

Issue Paper

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FACING THE MICHIGAN LEGISLATURE



STOP OVERSPENDING MICHIGAN CONSTITUTIONAL INITIATIVE

by

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INTRODUCTION

On July 10, 2006, a group entitled “Stop Overspending Michigan” filed signatures with the Michigan Secretary of State pursuant to Article XII, Section 2 of the Michigan Constitution, which allows the electors to propose amendments to the Constitution by petition. This proposed constitutional amendment would amend seven existing sections of the Michigan Constitution to provide for new limitations on the ability of State and local governments to raise and spend revenue, and to provide for limitations on the retirement benefits to members of the Michigan Legislature. The following information provides a summary of the proposed “Stop Overspending Michigan” constitutional amendment and a discussion of the potential impact of the amendment if it is approved by the voters of Michigan at the general election to be held on November 7, 2006.

The initiative proposes to amend the following sections of the Michigan Constitution:

- Article IX, Section 24
- Article IX, Section 26
- Article IX, Section 27
- Article IX, Section 28
- Article IX, Section 31
- Article IX, Section 32
- Article IX, Section 33
- Article IX, Section 34

ARTICLE IX, SECTION 24

Current Purpose: Article IX, Section 24 deals with State-financed pension plans. The existing language provides that State and local government pension plans are a contractual obligation and that these plans cannot be diminished or impaired for the employees currently in the specific retirement plans.

Proposed Changes: The proposal would place limits on the future retirement plans for members of the Legislature. These limitations deal with State-financed contributions to both the defined benefit retirement system and the defined contribution retirement system. The language of the amendment would require different implementations of these limitations for members of the House of Representatives versus members of the Senate. For members of the House of Representatives, effective with the two-year term beginning on January 1, 2009, any member of the House still in the defined benefit retirement system could not accrue additional benefits after that point, and no member of the House would have his or her employee contribution into a defined contribution system matched by the State. For members of the Senate, effective with the four-year term beginning on January 1, 2011, no member would have his or her employee contribution into a defined contribution system matched by the State. The limitation of accruing additional benefits into a defined benefit retirement system would not apply to the Senate, as no members currently in the Senate, who are members of the defined benefit retirement system, will be eligible to serve in the Senate due to term limits.

Discussion: This proposal would affect both the defined benefit retirement system for members of the Legislature and the defined contribution retirement system for members of the Legislature. The vast majority of the current 148 members of the Michigan Legislature are in the defined contribution retirement system. Members elected to either the House of Representatives or the Senate after March 31, 1997, have been ineligible to participate in the defined benefit retirement system. These members of the Legislature are eligible to participate in the defined contribution retirement system only.

The proposed changes to the defined benefit retirement system of the Legislature would cap the benefits earned under this system beginning on January 1, 2009. This change could possibly affect one current member of the Legislature, if that member is reelected in both November 2006 and November 2008. Capping the defined benefits earnings for this member of the Legislature would have no measurable State budget impact as the current legislative defined benefit retirement system is fully funded.

ARTICLE IX, SECTION 26

Current Purpose: Article IX, Section 26 places a limit on the amount of State revenue that can be collected in any fiscal year. This limit was placed in the Constitution as a result of the citizen initiative Taxpayer Limitation Amendment of 1978 (commonly called the Headlee Amendment). The current revenue limit provides that State-generated revenue in any fiscal year shall not exceed 9.49% of Michigan personal income reported during the calendar year ending before the affected fiscal year. This revenue limit also provides for conditions that must be followed if actual State revenue collections exceed the revenue limit. If actual revenue collections exceed the limit by 1.0% or more, the excess revenue must be refunded to income tax and single business taxpayers. If actual revenue collections exceed the limit by less than 1.0%, the excess revenue may be transferred to the State Budget Stabilization Fund.

Proposed Changes: The proposal would leave the existing State revenue limit in place, but, beginning in FY 2007-08, add another limit that could restrict revenue to the new spending limit outlined in Article IX, Section 28. The proposal also would change the procedures that apply if State revenue exceeds the new spending limit. Under the proposal, if actual State revenue collections exceeded the new spending limit, 50.0% of the excess revenue would be refunded to income tax payers and 50.0% would be deposited into the Budget Stabilization Fund. The existing language that provides for procedures if State revenue exceeds the revenue limit would be deleted. The proposal also provides for a limitation on the amount of the balance in the Budget Stabilization Fund at the close of each fiscal year. The limit is 10.0% of the State spending limit. The final new proposal in this section would require the State Treasurer to transfer from the Budget Stabilization Fund to the General Fund, in any year in which State revenue was less than the State spending limit, an amount necessary to ensure that State spending could grow equal to the spending limit.

