual obligations vested in the holders of outstanding bonds, the proposed new subsection expressly provides that the revisions explained above shall not be construed to impair contractual rights established pursuant to article XII, section 9, prior to this revision.

III. Substantive Revisions Affecting Bond Financing

A. Proposed Repeal of Article IV, § 4 (Cabinet)

The proposed revision abolishing the elected cabinet through repeal of the present article IV, section 4, would affect the issuance of bonds and the administration of outstanding bonds and sinking funds by doing away with the offices represented on the governing board of the State Division of Bond Finance, the State Board of

37. See Fla. C.R.C., Proposed Revision to Article XII, Section 9: Declaration of Intent, Interim Report by Committee on Bonding and Investments (Group A) 27 (Dec. 6, 1977):

This proposed revision is intended to allow the transfer of paragraphs a-d to the statutes upon enactment by the Legislature. Further, the intent of this provision is to incorporate verbatim into the Constitution these provisions and to prevent changes to these provisions, enacted into statutes, except in the manner provided for changes to the Constitution.
Education, and the State Board of Administration, except for the Governor, who serves as the chairman of these boards.

The Governor and Cabinet, as the Board of the Division of Bond Finance, are currently responsible for issuing all state full faith and credit bonds and revenue bonds, either as principals or as the agents of the State Board of Education pursuant to article XII, section 9(a)(2) and (d). The Governor and Cabinet also now comprise the State Board of Education, which is authorized to issue bonds in its own name under these subsections. The Division of Bond Finance is designated by statute as the agent of the Board of Education for this purpose.

The State Board of Administration, which consists of the Governor, the comptroller, and the treasurer, was established in 1942 as a constitutional body by an amendment to the constitution of 1885, article IX, section 16, and was continued in this capacity by article XII, section 9(c) of the present constitution. This board is responsible among other things, for administration of most state bonded indebtedness, after issuance, and for making certain fiscal determinations pursuant to article VII, section 14, and article XII, section 9(c).

If the six elected cabinet offices are abolished, some form of successorship must be provided to carry out the duties of these boards.

As to the issuance of bonds, the proposed revision of article IV provides that the Governor shall be responsible acting jointly "with at least one officer as may be provided by law" for certain duties, including bond debt service management, approving the issuance of bonds, and any other functions relating thereto as provided by law.

This seems to provide for the functions of the Division of Bond Finance and the debt service management functions of the State Board of Administration (which also has other statutory duties). Just what is meant by "at least one officer as may be provided by law" may be open to debate as to whether such officer or officers should be elected or appointed, but the intent seems to be to assure that certain financially sensitive functions, including the issuance and administration of bonded debt, should be under the control of more than one state officer.

38. FLA. CONST. art. IX, § 2: "The governor and members of the cabinet shall constitute a state board of education, which shall be a body corporate and have such supervision of the system of public education as is provided by law."
41. This was the Barkdoll amendment, Proposal No. 259, adopted in the waning hours of the revision process. The amendment passed 22-11. Commissioner Shevin commented on the proposal as follows:
The proposed schedule to the revised article IV also provides that if the Cabinet is abolished, the State Board of Administration "shall consist of such successor agency designated by law."\textsuperscript{42} The schedule also deletes the continuation of the State Board of Administration as a constitutional body under article XII, section 9(c), and substitutes the phrase "or its successor."\textsuperscript{43}

A separate revision to article IX proposes elimination of the elected State Board of Education. It would be replaced by a nine-member appointed board.\textsuperscript{44} The schedule to article IV, therefore, provides that if the revision to article IV, section 4, is adopted, thereby abolishing the Cabinet, and the revision to article XII, section 2, providing for an appointed State Board of Education is not adopted, the existing article XII, section 2, of the 1968 constitution shall become a statute subject to modification or repeal in the usual manner.\textsuperscript{45}

Adequate provisions seem to have been made for successorships to these boards. The details have been left to be resolved by statute.

B. Revisions Relating to Taxation

Other revisions to article VII relating to taxation also affect various types of bonds.\textsuperscript{46}

All references to elections by "owners of freeholds" and similar terms are deleted, following a United States Supreme Court ruling in 1970 which held that elections, including bond elections, cannot be so restricted.\textsuperscript{47} Language of this type now appears in sections 9, 12, and 14 of article VII, but is rendered obsolete by the 1970 decision.

Other changes primarily relating to taxation but also to bonds are proposed in sections 3 and 10 of article VII.

