June 18, 2008

The Honorable R. Fred Lewis
Chief Justice, and Justices of
The Supreme Court of Florida
The Supreme Court Building
Tallahassee, Florida 32399-1925

Dear Chief Justice Lewis and Justices:

In accordance with the provisions of Article IV, section 10, Florida Constitution, and section 16.061, Florida Statutes, the Attorney General is responsible for petitioning this Honorable Court for a written opinion as to the validity of an initiative petition circulated pursuant to Article XI, section 3, Florida Constitution.

On May 22, 2008, this office received a letter from the Secretary of State advising this office that the initiative petition seeking to amend the Florida Constitution to establish a 1.35% property tax cap, unless otherwise approved by voters, had met the registration, submission, and signature criteria set forth in section 15.21, Florida Statutes. Pursuant to Rule 9.510(b), Florida Rules of Appellate Procedure, a petition by this office must contain, in addition to the language of the initiative, the following information:

1. The name of the sponsor and address: The sponsor of the initiative is Cut Property Taxes Now, Inc., 433 Oak Avenue, Panama City Beach, Florida 32401.

2. The name and address of the sponsor's attorney, if the sponsor is represented: Mr. John French, 1531 Live Oak Drive, Tallahassee, Florida 32301.

3. A statement as to whether the sponsor has obtained the requisite number of signatures to have the initiative placed on the ballot: As of May 19, 2008, the sponsor had not obtained the necessary number of signatures to place the initiative on the ballot.

4. The current status of the signature collection process: The Secretary of State in his May 19, 2008, letter states that as of that date the Supervisors of Elections

have certified a total of 101,842 valid petition signatures to the Division of Elections in the Department of State.

5. The date of the election during which the sponsor is planning to submit the proposed amendment: The date is unknown.

6. The last possible date that the ballot for the target election can be printed in order to be ready for the election: Since the date of the election in which the sponsor is planning to submit the proposed amendment is unknown, this date is also unknown.

7. A statement identifying the date by which the Financial Impact Statement will be filed, if the Financial Impact Statement is not filed concurrently with the request: The Secretary of State has advised this office that a letter was sent to the Financial Impact Estimating Conference on May 19, 2008.

8. The names and complete mailing addresses of all of the parties who are to be served: Section 16.061(2), Florida Statutes, requires that a copy of the petition be provided to the Secretary of State and to the principal officer of the sponsor:

Mr. Lee Sullivan
Chair, Cut Property Taxes Now, Inc.
433 Oak Avenue
Panama City Beach, Florida 32401

Mr. Kurt S. Browning
Florida Department of State
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

As noted above, the name and address for the sponsor's attorney is:

Mr. John French
1531 Live Oak Drive
Tallahassee, Florida 32301

While not required by law, this office provides copies of the petition to:

The Honorable Charlie Crist
Governor, State of Florida
The Capitol
400 South Monroe Street
Tallahassee, Florida 32399-0001

The Honorable Ken Pruitt
President, Florida Senate
312 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

The Honorable Marco Rubio
Speaker, Florida House of Representatives
420 The Capitol
402 South Monroe Street
Tallahassee, Florida 32399-1300

No other parties are known at this time.

The full text of the proposed amendment states:

Article VII, Section 9 of the State Constitution is amended by adding a new Paragraph (c) to read:

ARTICLE VII FINANCE AND TAXATION
Section 9. Local taxes.—

(c) Notwithstanding any other provision contained in this Constitution, the maximum amount of all ad valorem taxes collected by counties, school districts, municipalities, and special districts on any parcel of real property shall not, when combined, exceed 1.35% of the parcel's highest taxable value. The term "taxable value" refers to the value of real property to which millage rates are applied. The Legislature shall, by general law, provide for the distribution of tax revenues derived from parcels for which the combined ad valorem tax levies exceed 1.35% of the parcel's highest taxable value. This subsection does not apply to ad valorem taxes levied for the payment of bonds issued pursuant to Section 12 of this Article or levied for periods not longer than two years when authorized by a vote of the electors.

The ballot title for the proposed amendment is "1.35% property tax cap, unless voter approved." The ballot summary for the proposed amendment states:

Provides that the property tax on any parcel of real property shall never exceed 1.35% of the highest taxable value of the property. This property tax limit shall apply to all property taxes except property taxes approved by voters. Distribution of revenue from parcels that have reached the 1.35% limit shall be determined by general law. Does not amend Save Our Homes, the Homestead Exemption, or any other exemption.