Discussion: The proposed amendments to Article IX, Section 26 would make four significant changes to the current constitutional revenue limit. The first change is that the revenue limit would be effectively converted to a spending limit by virtue of the fact that revenue would be subject to the new spending limit outlined in Article IX, Section 28. The second change involves the procedure and process by which revenue in excess of the spending limit is dealt with. The third change would limit the maximum amount of revenue that can be deposited into the Budget Stabilization Fund. The fourth change would provide new authority to the State Treasurer to transfer Budget Stabilization Fund revenue to the General Fund under certain circumstances.

The proposed conversion of the Article IX, Section 26 existing revenue limit to a spending limit raises an interesting question. Since the proposed language would leave in place the existing revenue limit, but remove the references to revenue exceeding the revenue limit, it is unclear what might occur if actual revenue exceeded the revenue limit, but did not exceed the spending limit established in Article IX, Section 28. This scenario could occur as the revenue limit is built off growth in Michigan personal income and the spending limit would be built off growth in inflation and population. The proposed language does not address this scenario and it would be up to the Legislature to enact legislation to deal with this potential circumstance.

The proposed language pertaining to the refund of excess revenue would make several changes to the existing language. First, under current requirements, excess revenue, that is more than 1.0% above the revenue limit is refunded to single business and income taxpayers on a pro-rata basis. The proposed refund procedure would eliminate a potential refund to single business taxpayers and provide all of the refunds to income taxpayers. The second change would eliminate the current provision that does not require a refund if excess revenue is less than 1.0% above the revenue limit. This provision was designed to ensure that the administrative cost involved with refunding excess revenue to taxpayers will be undertaken only if a significant amount of revenue must be refunded. The proposed language would require refunds by individual checks in amounts over \$25 or credits against future tax liabilities for smaller amounts. This provision could involve a significant expense by the State in order to develop a system to reduce future tax liabilities.

The proposed limit on the maximum amount of revenue deposited into the Budget Stabilization Fund would affect a current statutory cap regarding the maximum amount of revenue in the Budget Stabilization Fund. The current cap is 10.0% of the combined amount of General Fund/General Purpose and School Aid Fund revenue. The proposed constitutional cap is 10.0% of the State spending limit outlined in Article IX, Section 28. During FY 2006-07 the existing cap on the balance of revenue in the Budget Stabilization Fund would equal approximately \$2.07 billion while the proposed cap would equal approximately \$2.76 billion. Compared with the existing statutory cap, the maximum amount of combined General Fund/General Purpose and School Aid Fund revenue in the Budget Stabilization Fund was 7.3% during FY 1994-95. Based on the history of the Budget Stabilization Fund, it is unlikely that this new constitutional cap on the revenue in the Fund would have any impact on the Fund.

The proposal to require the State Treasurer to transfer funds from the Budget Stabilization Fund to the General Fund when the projected growth in revenue was less than the projected spending growth would provide the Treasurer with authority not allowed under current law. This transfer likely would have to be based on estimates of revenue and spending growth and it is unclear how or if this transfer would be adjusted to reflect actual versus estimated revenue or expenditure growth.

ARTICLE IX, SECTION 27

Current Purpose: Article IX, Section 27 provides for conditions under which the State revenue limit (Article IX, Section 26) may be exceeded. The procedure for exceeding the revenue limit is that the Governor declares an emergency and specifies the nature of the emergency and the method by which the emergency will be funded. The Legislature, by a two-thirds vote of each house, must either accept or reject the emergency as specified by the Governor. The language also provides that this emergency procedure cannot be used to avoid a refund of revenue over the revenue limit provided for under Article IX, Section 26.

Proposed Changes: The proposal would modify the existing procedures for exceeding the revenue limit. Under the proposal, the Governor could declare an emergency only when an imminent threat to public health or safety existed. The language also includes provisions for exceeding the State spending limit contained in Article IX, Section 28. These provisions are identical to the provisions for exceeding the revenue limit. The final change in the proposal is language that provides for a procedure to allow the voters to authorize the Governor and the Legislature to exceed the revenue and spending limits. Voter approval of suspending the revenue and spending limits could occur only following a two-thirds vote of each house of the Legislature and approval of a majority of voters at a Statewide general election.