\textsuperscript{42} Fla. C.R.C., Rev. Fla. Const. art. IV, Schedule with Regard to Abolition of Cabinet § (g).
\textsuperscript{43} Id. § (j)(4).
\textsuperscript{44} Id. art. IX, § 2(a). For a full discussion of the proposed revisions to article IX, see Draper, \textit{A New Look for Public Education: The Proposed Revision of Florida's Education Governance System}, in this issue.
\textsuperscript{45} Fla. C.R.C., Rev. Fla. Const. art. IV, Schedule with Regard to Abolition of Cabinet § (e).
\textsuperscript{46} For text of proposed changes as well as current language, see appendix.
New subsections (c) and (d) are proposed for section 3. Subsection (c) would mandate certain tax exemptions under circumstances where there has been a previous statutory or contractual tax exemption or a lease for air, ground, or water transportation purposes. These situations usually arise in connection with the lease of public property for projects financed by public bond issues. The mandatory exemption for transportation purposes would not apply if there was a "voluntary" payment of ad valorem taxes on such a leasehold interest prior to January 1, 1978. Subsection (d) would permit, rather than mandate, an exemption for such leasehold interests for transportation purposes, without the exemption for cases where taxes were paid prior to January 1, 1978.

A proposed revision to section 10(c) of article VII relating to public bond issues for ports, airports, and industrial development purposes would delete the present requirement that private property interests created pursuant thereto "shall be subject to taxation to the same extent as other privately owned property," by providing that such property interests created under subsection (c)(1) relating to ports and airports "may be exempted from taxation."

A discussion of the merits of these proposals is beyond the scope of this article, but it is appropriate to note the relationship of these revisions to bond programs. It is also possible that adoption of these changes in the taxation of properties improved through public bond issues could make the use of such financing techniques more attractive to eligible industries and thereby stimulate the economy of the affected area and the state to some extent.

IV. NONSUBSTANTIVE REVISIONS

A variety of nonsubstantive revisions have also been proposed in the portions of articles VII and XII relating to bonds. These proposed changes will be discussed briefly.

A new subsection (b) of section 11 of article VII would provide that any bonds pledging the full faith and credit of the state could be combined for sale purposes. This is intended to permit the state, in its discretion, to offer larger amounts of such full faith and credit bonds for sale in packages and thus to enter the bond market less frequently. This is desirable if several relatively small issues have to be sold for different purposes (such as education, transportation, pollution control) within a short period of time. Such combined
sales would amount to a technical marketing tool rather than a substantive change.

In several places in both articles VII and XII, the words "net average interest cost rate" have been changed to "average net interest cost rate." The change was made because the latter phrase is more commonly used in the bond market, but this change is of no legal or financial significance.

The phrase "and purposes incidental thereto" has been inserted in several places following the phrase "fixed capital outlay projects," which is discussed in the section of this article dealing with substantive changes. The additional phrase "and purposes incidental thereto" already appears in some of the existing bond provisions, and it is desirable to use this language uniformly throughout the constitution. Incidental purposes include such items as preliminary engineering and administrative costs, equipment, capitalized interest, and reserves, which are commonly funded from bond proceeds in connection with a capital outlay project. These items cannot be financed from bond proceeds except when necessary for fixed capital outlay financing. Insertion of this language would amount to a codification of common practice and case law.

Several language changes have been proposed in article VII, section 14, relating to pollution control and (as suggested in the revision) to water bonds. Currently, section 14 contains language authorizing "lease purchase agreements" and "rentals" which has never been used. The section has been redrafted to use only the more general terms "agreements" and "payments," and to eliminate the unused alternative leasing procedure in favor of state loans to local governments, which, as a practical matter, has been the method of operation under this section since its inception. In the same section, the reference to a state fiscal agency "created by law" has also been changed to "designated by law" for purposes of clarification.

In section 15 of article VII, relating to student loan bonds, the term "interest moneys" at the beginning of subsection (b) has been changed to the single word "moneys." This change will permit all the money in the trust fund established pursuant to this section to be used as provided by law, when not needed for the payment of debt service. Steps are now being taken to terminate this bond program, and it would be pointless to allow the principal amount

---

51. Fla. C.R.C., Rev. Fla. Const. art. VII, §§ 11(a)(1), 12(a)(2) and art. XII, §§ 9(b), (c)(3), (d)(2), and (d)(13) (May 11, 1978).
52. Id. art. VII, §§ 11(a)(1), (c), 12(a)(1), (b), (d).
53. For text of proposed changes as well as current language, see appendix.
of the trust fund to remain on deposit indefinitely. This could be considered a substantive change, but the legislative history of section 15 indicates that the word "interest" was added by an amendment on the floor that apparently did not take the consequences into consideration. This change restores the originally proposed language of section 15.

