HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FTC 11-02 State Government Revenue Limitation
SPONSOR(S): Finance & Tax Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Committee		Wilson	Langston

SUMMARY ANALYSIS

Article VII, section 1 of the Florida Constitution provides guidelines associated with taxation, appropriations, state expenses, and state revenue limitations.

This joint resolution amends section 1, Article VII and creates section 19, Article VII and section 32, Article XII of the Florida Constitution to provide the following:

- Replaces the existing state revenue limitation based on Florida personal income growth with a new state revenue limitation based on changes in population and inflation;
- Adds fines and revenues used to pay debt service on bonds issued after July 1, 2012 to state revenues subject to the limitation;
- Requires revenues collected above the new state limitation to be deposited into the Budget Stabilization Fund, used to support public education, or returned to the taxpayers;
- Authorizes the Legislature to increase the revenue limitation by a supermajority vote.
- Authorizes the Legislature to place a proposed increase before the voters, requiring approval by 60 percent of the voters.

The proposed amendment will be submitted to the electors at the general election in 2012 or at an earlier election specifically authorized by law, and, if approved, will take effect upon 60 percent approval of the electors.

The new state revenue limitation will first apply to state fiscal year 2014-15.

The joint resolution must be approved by a three-fifths vote of the membership of each house of the Legislature.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

In 1994, Florida's voters approved an amendment to the State Constitution[1] that limits state revenue collections to the prior year's allowed revenue plus an adjustment for the growth in the Florida economy, as measured by state personal income.[2] The revenue limit in any year is determined by multiplying the average annual growth rate in Florida personal income in the previous five years by the maximum amount of revenue permitted under the limitation in the previous year. Excess collections are deposited in the Budget Stabilization Fund until it is fully funded and thereafter must be refunded to taxpayers as provided by general law. The Legislature, by a two-thirds vote of the membership of each house, may increase the allowable state revenue for any fiscal year. Such an increase must be in a separate bill that contains no other subject and must set forth the dollar amount by which the state revenues are increased. The Legislature must wait 72 hours after the third reading of the bill before taking a vote.

For purposes of the limitation, "state revenues" are defined as taxes, fees, licenses, and charges for services imposed by the Legislature on individuals, businesses, or agencies outside state government.[3] "State revenues" does not include:

- Revenues necessary to meet bond requirements
- Revenues that provide matching funds for the federal Medicaid program (with the exception of revenues used to support the Public Medical Assistance Trust Fund and revenues used to fund elective expansions to Medicaid made after July 1, 1994);
- Proceeds from the state lottery returned as prizes;
- Receipts of the Florida Hurricane Catastrophe Trust Fund;
- Balances carried forward from prior fiscal years;
- Taxes, licenses, fees, and charges for services imposed by local governments; or
- Taxes, licenses, fees and charges for services required to be imposed by an amendment or revision to the constitution after July 1, 1994.

In addition to the revenues explicitly not included, the definition of state revenues excludes grants from the federal government and other revenues that are not "taxes, fees, licenses, and charges for services imposed by the legislature ..."

The constitution requires that in the event there is a transfer of responsibility for the funding of governmental functions between the state and other levels of government, an adjustment to the revenue limitation must be made by general law to reflect the fiscal impact of this transfer. [4]

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[1] Article VII, Section 1(e), Florida Constitution.

[2] Generally, Florida personal income is a measure of all earnings (wages, salaries, proprietor's income), plus dividends, interest, rent and transfer payments.

[3] Examples of state revenue sources covered by the limitation include auto title and lien fees, beverage licenses, cigarette and other tobacco products tax, corporation fees and income tax, documentary stamp taxes, estate tax, hotel and restaurant licenses and fees, hunting and fishing licenses, insurance premium tax, motor fuels taxes, pari-mutuel tax, pollutant taxes, sales and use tax, severance taxes, and unemployment compensation tax. (See *2011 Florida Tax Handbook* for examples of other state revenue sources, http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2011.pdf)

[4] In 2002, the Legislature removed State University System revenues from the definition of "state revenues." See Chapter 2002-387, Laws of Florida.

The constitution also requires the legislature to adopt procedures necessary to administer the revenue limitation by general law; however, such legislation has not been enacted.

