

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 13, 1998 Revised: 4/16/98 _____

Subject: Ballot Referenda

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	_____	Krasovsky	RC	Fav/1 amendment
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Senate Bill 2308 revises the requirements for the ballot summary and title for constitutional amendments and other public measures submitted to a vote of the people. The bill removes the requirement of the Supreme Court to review the ballot title and summary of initiative petitions and requires the Attorney General to review all constitutional amendments and other public measures for compliance with the ballot summary and title requirements. If the Attorney General finds the ballot title and summary defective, the Attorney General is required to prepare and file a ballot summary and title which meet the requirements of law. Electors who claim that the ballot summary and title of constitutional amendments (other than those proposed by the Legislature) and other public measures do not clearly and unambiguously express the chief purpose of the measure may petition the Supreme Court . The bill removes the 75 word limit for ballot summaries for all questions except constitutional amendments proposed by initiative.

This bill substantially amends sections 101.161 and 16.061, and creates section 101.163 of the Florida Statutes.

II. Present Situation:

Section 101.161, F.S., provides that when a constitutional amendment or other public measure is submitted to the people for a vote, the substance of the amendment or measure is to be printed on the ballot, along with a ballot title. The substance of the amendment is an explanatory statement of the chief purpose of the amendment, not exceeding 75 words in length, which must be in clear and unambiguous language. The ballot title, the caption by which the measure is commonly referred, may not exceed 15 words in length.

In the case of a constitutional amendment proposed by initiative, once the political committee circulating the petition obtains 10% of the required number of signatures from one-fourth of the congressional districts, the Secretary of State submits the initiative to the Attorney General. (s. 15.21, F.S.) Within 30 days of receipt, the Attorney General is required to petition the Supreme Court for an advisory opinion regarding the compliance of the text of the proposed amendment with s. 3, Art. XI of the State Constitution, (the single subject requirement) and the compliance with s. 101.161 (ballot title and summary specifications). If the Supreme Court determines that the initiative fails to meet the single subject requirement or fails to meet the ballot title or summary requirements, it will strike the amendment from the ballot.

There is currently no automatic statutory review mechanism for constitutional amendments proposed by the Legislature or by an other authorized means or for other public measures. Of course, the ballot title and summary of these proposals can be challenged in circuit court.

III. Effect of Proposed Changes:

Senate Bill 2308 provides an exclusive method of review of the ballot summaries and titles for constitutional amendments and other public measures. The Supreme Court will continue to review initiatives for compliance with the single subject requirement of Article XI, section 3, Florida Constitution. The bill removes the 75 word limitation for ballot summaries for all questions except those proposed by initiative.

Under the provisions of this bill, when a constitutional amendment or other public measure is passed by the Legislature, the Secretary of State will submit the proposal to the Attorney General for review as to legal correctness. Within 5 days the Attorney General must determine whether the proposed ballot summary and title clearly express the chief purpose of the measure and must notify the Secretary of State, the President of the Senate and the Speaker of the House of his or her determination. The Attorney General is required to state any and all defects found and, if it is determined that the ballot summary and title are defective, the Attorney General shall, within 10 business days, prepare and file a ballot summary and title that clearly express the chief purpose of the measure. The Attorney General may use up to 150 words, if necessary, to clearly and unambiguously express the chief purpose of the measure.

A similar procedure is used for initiatives and other public measures. An initiative will be reviewed by the Attorney General when ten percent of the required signatures is obtained from one-fourth of the congressional districts. The Attorney General shall either approve the ballot summary and title or, if the Attorney General finds that the ballot summary and title are defective, he or she shall prepare and file with the Secretary of State a new ballot title and summary that clearly and unambiguously express the chief purpose of the measure. Any elector may challenge the ballot summary and title as not clearly and unambiguously expressing the chief purpose of the measure by petitioning the Supreme Court within 10 days following the filing of the ballot summary and title by the Attorney General with the Secretary of State. The petition must include a proposed substitute ballot summary and title and the petition must establish that the substitute ballot summary and title clearly and unambiguously express the chief purpose of the measure and that

the ballot title and summary approved by the Attorney General do not clearly and unambiguously express the chief purpose of the measure. If one or more petitioners are successful, the Court must select the ballot summary that most clearly expresses the chief purpose of the measure.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Currently, if the Supreme Court determines that an initiative fails to meet the requirements relating to ballot summary and title, the political committee circulating the petition must begin the whole process again. Political committees circulating initiatives will realize a cost savings under this bill, since they will be able to continue the petitioning process, despite the defective language on the petitions.

C. Government Sector Impact:

The Attorney General's Office estimates that it would need two attorneys and one secretary at an annual recurring cost of \$178,500 to review the approximately 140 local ballot referenda titles and summaries. The Attorney General's Office can review all ballot titles and summaries of constitutional amendments within existing resources of the office.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Rules and Calendar:

The amendment revises the requirements for the ballot summary and title for constitutional amendments and other public measures submitted to a vote of the people. The Secretary of State shall submit the proposed ballot summary and title of a constitutional amendment passed by the Legislature to the Attorney General for review. If the Attorney General finds that the proposed ballot summary and title are defective, the Attorney General shall prepare and file a ballot summary and title that clearly express the chief purpose of the measure. A similar process is also provided for the filing of a proposed ballot summary and title for a constitutional amendment proposed by any other authorized method. However, additional provisions provide that any elector may challenge the ballot summary and title by petitioning the Supreme Court within 10 days after the ballot summary and title are filed with the Secretary of State. Standards are provided for what the petitioner must establish in order to be successful in challenging the ballot summary and title.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