Other nonsubstantive revisions recognize and preserve the public debts created pursuant to the constitution of 1968 (in section 8 of article XII)\(^5\) and note that certain provisions of the constitution of 1885 relating to road bonds were incorporated by reference into the constitution of 1968 and continue such incorporated provision in section 9(c) of article XII.\(^5\)

V. CONCLUSION

All in all, the proposed constitutional revisions relating to bond financing seem both sensible and sound. In many respects, they are a needed sequel to the revisions which were made in 1968. The suggestions of the Constitution Revision Commission in this area would give an added dimension of flexibility to bond financing in Florida. They would, however, also provide added safeguards for assuring that flexibility will be tempered by the fiscal conservatism which is needed to sustain governmental solvency. Both the flexibility and the fiscal conservatism are required if Florida is to continue to grow and prosper.

\(^{54}\) Id.
\(^{55}\) Id.
VI. APPENDIX

Note: words in struck-through type are proposed deletions from the existing constitution; words underlined are proposed additions.

A. Proposed Changes in Article VII

SECTION 3. Taxes; exemptions.—

(a) All property owned by a municipality and held or used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominately for educational, literary, scientific, religious or charitable purposes may be exempted by general law from taxation.

(b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, to every natural person, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.

(c) All leasehold interests created prior to January 1, 1978 in property owned by the United States, the state, or any political subdivision, municipality, authority, district, agency or public body corporate shall be exempt from ad valorem taxes when:

(1) The leasehold interests were created pursuant to legislation or lease agreements which exempted, or which covenanted to exempt, such leasehold interests from ad valorem taxes, or which covenanted to indemnify or hold harmless the lessee from any ad valorem taxes levied in respect of the leased premises, or

(2) The property is leased for use in connection with providing air, ground or water transportation, or is leased for use in connection with providing services to the public engaged in air, ground or water transportation; provided however, no leasehold interest shall be exempt from the provisions of this paragraph (2) if, prior to January 1, 1978, there shall have been a voluntary payment of ad valorem taxes levied in respect of such leasehold interest.

(d) All leasehold interests in property owned by the United States, the state, or any political subdivision, municipality, authority, district, agency, or public body corporate may be exempted from ad valorem taxation as provided by law when the property is leased for a public purpose for use in connection with providing air, ground, or water transportation, whether or not for private profit, or is leased for a public purpose for use in connection with providing services, whether or not for private profit, to the public engaged in air, ground, or water transportation.

(e) The exemption of leasehold interests from ad valorem taxation provided by subsections (c) and (d) shall not be granted to any lessee who discriminates in its membership, services or other activities on account of race, religion, sex or physical handicap.

SECTION 9. Local taxes.—

(a) Counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and may be authorized by general law to levy other taxes, for their respective purposes, except ad valorem taxes on intangible personal property and taxes prohibited by this constitution.

(b) Ad valorem taxes, exclusive of taxes levied for the payment of bonds and taxes levied for periods not longer than two years when authorized by vote of the electors who are the owners of freeholds therein not wholly exempt from taxation, shall not be levied in excess of the following millages upon the assessed value of real estate and tangible personal property:

- for all county purposes, ten mills;
- for all municipal purposes, ten mills;
- for all school purposes, ten mills;
- for water management purposes for the northwest portion of the state lying west of the line between ranges two and three east, 0.05 mill; and for water management purposes for the remaining portions of the state, 1.0 mill; and for all other special districts a millage authorized by law approved by vote of the electors who are the owners of freeholds therein not wholly exempt from taxation. A county furnishing municipal services may, to the extent authorized by law, levy additional taxes within the limits fixed for municipal purposes.
SECTION 10. Pledging credit.—Neither the state nor any county, school district, municipality, special district, or agency of any of them, shall become a joint owner with, or stockholder of, or give, lend or use its taxing power or credit to aid any corporation, association, partnership or person; but this shall not prohibit laws authorizing:

