

Don't Reap Like a Sow

Written by Jay Beskin, BT Contributor
October 2018

Constitutional amendments are not for self-enrichment

A



Are constitutional amendments a good way to pass laws? On the federal level, the amendment process has become virtually obsolete. Back when, as Billy Joel sings, “I wore a younger man’s clothes,” we thought of constitutional amendments as real and doable. We even saw a few of them ratified.

In 1961 the 23rd Amendment provided the right of Washington, D.C., to be represented in the Electoral College in proportion to its population, even though it is not a state and does not have a voting member of the House or Senate.

In 1964 the 24th Amendment forbade states from imposing any tax on voting, so that no one would ever miss the chance to vote because he or she could not afford to pay a fee.

In 1967 the 25th Amendment provided a means for a president to be removed from office if the vice president, along with a majority of cabinet secretaries, declare him or her to be incapable of performing the duties of office for reasons of physical or mental illness.

In 1971 the 26th Amendment lowered the voting age in federal elections from 21 to 18.

Don't Reap Like a Sow

Written by Jay Beskin, BT Contributor
October 2018

Finally, in 1992 the 27th Amendment prevented a sitting Congress from voting itself a pay raise; any raise members approve takes effect only after the next election.

That makes five successful ratifications of constitutional amendments in 31 years, each requiring a minimum of 38 states out of 50 (three-quarters of the states) to go along. This certainly gave the impression that such amendments were realistic achievements. The Equal Rights Amendment, which was promoted on the basis that it would better protect the rights of women, got as far as 35 states, but fell a bit short in the end.

Now, just one generation later, there are no constitutional amendments at all being actively pursued. Or even suggested, for that matter. The prevailing attitude treats the amendment process as a mountain too high to climb in this current political climate.

But that's not so at the state level. Florida has its own constitution, and we voters just love amending the heck out of it. Instead of going to the legislature to pass laws, instead of going to the courts to interpret laws, Florida voters prefer to bypass all that heavy lifting and put constitutional amendments on the ballot. The all-time classic here was an amendment in 2002 preventing pig farmers from housing pregnant sows in gestation crates. As Dave Barry likes to say: I promise I am not making this up!

We also had the high-speed train debacle, when Florida voters in 2000 passed a constitutional amendment requiring the state to build "a high speed ground transportation system consisting of a monorail, fixed guideway or magnetic levitation system capable of speeds in excess of 120 miles per hour." The amendment included no price limit. By 2004 folks caught on that this was a dumb idea and repealed the amendment.

In short, the legislative and judicial branches are far better suited to policy-making than the constitution, which is best reserved for broad principles of citizenship and government.

All of this serves as an introduction to the latest abuse of the constitutional amendment process in Florida, this time purportedly to provide tax relief for property owners. In a state without an income tax, our property taxes are a critical source of revenue, one we are loath to take a hatchet to.

Don't Reap Like a Sow

Written by Jay Beskin, BT Contributor
October 2018

On the other hand, the good news is that our number of housing units continues to increase significantly. Every time a 100-unit building goes up in Surfside or Sunny Isles, those are 100 new taxable units, all on one piece of property.

Homeowners by and large don't mind paying, especially since the property tax is saving them from the obligation of an income tax. But it does become difficult when properties suddenly shoot up in value during real estate bubbles. This causes middle-class homeowners to be jolted by sizable increases in their tax burden. And for people living paycheck to paycheck, and mortgage payment to mortgage payment, finding their tax assessment hiked by a few thousand dollars from one fiscal year to the next can be overwhelming.

In response to that, Amendment 1 was added to the ballot this year for the November 6 election. It raises the homestead exemption to \$75,000 (from \$50,000) of the first \$125,000 in value of a person's dwelling. That should give a bit more of breathing room to the people on the lowest rungs of home ownership who are desperately trying to cling to that perch. It is hard to oppose a provision of this sort -- although it seems ridiculous to pass this as an amendment, instead of through the legislative process.

Where I really find myself in opposition is Amendment 2. This amendment is not limited to homesteads of individuals. It also includes all sorts of high-end properties, many owned by conglomerates and large business entities. The amendment seeks to enshrine into constitutional impregnability the notion that no annual tax hike can exceed ten percent. If the value of a building appreciates from \$1 million to \$2 million in one year, the appraisal at which it is taxed can only rise from \$1 to \$1.10.

Actually, that rule is already in place -- and it has been for some years -- but the law that instituted it is due to expire in 2019. If this amendment passes, it not only will resuscitate the law before it breathes its last breath, it will grant it eternal life.

Now, parts of this may not be a bad idea. If a bill was introduced in the regular old way, there would be means of limiting it to protect more vulnerable landowners struggling to climb the ladder. Equitable standards and exclusions could be enacted.

Don't Reap Like a Sow

Written by Jay Beskin, BT Contributor
October 2018

Instead, we are back in constitutional territory. Our state constitution was designed to protect our rights as citizens, and to constrain the power of the state from abridging our freedoms and seizing our property. When a constitution stops a police officer from randomly pushing us around by force of uniform and weapon, it is doing its job.

And when it draws lines beyond which the state cannot exercise its eminent domain, it is doing its job. But when it starts getting involved in telling us how to raise our pigs, it is wrong -- even when it is right.

And worse still, when we use the power of the constitution to line our own pockets, we ourselves are acting like... er, those aforementioned barnyard denizens.

|