Discussion: The proposed changes involving an emergency situation to exceed a revenue or spending limit are not likely to have a significant impact. The existing emergency provisions in Article IX, Section 27 have never been used and the proposal would restrict any emergency to a threat to public health or safety. This change potentially would eliminate a suspension of the revenue or spending limits by simply having the Governor declare an emergency that is affirmed by a two-thirds vote in each house of the Legislature. In the future, any suspension of the revenue and expenditure limit would have to involve a public health or safety issue.

ARTICLE IX, SECTION 28

Current Purpose: Article IX, Section 28 contains the current limit on State spending. The limit provides that State spending shall not exceed the revenue limit provided in Article IX, Section 26 plus Federal aid and any surplus from a prior fiscal year.

Proposed Changes: The proposal would leave the current spending limit in place but add a new separate spending limit. This would limit State spending, beginning in FY 2007-08, to the amount of spending in the prior fiscal year increased by the growth in the United States Consumer Price Index during the prior calendar year, added to the growth in Michigan population during the prior calendar year. Therefore, the FY 2007-08 spending limit would be equal to the FY 2006-07 spending adjusted by the increase in the United States Consumer Price Index during calendar year 2006 plus the increase in Michigan population during calendar year 2006.

Discussion: These changes to Article IX, Section 28 are the changes contained in the amendment that would likely have the greatest impact on the State budgeting process. Under current constitutional requirements, State revenue cannot exceed the revenue limit outlined in Section 26. State spending then can increase year over year by any amount as long as the amount of revenue, upon which the appropriations are based, is under the revenue limit. Since estimated State revenue in FY 2006-07 is approximately \$4.7 billion under the revenue limit, the amount of State appropriations could increase by any amount up to \$4.7 billion or by 17.2% and still be in compliance with the constitutional revenue limit. The proposed spending limit in Article IX, Section 28 would limit future annual increases in State appropriations to the increase in the rate of inflation plus State population growth.

ARTICLE IX, SECTION 31

Current Purpose: Article IX, Section 31 provides limits on local governments' ability to levy new taxes or increase the rate of existing taxes without a vote of the people. The section also limits the overall growth of local property tax revenue to the growth in the United States Consumer Price Index plus any new construction of property.

Proposed Changes: The proposal would leave in place the existing limits on new or increased local taxes and the existing limits on local property tax revenue. The proposal would add a new provision to require voter approval for levying or increasing the rate of an existing local excise tax, mandatory user fee, or special assessment.

Discussion: The potential impact of the changes to Article IX, Section 31 would depend on the range of new local excise taxes, mandatory user fees, or special assessment that would be affected by the new requirement for voter approval of any changes in these revenue sources. The term “mandatory user fee” would be defined in Article IX, Section 33 as a “compulsory obligation to pay for goods and services, under circumstances where the user does not have the absolute discretion to choose how much of the good or service to use, or whether to use or buy it at all, without giving up common law rights incidental to private property ownership”. It appears as if the intent of this definition is to limit the types of mandatory user fees levied by local governments that would be subject to the voter approval requirement. Fees levied for such local services as garbage collections, bus fares, access to golf courses, parking fines, and dog licenses are not likely to be subject to voter approval under this definition as it appears that local residents would have discretion in the amount of these services that they would desire to purchase. Any mandatory user fee that all residents of a local governmental unit were forced to pay as a condition of living in the community would be subject to voter approval. There is likely to be considerable legal debate involving the type of mandatory user fees that would be subject to voter approval if this amendment is adopted by the voters.

The proposed changes concerning voter approval of all special assessments would cause changes in the operations of local governments. The levying of special assessments for such improvements as street lighting and sidewalk construction now generally occurs if approved by a majority of the landowners in the special assessment district. The proposed change would subject these types of special assessments to a vote of all of the electors in a local governmental unit. Unit-wide special assessments, which many units now levy for police and fire services, are not generally voted on by the people under current law. These types of special assessments would require voter approval in the future.

ARTICLE IX, SECTION 32

Current Purpose: Article IX, Section 32 provides the right of taxpayers to bring a lawsuit to enforce provisions of Article IX, Sections 25 through 34.

Proposed Changes: The proposal would require that any lawsuit to enforce the provisions of this section be brought within three years of the accrual of the cause of action. New language also would prohibit costs or attorney fees from being ordered against a plaintiff unless the action were determined frivolous under Michigan law.