(a) the investment of public trust funds;
(b) the investment of other public funds in obligations of, or insured by, the United States or any of its instrumentalities;
(c) the issuance and sale by any county, municipality, special district or other local governmental body of (1) revenue bonds to finance or refinance the cost of capital projects for airports or port facilities, or (2) revenue bonds to finance or refinance the cost of capital projects for industrial or manufacturing plants to the extent that the interest thereon is exempt from income taxes under the then existing laws of the United States, when, in either case, the revenue bonds are payable solely from revenue derived from the sale, operation or leasing of the projects. If any project, or part thereof, so financed under subsection (c)(2) or any part thereof, is occupied or operated by any private corporation, association, partnership or person pursuant to contract or lease with the issuing authority body, the property interest created by such contract or lease shall be subject to taxation to the same extent as other privately owned property, provided that an interest created under subsection (c)(1) may be exempted from taxation.
(d) a municipality, county, special district, or agency of any of them, being a joint owner of, giving, or lending or using its taxing power or credit for the joint ownership, construction and operation of electrical energy generating or transmission facilities with any corporation, association, partnership or person.

SECTION 11. State bonds; revenue bonds.—

(a) (1) State bonds pledging the full faith and credit of the state may be issued only to finance or refinance the cost of state fixed capital outlay projects authorized by law, and purposes incidental thereto, upon approval by a vote of the electors; provided state bonds issued pursuant to this subsection (a) may be refunded without a vote of the electors at a lower net average net interest cost rate. The total outstanding principal of state bonds issued pursuant to this subsection (a) shall never exceed fifty per cent of the total tax revenues of the state for the two preceding fiscal years, excluding any tax revenues held in trust under the provisions of this constitution.

(b) (2) Moneys sufficient to pay debt service on state bonds as the same becomes due shall be appropriated by law.
(b) Any state bonds pledging the full faith and credit of the state issued under this section or any other section of this Constitution may be combined for purposes of sale.
(c) Revenue bonds may be issued by the state or its agencies without a vote of the electors only to finance or refinance the cost of state fixed capital outlay projects authorized by law, and purposes incidental thereto, and shall be payable solely from funds derived from sources other than state tax revenues or rents or fees paid from state tax revenues.

SECTION 12. Local bonds.—

(a) Counties, school districts, municipalities, special districts and local governmental bodies with taxing powers may issue bonds, certificates of indebtedness or any form of tax anticipation certificates, payable from ad valorem taxation and maturing more than twelve months after issuance only:

(1) (a) to finance or refinance fixed capital outlay projects authorized by law, and purposes incidental thereto, and only when approved by vote of the electors who are owners of freeholds therein not wholly exempt from taxation; or
(2) (b) to refund outstanding bonds and interest and redemption premium thereon at a lower net average net interest cost rate.
(b) Revenue bonds payable from sources other than ad valorem taxation may be issued by local governmental bodies, without a vote of the electors, only to finance or refinance fixed capital outlay projects authorized by law, and purposes incidental thereto.
(c) Tax or revenue anticipation certificates maturing twelve months or less after issuance, including all renewals thereof, may be issued by local governmental bodies for any purpose
authorized by law, without a vote of the electors; provided that neither such certificates nor the interest thereon shall be paid from the proceeds of subsequent issues of tax or revenue anticipation certificates.

(d) Notes maturing five years or less after issuance, including all renewals thereof, may be issued by local governmental bodies in anticipation of the receipt of the proceeds of revenue bonds or of bonds which have been approved by vote of the electors, only to finance or refinance fixed capital outlay projects authorized by law, and purposes incidental thereto.

SECTION 14. Bonds for pollution control and abatement facilities.—

(a) When authorized by law, state bonds pledging the full faith and credit of the state may be issued without an election to finance or refinance the construction of air and water pollution control and abatement and solid waste disposal facilities, or other water facilities authorized by law, (herein referred to as "facilities") to be operated by any municipality, county, district or authority, or any agency thereof (herein referred to as "local governmental agencies"), or by any agency of the State of Florida. Such bonds shall be secured by a pledge of and shall be payable primarily from all or any part of revenues to be derived from operation of such facilities, special assessments, rental payments to be received under lease-purchase agreements herein provided for, any other revenues that may be legally available for such purpose, including revenues from other facilities, or any combination thereof (herein collectively referred to as "pledged revenues"), and shall be additionally secured by the full faith and credit of the State of Florida.