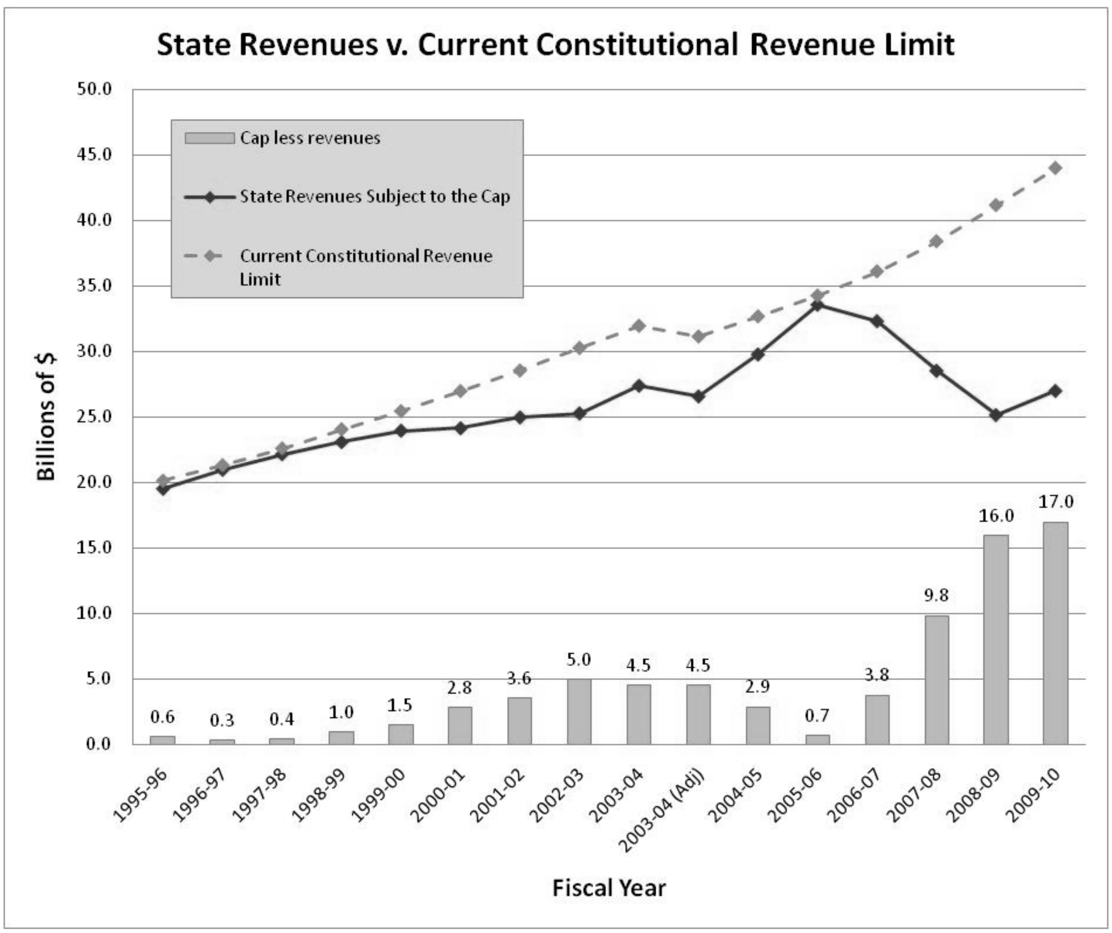
Impacts of the Constitutional Revenue Limitation

In the first few years after the adoption of the constitutional revenue limitation, state revenue collections were close to the constitutional limitation. Since that time, however, revenues subject to the limitation have generally grown more slowly than personal income. The only other year revenues came close to the limitation was in 2005-2006 when state revenues came within $658 million of the limitation.

Since 1999, the Florida Legislature has enacted several measures to reduce state revenue. For example, the intangibles tax, sales and use tax, beverage tax, corporate income tax, and pari-mutuel tax have all been reduced by the Legislature. Additionally, changes in federal law have caused a reduction in estate tax revenue. These changes in tax laws have contributed to the widening gap between state revenues and the revenue limit.

