

REVENUE ESTIMATING CONFERENCE

ASSUMPTIONS USED IN ESTIMATING STATE REVENUES

December 7, 1994

Updated July, 2007

The Consensus Revenue Estimating Conference has estimated state revenues for purposes of the revenue limitation contained in Amendment 2 to the Florida Constitution approved by the voters on November 8, 1994. Estimates of state revenues were prepared for fiscal years 1994-95, the base year for the limitation calculation, and 1995-96, the first year in which revenues will be limited.

The term “state revenues” was defined by the amendment to mean “taxes, fees, licenses, and charges for services imposed by the legislature on individuals, businesses, or agencies outside state government.” However, numerous assumptions were necessary for the purpose of making the estimates. Many of the issues addressed by these assumptions are open to interpretation. As the amendment is clarified by the Legislature through implementing legislation, the revenue estimates will have to be adjusted accordingly.

1. The term “imposed by the legislature” was interpreted broadly. The authority for a state governmental entity to impose a tax, license, fee, or charge is ultimately derived from either direct authorization in the Constitution or action of the Legislature, no matter how general or indirect the grant of authority. Moreover, except in the case of revenues mandated by the Constitution, the Legislature may alter or withdraw a state government entity’s authority to impose a tax, license, fee, or charge. Thus, even when the Legislature does not specifically set the rate of levy, it grants tacit approval to the actions of the state government entity imposing the tax, license, fee, or charge by failing to restrain the entity’s actions.

Additionally, during the course of the legislation there was never any discussion of an implied exception for revenues collected by state government entities that were not specifically imposed by the Legislature. Given the fact that such an exception would exempt a large amount of state receipts from the limitation, its existence would have given rise to extensive discussion. This issue was never raised in any of the committee hearings or in the debates on the House or Senate floors. This suggests that members of the Legislature understood that the revenue limitation applied to all state taxes, licenses, fees, and charges for service with some specifically enumerated exceptions.

The effect of broadly interpreting the meaning of “imposed by the legislature” was to assume that if a tax, license, fee, or charge for service is collected by a state agency or other state governmental entity, it is a state revenue subject to the limit unless exempted by another provision of the amendment.

In the case of taxes imposed both in statute and in the Constitution, such as the gas tax imposed by Article XII, Section 9 (c), and section 206.41, F.S., it was assumed that such taxes were state revenues.

2. The amendment specifically exempts the revenues imposed by local, regional, and school districts governing bodies. The Conference assumed that this exemption covers water management districts, regional planning councils, expressway authorities, and other local and regional authorities, districts, and boards such as hospital districts and port authorities.

Direct support organizations and foundations are not generally considered to be part of state government. Thus, the revenues of direct support organizations and foundations were not included in the estimates of state revenue. Since the revenues of direct support organizations were not included in state revenues, the debt service (and other costs) associated with bonds issued by direct support organizations were not deducted from state revenues.

3. Fees collected and used by county officers according to schedules found in statute were deemed local government revenues and were not, therefore, included in state revenues. The limitation pertains to “state revenues” and the plain meaning of this term would preclude the inclusion of local revenues.
4. Community colleges were treated as a form of local district; therefore, their tuition and fees were not included in state revenues. In excluding community college tuition and fees, the Conference relied on a recent advisory opinion (January 1994) given by the Florida Supreme Court as well as the language of s. 240.317, F.S., which suggest that community colleges are political subdivisions similar to an independent special district rather than state agencies. On the opposite side of this issue, it was brought to the Conference’s attention that s. 216.011(kk), F.S., defines any “official, officer, commission, board, authority, council, committee, or department of the executive branch of state government” as a “state agency.”

The Constitution requires that an “adjustment to the revenue limitation shall be made by general law to reflect the fiscal impact of transfers of responsibility for the funding of governmental functions between the state and other levels of government.” Over a two year period beginning in 2002-03, revenue from the State University System was devolved from State Accounts to each university’s local accounting system. Chapter 2002-387, Laws of Florida, directs that the Revenue Estimating Conference reduce the total receipts subject to the limitation to reflect that transfer. The conference made the reduction all at once in 2003-04 once the devolution was complete. From 2003-04 forward, no SUS revenues are included in state revenues. Additionally, no SUS-related debt service deductions are made. (2007 revision)

5. The receipts of NICA, FCHA, the five JUAs and the four guaranty associations were not considered state revenue because these associations are all private entities rather than state governmental entities.
6. The Conference assumed that federal grants to state agencies and other state government entities are neither taxes, licenses, fees, nor charges for services in the conventional sense and were, therefore, excluded from state revenues. Since private research grants and grants by local and regional governments to universities are analogous to federal grants, the Conference assumed that they were also exempt. This view of federal funds as exempt was expressed during committee hearings and in briefings with members, and constituted the general understanding by the members of the Legislature.