(b) No such bonds shall be issued unless a state fiscal agency, elected designated by law, has made a determination that in no state fiscal year will the debt service requirements of the bonds proposed to be issued and all other bonds secured by the same pledged revenues exceed seventy-five per cent of the pledged revenues. The term pledged revenues shall not include amounts required to pay debt service on prior lien obligations, and such prior lien debt service requirements shall not be included in the determination provided for by this subsection (b).

(c) The state may lend money derived from the sale of such bonds to finance any of such facilities to any local governmental agency, under lease-purchase agreements for such periods and under such other terms and conditions as may be mutually agreed upon. The local governmental agencies may pledge the revenues derived from such leased facilities or any other available funds for the payment of such payments thereunder; and, in addition, the full faith and credit and taxing power of such local governmental agencies may be pledged for the payment of such payments without any vote of the electors.

(d) The total outstanding principal of state bonds issued pursuant to this section shall never exceed fifty per cent of the total tax revenues of the state for the two preceding fiscal years, excluding any tax revenues held in trust under the provisions of this Constitution.

SECTION 15. Revenue bonds for scholarship student loans.—

(a) When authorized by law, revenue bonds may be issued to establish a fund to make loans to students determined to be eligible as prescribed by law and who have been admitted to attend any public or private institutions of higher learning, junior colleges, health related training institutions, or vocational training centers, which are recognized or accredited under terms and conditions prescribed by law. Revenue bonds issued pursuant to this section shall be secured by a pledge of and shall be payable primarily from payments of interest, principal, and handling charges to such fund from the recipients of the loans and, if authorized by law, may be additionally secured by student fees and by any other moneys in such fund. There shall be established from the proceeds of each issue of revenue bonds a reserve account in an amount equal to and sufficient to pay the greatest amount of principal, interest, and handling charges to become due on such issue in any ensuing state fiscal year.
(b) Interest money Money in the fund established pursuant to this section, not required in any fiscal year for payment of debt service on then outstanding revenue bonds or for maintenance of the reserve account, may be used for educational loans to students determined to be eligible therefor in the manner provided by law, or for such other related purposes as may be provided by law.

SECTION 16. Revenue bonds for housing and related facilities.—
(a) When authorized by law, revenue bonds may be issued without an election to finance or refinance housing and related facilities in Florida.
(b) The revenue bonds shall be secured by a pledge of and shall be payable from all or any part of revenues to be derived from the financing, operation or sale of such facilities, mortgage or loan payments, or any other revenues or assets that may be legally available for such purposes derived from sources other than ad valorem taxation, including revenues from other similar facilities, or any combination thereof. All mortgages or loans derived from the proceeds of such revenue bonds shall be insured or guaranteed by an agency of the United States or shall be secured by the deposit by a lending institution of approved collateral obligations in an amount sufficient to pay the principal and interest of such loans. No state housing agency established by law shall make mortgage loans directly to any mortgagor.
(c) No revenue bonds shall be issued unless a state fiscal agency, designated by law, has made a determination that in no state fiscal year will the debt service requirements of the bonds proposed to be issued and all other bonds secured by the same pledged revenues exceed the pledged revenues available for payment of such debt service requirement.

SECTION 17. Redevelopment of slum or blighted areas.—Redevelopment of slum or blighted areas is a public purpose. Pursuant to general law passed by two-thirds vote of the membership of each house, a county, municipality, or authority created pursuant to general or special law may designate an area as a slum or blighted area and, with respect to such area, may:
(a) Provide for the redevelopment of such area for residential, recreational, commercial, or industrial uses;
(b) Acquire by eminent domain or otherwise, for purposes of redevelopment, property located in such area;
(c) Sell or transfer property acquired in such area to any private person or public entity; and
(d) Allocate tax increments to finance or refinance the redevelopment of such area and issue, without approval by vote of the electors, revenue bonds payable from the increment in taxes or revenues derived from redevelopment projects to finance or refinance such redevelopment. A tax increment shall consist of that portion of the ad valorem tax revenues, for any or all taxing authorities, collected each year from property located in a designated slum or blighted area, which exceeds the tax revenues that would have been collected at the current year's millage had such property been assessed at its value shown on the assessment roll in the year immediately prior to the year in which the area was designated as a slum or blighted area.

B. Proposed Changes in Article XII

SECTION 8. Special district taxes.—Ad valorem taxing power vested by law in special districts existing when this revision becomes effective shall not be abrogated by Section 9(b) of Article VII herein, but such powers, except to the extent necessary to pay outstanding debts, may be restricted or withdrawn by law.