Finally, the effects of the recent recession have also contributed to the widening gap. The gap is not expected to narrow in the foreseeable future.

The following chart displays the history of the current revenue limitation.[5]



[5] Note: The 2003-04 adjustment (adj) for state revenues is due to the removal of the State University System revenues from the definition of “state revenues”.

Revenue and Expenditure Limits in Other States

Thirty states currently have some kind of limit on revenues or expenditures.[6] These limits are designed to restrain growth in government spending by placing constitutional or statutory restrictions on the amount government can spend or on the amount of revenue government can raise. Generally, they fall into one of the categories described below:

- Revenue limits which tie yearly increases in revenue to personal income or some other type of measure such as inflation or population;
- Expenditure limits similarly linked to personal income or another growth index;
- Appropriations limited to a percentage of the revenue estimate;
- Voter approval requirements for all tax increases over a specified amount; or
- Legislative supermajority requirements for a two-thirds, three-fourths, or four-fifths majority vote in both chambers to pass a tax increase or new taxes.
- Some states have combined components of these types of limits.

In terms of limiting budgets, results from studies are mixed. Many studies conclude that the state limits have not been as effective as proponents envisioned because of the ease with which state governments can circumvent the limits. Some fiscal policy experts agree that voter approval and supermajority requirements place tighter constraints on state governments than other revenue and expenditure limits.

Revenue Limitation in Colorado

In 1992, Colorado voters passed what some consider the most restrictive revenue limitation in the nation.[7] The Colorado law applies to all taxing districts within the state and voter approval is required to approve any tax increase. Additionally, the Colorado revenue limitation restricts general revenue to the prior year's revenues adjusted for population growth and inflation. Since the limit is based on prior year's revenues rather than the prior year's revenue limitation, any decline in revenues due to a recession leads to a permanent ratcheting down of spending levels. After the recession in the early 2000s, the ratcheting down effect held the revenue base at recessionary levels. In 2005, Colorado voters suspended the revenue limitation for a period of five years to ease existing limits and allow the budget to recover and move forward.

Effect of Proposed Changes

This joint resolution proposes an amendment to the Florida Constitution that replaces the current state revenue limitation with a new limitation.

State Revenue Limitation

Section 19 of Article VII of the State Constitution is created and limits state revenues in any fiscal year as follows:

- For fiscal year 2014-2015, to an amount equal to the state revenues collected during fiscal year 2013-2014 multiplied by the sum of the adjustment for growth plus four one-hundredths.

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[6] This discussion of other state limitations is largely adapted from *State Tax and Expenditure Limits 2008*, National Conference of State Legislatures, http://www.ncsl.org/default.aspx?tabid=12633.

[7] See, e.g., McGuire, Therese and Kim Rueben. 2006. "The Colorado revenue limit: The economic effects of TABOR." Washington, DC: Economic Policy Institute Briefing Paper No. 172, http://www.epi.org/publications/entry/bp172/.

- For fiscal year 2015-2016, to an amount equal to the state revenue limitation for fiscal year 2014-2015 multiplied by the sum of the adjustment for growth plus three one-hundredths.

- For fiscal year 2016-2017, to an amount equal to the state revenue limitation for fiscal year 2015-2016 multiplied by the sum of the adjustment for growth plus two one-hundredths.

- For fiscal year 2017-2018, to an amount equal to the state revenue limitation for fiscal year 2016-2017 multiplied by the sum of the adjustment for growth plus one one-hundredth.

- For fiscal year 2018-2019 and thereafter, state revenues are limited to an amount equal to the state revenue limitation for the previous fiscal year multiplied by the adjustment for growth.

The "adjustment for growth" is defined as an amount equal to the average for the previous five years of the product of the inflation factor and the population factor. The "inflation factor" is defined as an amount equal to one plus the percent change in the calendar year annual average Consumer Price Index for All Urban Consumers, U.S city average, as published by the United States Department of Labor. Finally, the "population factor" is defined as an amount equal to one plus the percent change in the population of the state as of April 1 compared to April 1 of the prior year.

The adjustment for growth must be determined by March 1 preceding the applicable fiscal year using the latest available information, and once determined, may not be changed based on revisions to such information.