The Conference reasoned that, in the case of a grant, the state, or an agency acting on behalf of the state, does not *impose* a charge on the grantor. When the state or its agencies imposes a charge, the Legislature determines the amount and the terms of payment. In the case of a grant, it is the granting agency rather than the grant recipient that determines the amount of money to be received by the state. Thus, a charge imposed by the state cannot be equated with a grant received by a state agency, even under the broad interpretation of imposition by the Legislature discussed above.

7. Tolls and admissions were assumed to be a form of fee or charge for service and were included in state revenues.
8. Fines and other punitive assessments were not assumed to be a form of tax, license, fee, or charge for service and were, therefore, excluded from state revenues. Forfeited bonds were treated as a form of punitive assessment and were, therefore, excluded from state revenues.
9. Rents are payment in exchange for a leasehold interest in property and were considered distinct from “taxes, licenses, fees, and charges for services.” For this reason, rents were excluded from state revenues. Royalties were considered a form of rent and were similarly excluded from state revenues. Camping fees were not considered rentals, but rather admissions, and as such were included in state revenues.
10. Reimbursements for expenditures and repayments of loans were not considered a form of tax, license, fee, or charge for service and were, therefore, excluded from state revenues.
11. Refunds represent amounts that should not have been collected and refunds of state revenues were deducted from state revenues in the year the refund was paid. Cancelled warrants for tax refunds reduce refunds, and thereby increasing state revenues. Cancelled warrants for tax refunds were added to state revenues in the year they were cancelled.

12. Dealer collection allowances are amounts retained from state taxes by dealers to cover their cost of collecting the tax. As such, the collection allowances were considered by the Conference to be a form of expenditure rather than a reduction of state revenue, and therefore the value of the allowances was added to state revenues. However, fees collected by a private party or a local government specifically for the purpose of providing revenue to support collection of a state tax or fee by a private party or a local government, were not considered state revenue.
13. Interest earnings are not a form of tax, license, fee, or charge for service and were, therefore, excluded from state revenues.
14. Fees charged by universities for auxiliary services (e.g., book stores, student unions, health services) and faculty practice plans were included in state revenue unless exempt for some other reason. (For example, dormitory fees, as a form of rent, were not considered state revenue. See item 9.)
This paragraph is no longer operational (July 2007 revision)
15. In arrangements wherein the state collects a fee on behalf of the federal government and remits a portion of the fee to the federal government, but retains a portion in recognition of the cost of processing, the entire amount collected was considered state revenue.
16. University tuition was considered to be a charge for service and as such was included as state revenue. Deposits in the prepaid tuition plan were not considered to be state revenue until such time as the deposits are paid to the state as tuition.
This paragraph is no longer operational (July 2007 revision)
17. The amount of money spent on debt service and other matters required by documents authorizing the issuance of bonds by the state was deducted from the amount of state revenue collected. The only exception to this practice was for bond related expenditures when the bonds are secured exclusively by revenue sources that were not included in state revenues for purposes of calculating the revenue limit. For example, dormitory bonds are secured by dormitory rents which are not part of state revenues. Therefore, no deduction from state revenues was made for debt service or other matters associated with these bonds. Facility pool bonds, on the other hand, were considered to be paid from state revenues. Therefore, a deduction was made from state revenues for costs associated with these bonds.
18. *The Constitution excludes “revenue from taxes, license, fees, and charges for service required to be imposed by any amendment or revision to this constitution after July 1, 1994.” In 1998, the Constitution was amended (Article V, section 14(b)) to require that “All funding for the offices of the clerks of the circuit and county courts performing court-related functions, except as otherwise provided in*

this subsection and subsection (c), shall be provided by adequate and appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions as required by general law.” General law has since been passed which imposes the required fees. The imposed fees generate revenues higher than necessary to perform the stated functions, and the excess money from those fees is transferred to the General Revenue Fund. The conference interpreted this to mean that any revenues used to perform the stated functions should not be counted as state revenue, while any additional funds should be included. Therefore only the Article V revenues which are transferred to the General Revenue Fund are included as state revenue. (July 2007 revision)