Discussion: The changes in Article IX, Section 32 should have the result of clarifying and limiting legal actions to enforce provisions of Sections 25 through 34.

ARTICLE IX, SECTION 33

Current Purpose: This section contains definitions of terms used in Sections 25 through 34. These definitions include “total State revenues”, “personal income of Michigan”, and “general price level”.

Proposed Changes: The proposal would modify the current definition of “total State revenues” and add new definitions for “inflation”, “population”, “bonds”, “mandatory user fee”, “fiscal year spending” and, as used in Article IX, Section 31, “local” tax, excise, special assessment and mandatory user fee. The new definition of total State revenues includes all State revenues less: Federal aid, private aid received as gifts to the State, interest earnings from trust funds, pension funds, endowment funds, unemployment funds, disability funds and deferred compensation funds, the proceeds of bonds sold for the acquisition of tangible assets or the construction of public projects, funds transferred from the Budget Stabilization Fund, the amount of tax credits based on actual tax liabilities, carry-over funds from the prior fiscal year, nonrefundable property tax credits and proceeds from the sale of government assets to the extent the proceeds are dedicated to taxpayer refunds or deposited into the Budget Stabilization Fund. The new definition of fiscal year spending is total appropriations less Federal aid, private funds, spending financed from a prior-year carryforward, spending financed from the sale of a State asset to the private sector, payments of principal and interest on State bonds used for the acquisition of buildings, bond proceeds appropriated for public projects, emergency spending authorized pursuant to Section 27, and any surplus revenue returned to taxpayers under provisions of Section 26. The new definition of bonds is any multi-fiscal year indebtedness. This definition also subjects these bonds to voter approval.

Discussion: The proposed changes to the definition of total State revenues does not appear to be fundamentally different from the current practice of calculating total State revenues that is used to comply with the existing State revenue limit. The proposed definition of fiscal year spending is similar to the definition currently used to measure the State's compliance with the State and local government spending split provided for under Article IX, Section 30 of the Constitution. The definitions of mandatory user fee almost certainly will lead to confusion and disputes involving which mandatory user fees levied by local government would be covered under the definitions and which fees would be excluded. This will be an important consideration as, under provisions of Article IX, Section 31, mandatory user fees levied by local governments could not be increased without a vote of the local electors. This definition may have to be spelled out more specifically by implementing legislation if the ballot proposal is approved. The purpose of the new definition of bonds is very unclear. On one hand, the definition is needed to define how bond proceeds are treated under the new cap on State appropriations. This might be fairly straightforward, but the definition of bonds further includes the wording “and any instruments meeting this definition shall require voter approval pursuant to section 6 and/or section 15 of this article”. Article IX, Section 6 does not specifically deal with voter approval of local government bonds; the existing language exempts from the local property tax limitations taxes levied for the payment of debt service on local voter-approved bonds. Article IX, Section 15 requires that State general obligation bonds not be issued unless approved by two-thirds votes of each house of the Legislature and approved by voters in a statewide general election. The major question involving the new definition of bonds is whether all bonds or any form of multiyear indebtedness entered into by local government or State government would be subject to voter approval. If this is the interpretation of this definition, it will have a fundamental impact on the operations of State and local governments. There are many types of bonds or multiyear indebtedness issued by State and local governments that are not currently approved by voters. These include State and local revenue bonds, State and local leases for the rental of office space, and State and local leases for copy machines, computers and automobiles. If all of these types of debt financing were subject to future voter approval, both the general election ballots of State and local governments in the future would likely contain pages and pages of requests for voter approval of this financing mechanism.

ARTICLE IX, SECTION 34

Current Purpose: This section requires the Legislature to implement the provisions of Sections 25 through 33 of Article IX.

Proposed Changes: The proposed constitutional amendment would not change this existing language.

Discussion: The existing constitutional language would provide the Legislature with the authority to implement all of the proposed amendments in the Stop Overspending Michigan Constitutional Initiative, with the exception of the proposed changes in Article IX, Section 24 dealing with legislative pensions. This means that it would be up to the Legislature to define more fully in statute such terms as mandatory user fees. The ultimate statutory resolution of this definition would greatly determine the impact of the proposed changes in Article IX, Section 31.