Like the current limitation, the proposed limitation does not apply to all revenues received by the state. The limitation applies only to revenues generally considered to be within the Legislature's control and used to fund state expenditures. "State revenues" are defined to mean taxes, fees, licenses, fines, and charges for services imposed by the legislature on individuals, businesses or agencies outside state government. "State revenues" does not include:

- Revenues necessary to meet bond requirements set forth in documents authorizing the issuance of bonds by the state for bonds issues prior to July 1, 2012;
- Revenues that provide matching funds for the federal Medicaid program (with the exception of revenues used to support the Public Medical Assistance Trust Fund and revenues used to fund optional expansions made after July 1, 1994);
- Proceeds from the state lottery returned as prizes;
- Receipts of the Florida Hurricane Catastrophe Trust Fund and Citizens Property Insurance Corporation;
- Receipts of public universities and colleges;
- Balances carried forward from prior fiscal years;
- Taxes, licenses, fees, fines and charges for services imposed by local, regional or school district governing bodies; or
- Taxes, licenses, fees, fines and charges for services authorized by an amendment or revision to the constitution after May 6, 2011.

Revenues in Excess of the Limit

State revenues collected for any fiscal year in excess of the revenue limitation are transferred to the Budget Stabilization Fund until the fund reaches its maximum balance as provided in Article III, Section 19(g) of the Florida Constitution[8]. Thereafter, excess revenues must be used for the support and maintenance of public schools by reducing the minimum financial effort required from school districts for participation in a state-funded education finance program, or, if the minimum financial effort is no longer required, returned to taxpayers as provided by general law.

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[8] The budget stabilization fund principle balance will not exceed 10% of the last completed fiscal year's net revenue collections for the General Revenue Fund.

Authority of the Legislature to Increase the Revenue Limitation

The Legislature has two options to increase the state revenue limitation:

1) The Legislature, by a two-thirds vote of the membership of each house, may increase the revenue limitation for any fiscal year. Unless otherwise provided by the bill increasing the revenue limitation, the increased revenue limitation shall be used to determine the revenue limitation for future fiscal years.

2) The Legislature, by a three-fifths vote of the membership of each house, may increase the allowable state revenue for any one fiscal year. Increases to the revenue limitation by a three-fifths vote must be disregarded when determining the revenue limitation in subsequent fiscal years.

A bill increasing the revenue limitation must contain no other subject and set forth the dollar amount by which the state revenue limitation is increased. The vote may not be taken less than 72 hours after the third reading in either house of the legislature of the bill in the form that it will be presented to the Governor before taking a vote.

Authority of the Voters to Increase the Revenue Limitation

The Legislature may place before the voters a measure to increase the state revenue limitation by a concurrent resolution approved by a three-fifths vote of the membership of each house. The measure must set forth the dollar amount by which the state revenue limitation will be increased and must be approved by a vote of at least 60 percent of the electors voting on the measure in a general election. Unless otherwise provided by the ballot language presented to the voters, the increased revenue limitation must be used to determine the revenue limitation for future fiscal years.