Single Subject

Article XI, section 3, Florida Constitution, provides in relevant part:

> The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those limiting the power of government to raise revenue, shall embrace but one subject and matter directly connected therewith.

The single-subject provision "is a rule of restraint designed to insulate Florida's organic law from precipitous and cataclysmic change." *Advisory Opinion to the Attorney General--Save Our Everglades*, 636 So. 2d 1336, 1339 (Fla. 1994); *Advisory Opinion to the Attorney General--Tax Limitation*, 644 So. 2d 486, 490 (Fla. 1994).

To comply with the single-subject requirement, an initiative must manifest a "logical and natural oneness of purpose." *Fine v. Firestone*, 448 So. 2d 984, 990 (Fla. 1984). This Court stated in *Advisory Opinion to the Attorney General--Restricts Laws Related to Discrimination*, 632 So. 2d 1018, 1020 (Fla. 1994), that "[t]o ascertain whether the necessary 'oneness of purpose' exists, we must consider whether the proposal affects separate functions of government and how the proposal affects other provisions of the constitution."

As was recognized by this Court in *Advisory Opinion to the Attorney General Re: Additional Homestead Tax Exemption*, 800 So. 2d 646 (Fla. 2004), however, there is a threshold issue as to whether the single-subject rule applies to the proposed amendment. Section 3, Article XI, exempts from the single-subject rule proposed amendments limiting the power of government to raise revenue. "In order to meet this exception, the initiative's focus must be limited solely to the power of government to raise revenue." *Advisory Opinion to Attorney General re People's Property Rights Amendments*, 699 So. 2d 1304, 1310 (Fla. 1997). Here, the initiative's focus is to limit the ability of local governments and special districts to raise revenue by restricting the percentage of ad valorem taxes which may be imposed on real property. *Cf. Advisory Opinion to Attorney General re Tax Limitation*, 673 So. 2d 864, 865 (Fla. 1996) (finding that an initiative requiring a two-thirds vote for new constitutionally imposed state taxes or fees fell within this exception to the single-subject rule). It would appear that the proposed amendment may fall within the exception to the single-subject rule.

Should this Honorable Court determine that the proposed initiative does not fall within the exemption in section 3, Article XI, State Constitution, for amendments limiting the power of government to raise revenue, it is requested that this Court consider whether the initiative otherwise complies with the single-subject requirement contained therein.

Ballot Title and Summary

Section 16.061, Florida Statutes, requires the Attorney General's Office to petition this Honorable Court for an advisory opinion as to whether the proposed ballot title and summary comply with section 101.161, Florida Statutes.

Section 101.161(1), Florida Statutes, provides in relevant part:

> Whenever a constitutional amendment . . . . is submitted to the vote of the people, the substance of such amendment . . . shall be printed in clear and unambiguous language on the ballot . . . . The substance of the amendment . . . shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of.

This Court has stated on several occasions "that the ballot [must] be fair and advise the voter sufficiently to enable him intelligently to cast his ballot." *Askew v. Firestone*, 421 So. 2d 151, 155 (Fla. 1982), *quoting, Hill v. Milander*, 72 So. 2d 796, 798 (Fla. 1954). While the ballot title and summary must state in clear and unambiguous language the chief purpose of the measure, they need not explain every detail or ramification of the proposed amendment. *Carroll v. Firestone*, 497 So. 2d 1204, 1206 (Fla. 1986); *Advisory Opinion to the Attorney General--Limited Political Terms in Certain Elective Offices*, 592 So. 2d 225, 228 (Fla. 1991). However, the ballot must give the voter fair notice of the decision he must make. *Askew v. Firestone*, supra at 155. This Court has stated that the purpose of section 101.161, Florida Statutes, is to ensure that the voters are advised of the true meaning of an amendment.

The chief purpose of this initiative is to limit the amount of ad valorem taxation that may be imposed upon real property in this state. The ballot summary contains 69 words and the ballot title does not exceed 15 words. The ballot title reflects that there will be a 1.35% property tax cap, unless otherwise

approved by the electorate. The summary further explains that the property tax on any parcel of real property shall "never" exceed 1.35% of the highest taxable value of the property, while stating in the next sentence that the limitation does not apply to property taxes approved by voters. Thus, the ballot title and summary may be misleading to the voters.

Therefore, I respectfully request this Honorable Court to consider whether the ballot title and summary of the proposed constitutional amendment clearly and unambiguously informs the voter of the substance of the amendment, as required by section 101.161(1), Florida Statutes.

Sincerely,

Bill McCollum
Attorney General

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