FISCAL IMPACT OF STOP OVERSPENDING MICHIGAN CONSTITUTIONAL INITIATIVE

In assessing the potential fiscal impact of this proposed constitutional amendment, it is important to review direct fiscal impacts and potential long-term impacts. The direct fiscal impact on the State budget would be quite limited. The changes in Article IX, Section 24 dealing with legislative pension plans would result in annual savings to the State budget of \$837,000. These savings result from the fact that contributions made by State legislators to the defined contribution retirement system would not receive a 7.0% match by the State. It is difficult to suggest any other direct fiscal impact that passage of the constitutional amendment would have on the budgets of State or local units of government.

In analyzing the potential long-term fiscal impact of the constitutional amendment on the State budget, the primary change in the proposal is the new cap contained in Article IX, Section 28 on State spending. Based on the current estimates of State appropriations subject to the proposed spending limit and the estimates of inflation and population growth, the FY 2006-07 appropriations recently approved by the Legislature have growth less than the proposed constitutional limitation. The Senate Fiscal Agency is estimating that FY 2006-07 State appropriations subject to the limit have increased by 3.1% over the prior-year levels, while the combination of inflation and population growth as outlined in the constitutional amendment would allow growth of 3.5%. The proposed cap on State spending would take effect for FY 2007-08. The impact on this budget cannot be determined.

The most rational approach for analyzing the potential long-term impact of the proposed cap on State appropriation growth is to review the recent history of State appropriations and compare the growth in actual State appropriations with the appropriation growth cap. For purposes of this analysis, State appropriation data for the period FY 1994-95 through FY 2006-07 are reviewed. This time period is used because FY 1994-95 marks the first full State fiscal year following the constitutional changes that were approved in 1994 regarding the funding of K-12 public education in the State.

Table 1 provides a summary of the State appropriations for the period FY 1994-95 through FY 2006-07 that would be subject to the new spending limit. The table begins with Total State Spending appropriations and nets out appropriations for General Obligation bond debt service payments, State Building Authority bond debt service payments, and appropriations of bond proceeds from environmental bonds. The remaining appropriations are the appropriations subject to the proposed spending limit.

Table 1

State Appropriations Subject to Proposed State Spending Limit (Millions of Dollars)					
Fiscal Year	Total State Appropriations	General Obligation Bond Debt Service	State Building Authority Debt Service	Dept. of Environmental Quality Bond Proceeds	Subject to Proposed Sec. 28 Limit
1994-95	\$19,593.2	\$(42.3)	\$(156.9)	\$(91.7)	\$19,302.3
1995-96	20,521.9	(39.4)	(166.8)	(55.9)	20,259.8
1996-97	21,552.3	(63.5)	(203.6)	0.0	21,285.2
1997-98	22,493.6	(63.5)	(239.5)	0.0	22,190.6
1998-99	23,276.8	(93.4)	(230.5)	0.0	22,952.9
1999-00	24,579.0	(93.4)	(250.9)	(105.9)	24,128.8
2000-01	25,761.0	(90.9)	(276.7)	(136.3)	25,257.1
2001-02	26,086.8	(96.3)	(263.7)	(60.3)	25,666.5
2002-03	26,020.5	(59.6)	(289.2)	0.0	25,671.7
2003-04	25,802.5	(56.3)	(240.8)	(91.1)	25,414.3
2004-05	26,285.3	(81.5)	(250.8)	(49.0)	25,904.0
2005-06	27,281.4	(89.0)	(272.8)	0.0	26,919.6
2006-07	28,081.2	(100.2)	(237.8)	0.0	27,743.2

Source: Michigan Senate Fiscal Agency

Assuming FY 1994-95 as the base fiscal year, [Table 2](#) provides a summary of the actual growth in State appropriations subject to the proposed new spending limit versus the growth of the United States Consumer Price Index and the growth in Michigan population as defined in the new spending limit. As the data in [Table 2](#) point out, State appropriation growth during the period FY 1995-96 through FY 2000-01 exceeded the growth in inflation and population for each of those fiscal years. During the period FY 2001-02 through FY 2006-07, actual growth in State appropriations was less than the growth in inflation and population for each fiscal year with the exception of FY 2005-06. The largest excess during this time period of the actual growth in State appropriations over the growth in inflation and population occurred in FY 1999-2000 when State appropriation growth exceeded inflation and population growth by 3.1 percentage points. The largest excess during this time period of the actual growth in inflation and population over the growth in State appropriations occurred in FY 2002-03 when inflation and population growth exceeded State appropriation growth by 3.5 percentage points.