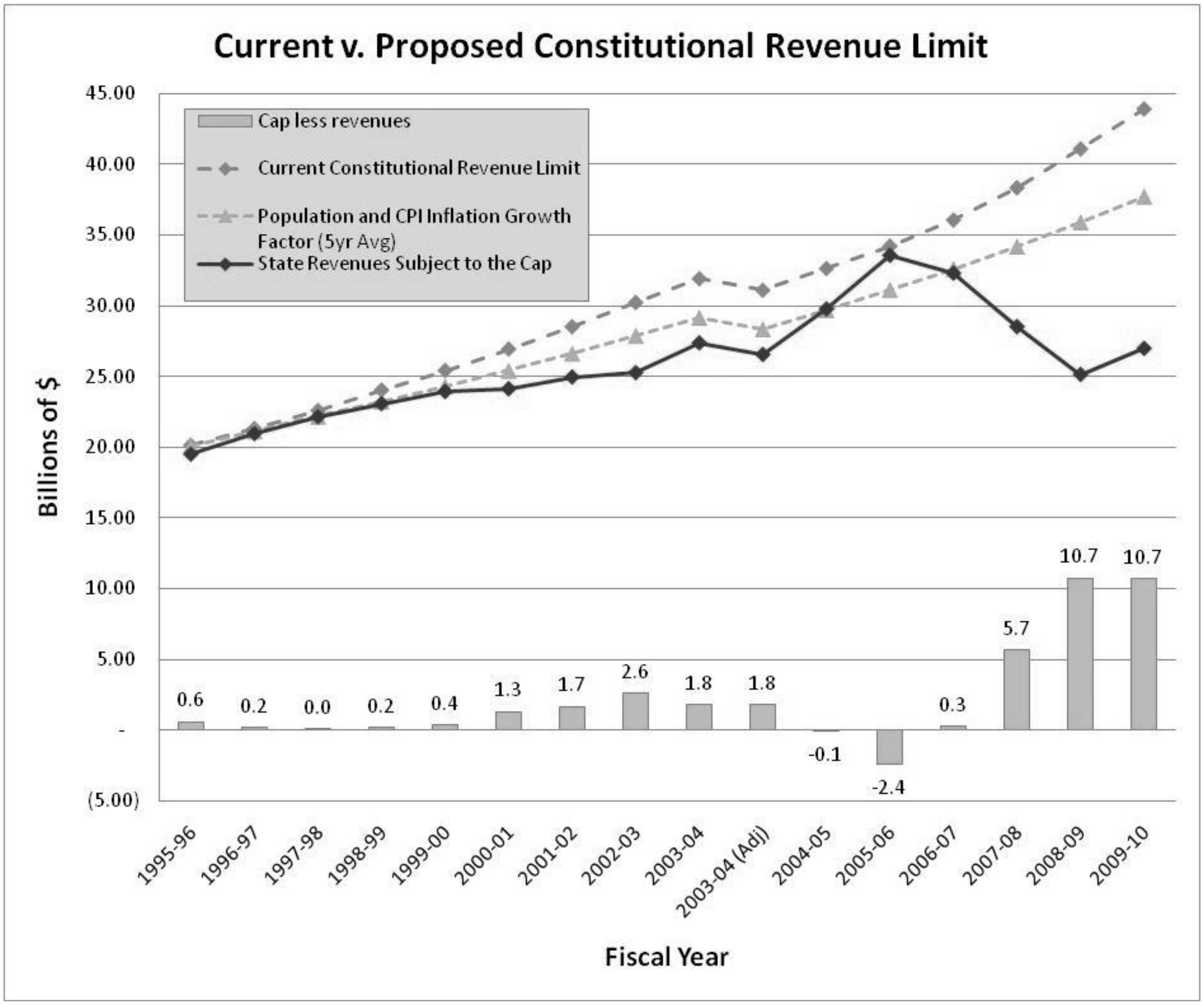
Revenue Limit Adjustment by the Legislature

The Legislature must provide by general law for adjustments to the state revenue limitation to reflect the fiscal impact of transfers of responsibility for the funding of government functions between the state and other levels of government occurring after May 6, 2011 or the fiscal impact of a new federal mandate.