SECTION 9. Bonds.—

(b) REFUNDING BONDS. Revenue bonds to finance the cost of state capital projects issued prior to the date this revision becomes effective, including projects of the Florida state turnpike authority or its successor but excluding all portions of the state highway system, may be refunded as provided by law without vote of the electors at a lower net-average net interest cost rate by the issuance of bonds maturing not later than the obligations refunded, secured by the same revenues only.
(c) MOTOR VEHICLE FUEL TAXES.

(1) A state tax, designated "second gas tax," of two cents per gallon upon gasoline and other like products of petroleum and an equivalent tax upon other sources of energy used to propel motor vehicles as levied by Article IX, Section 16, of the Constitution of 1885 as incorporated by reference into the Constitution of 1968, as amended, is hereby continued for a period of forty consecutive years. The proceeds of said tax shall be placed monthly in the state roads distribution fund in the state treasury.

(2) Article IX, Section 16, of the Constitution of 1885, as amended, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim for the purpose of providing that after the effective date of this revision the proceeds of the "second gas tax" as referred to therein shall be allocated among the several counties in accordance with the formula stated therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds, revenue certificates and tax anticipation certificates or any refundings thereof secured by any portion of the "second gas tax."

(3) No funds anticipated to be allocated under the formula stated in Article IX, Section 16, of the Constitution of 1885, as amended, shall be pledged as security for any obligation hereafter issued or entered into, except that any outstanding obligations previously issued pledging revenues allocated under said Article IX, Section 16, may be refunded at a lower net average net interest cost rate by the issuance of refunding bonds, maturing not later than the obligations refunded, secured by the same revenues and any other security authorized in paragraph (5) of this subsection.

(4) Subject to the requirements of paragraph (2) of this subsection and after payment of administrative expenses, the "second gas tax" shall be allocated to the account of each of the several counties in the amounts to be determined as follows: There shall be an initial allocation of one-fourth in the ratio of county area to state area, one-fourth in the ratio of the total county population to the total population of the state in accordance with the latest available federal census, and one-half in the ratio of the total "second gas tax" collected on retail sales or use in each county to the total collected in all counties of the state during the previous fiscal year. If the annual debt service requirements of any obligations issued for any county, including any deficiencies for prior years, secured under paragraph (2) of this subsection, exceeds the amount which would be allocated to that county under the formula set out in this paragraph, the amounts allocated to other counties shall be reduced proportionately.

(5) Funds allocated under paragraphs (2) and (4) of this subsection shall be administered by the state board of administration created under said Article IX, Section 16, of the Constitution of 1885, as amended, and which is continued as a body corporate for the life of this subsection 9(c). The board shall remit the proceeds of the "second gas tax" in each county account for use in said county as follows: eighty per cent to the state agency supervising the state road system and twenty per cent to the governing body of the county. The percentage allocated to the county may be increased by general law. The proceeds of the "second gas tax" subject to allocation to the several counties under this paragraph (5) shall be used first, for the payment of obligations pledging revenues allocated pursuant to Article IX, Section 16, of the Constitution of 1885, as amended, and any refundings thereof; second, for the payment of debt service on bonds issued as provided by this paragraph (5) to finance the acquisition and construction of roads as defined by law; and third, for the acquisition, maintenance and construction of roads. When authorized by law, state bonds pledging the full faith and credit of the state may be issued without any election: (i) to refund obligations secured by any portion of the "second gas tax" allocated to a county under Article IX, Section 16, of the Constitution of 1885, as amended; (ii) to finance the acquisition and construction of roads in a county when approved by the governing body of the county and the state agency supervising the state road system; and (iii) to refund obligations secured by any portion of the "second gas tax" allocated under paragraph 9(c)(4). No such bonds shall be issued unless a state fiscal agency created by law has made a determination that in no state fiscal year will the debt service requirements of the bonds and all other bonds secured by the pledged portion of the "second gas tax" allocated to the county exceed seventy-five per cent of the pledged portion of the "second gas tax" allocated to that county for the preceding state fiscal year, of the pledged net tolls from existing facilities collected in the preceding state fiscal year, and of the annual average net tolls anticipated during the first five state fiscal years of
operation of new projects to be financed, and of any other legally available pledged revenues collected in the preceding state fiscal year. Bonds issued pursuant to this subsection shall be payable primarily from the pledged tolls, and the pledged portions of the "second gas tax" allocated to that county, and any other pledged revenues, and shall mature not later than forty years from the date of issuance.