Table 2

Actual State Appropriation Growth Versus Section 28 Proposed Limit (Millions of Dollars)						
Fiscal Year	Actual Appropriations		Proposed Sec. 28 Growth Limit			
	Subject to Sec. 28 Limit	Annual % Change	Population % Change	US CPI % Change	Population Plus US CPI	Difference Cap Less Actual
1994-95	\$19,302.3					
1995-96	\$20,259.8	5.0%	0.6%	2.6%	3.2%	(1.8)%
1996-97	\$21,285.2	5.1%	0.8%	2.8%	3.6%	(1.5)%
1997-98	\$22,190.6	4.3%	0.9%	3.0%	3.9%	(0.4)%
1998-99	\$22,952.9	3.4%	0.5%	2.3%	2.8%	(0.6)%
1999-2000	\$24,128.8	5.1%	0.4%	1.6%	2.0%	(3.1)%
2000-01	\$25,257.1	4.7%	0.3%	2.2%	2.5%	(2.2)%
2001-02	\$25,666.5	1.6%	0.4%	3.4%	3.8%	2.2%
2002-03	\$25,671.7	0.0%	0.7%	2.8%	3.5%	3.5%
2003-04	\$25,414.3	(1.0)%	0.4%	1.6%	2.0%	3.0%
2004-05	\$25,904.0	1.9%	0.4%	2.3%	2.7%	0.8%
2005-06	\$26,919.6	3.9%	0.3%	2.7%	3.0%	(0.9)%
2006-07	\$27,743.2	3.1%	0.2%	3.4%	3.6%	0.5%

Source: Michigan Senate Fiscal Agency

Table 3 provides an analysis of the actual level of State appropriations versus the level of State appropriations under the proposed spending limit using FY 1994-95 as the base fiscal year. This analysis assumes that State appropriations would have grown equal to the maximum allowed under the inflation and population cap. As can be clearly seen in this analysis, the proposed spending limit would have had a significant limiting impact on the size of State appropriations in the middle to late 1990s but the impact of the proposed appropriation cap would have been much smaller in recent years as appropriation growth has been restrained by other factors. The actual level of State appropriations in FY 2006-07 is only \$68.3 million above the level that would have occurred if the proposed spending limit had been in place since FY 1994-95.

Table 3

Actual State Appropriation Growth Versus Proposed Limited Growth Using FY 1994-95 as Base Fiscal Year (Millions of Dollars)			
Fiscal Year	Appropriations Subject to Sec. 28 Limit	Proposed Capped Limit	Difference
1994-95	\$19,302.3		
1995-96	20,259.8	\$19,920.0	\$(339.8)
1996-97	21,285.2	20,637.1	(648.1)
1997-98	22,190.6	21,441.9	(748.7)
1998-99	22,952.9	22,042.3	(910.6)
1999-00	24,128.8	22,483.2	(1,645.6)
2000-01	25,257.1	23,045.2	(2,211.9)
2001-02	25,666.5	23,921.0	(1,745.5)
2002-03	25,671.7	24,758.2	(913.5)
2003-04	25,414.3	25,253.4	(160.9)
2004-05	25,904.0	25,935.2	31.2
2005-06	26,919.6	26,713.3	(206.3)
2006-07	27,743.2	27,674.9	(68.3)

Source: Michigan Senate Fiscal Agency calculations

CONCLUSION

In summary, the potential future impact of the proposed spending cap on the State budget is difficult to predict. The potential impact depends on the future performance of the Michigan economy, potential changes in the revenue structure of the State that will affect the amount of revenue available for appropriations, and specific spending decisions that will have an impact on the level of State appropriations. As outlined in Table 3, a review of recent State appropriation growth compared with the proposed spending cap leads to a mixed result. On one hand, State appropriations in FY 2006-07 are very close to the maximum allowed by the spending cap, assuming a base year of FY 1994-95. On the other hand, on a year-by-year basis total State appropriations for the period FY 1994-95 through FY 2006-07 would have exceeded the proposed spending cap by a cumulative amount of \$9.6 billion.

The impact of the proposed constitutional amendment on local governments is also difficult to measure. It is clear that the changes contained in Article IX, Section 31 would have an impact on local governments' ability to use special assessments for specific or unit-wide projects or services. The potential impact of Article IX, Section 31 on local governments' ability to raise fees depends entirely on the interpretation as to which local fees are mandatory versus voluntary. This issue is very likely to cause considerable debate as the Legislature implements the proposal, if it is approved by the voters, and could result in significant involvement by the courts, as well.