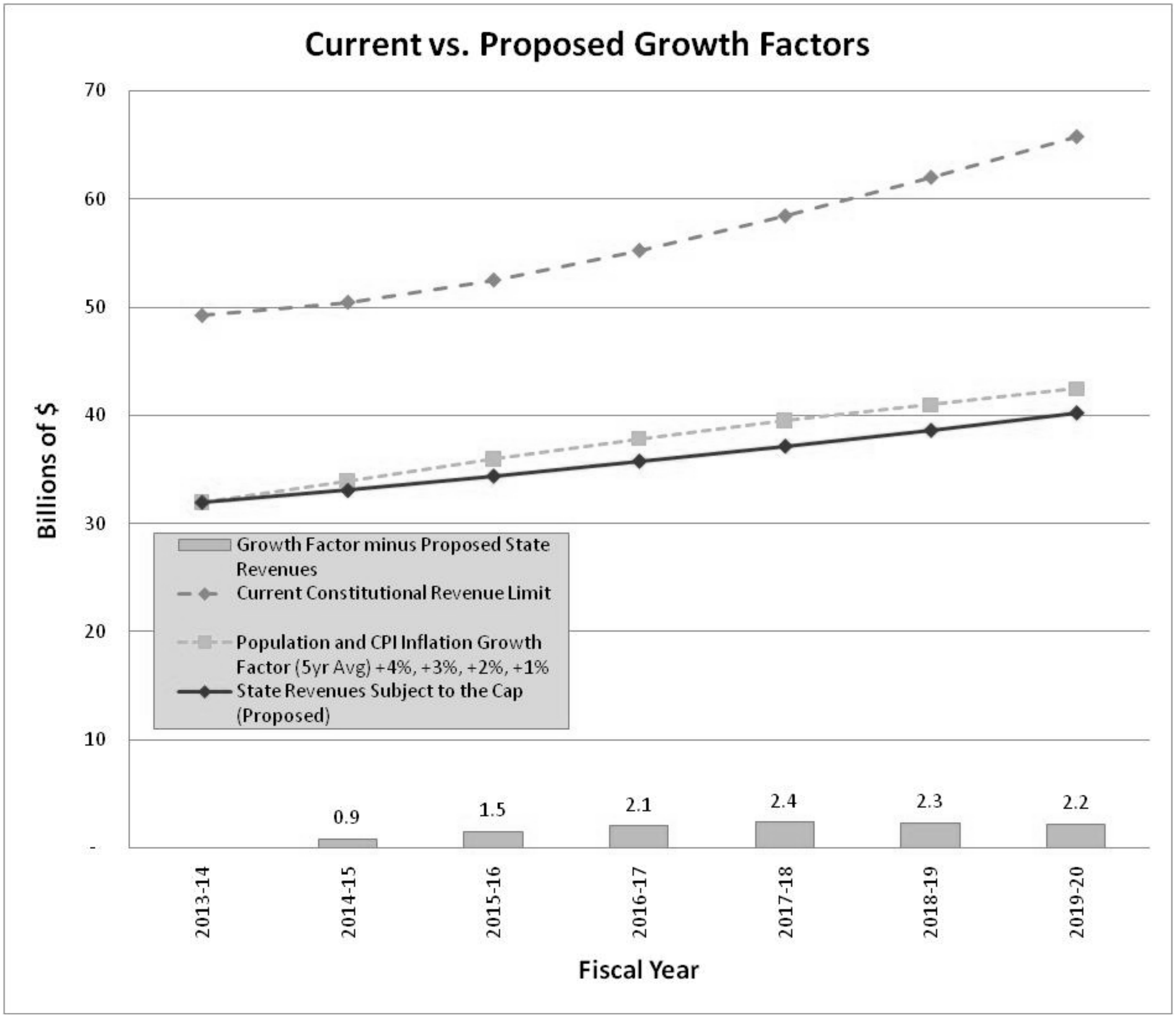
Impacts of Proposed Constitutional Amendment

Over time, the proposed state revenue limitation is more likely to constrain growth in state revenues than the current limitation.

The limitation adopted by the voters in 1994 does not appear to have worked as a meaningful limitation on state revenues. Revenue growth since that time has lagged behind growth in the state's economy. If the adjustment for growth proposed in this proposed bill had been in effect since 1994, all other things being equal, state revenues would have exceeded the revenue limitation in fiscal years 2004-05 and 2005-06, as shown on the following chart.



Based on the most current revenue projections and estimates of near term growth in population and inflation, the proposed revenue limitation is expected to exceed the amount of state revenues subject to the limitation at least until fiscal year 2019-2020, as shown on the following chart. However, actual experience may deviate significantly from these simple trend projections, which do not attempt to predict the timing, strength and duration of future business cycles.



B. SECTION DIRECTORY:

Not applicable to a joint resolution.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The provisions of this joint resolution may restrict the ability of state government to raise taxes, licenses, fees, fines, or charges for services and limits the use of revenues received in excess of the constitutional limitation.

2. Expenditures:

   See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Department of State, Division of Elections, is required to publish the proposed constitutional amendment twice in a newspaper of general circulation in each county. The average cost per word to advertise an amendment is $106.14. The estimated cost for advertising this constitutional amendment is $208,777.38.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable to constitutional amendments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES