

By Senator Burt

16-1776-98

1 A bill to be entitled
2 An act relating to ballot referenda; amending
3 s. 101.161, F.S.; requiring that a ballot title
4 and summary be included on a constitutional
5 amendment or other public measure submitted to
6 the vote of the people; creating s. 101.163,
7 F.S.; requiring that the Attorney General
8 review the ballot summary and title of a
9 proposed constitutional amendment or public
10 measure and file a revised ballot summary and
11 title if necessary; providing for the Secretary
12 of State to transmit an approved copy of a
13 ballot summary and title to the supervisors of
14 elections; authorizing an elector to petition
15 the Supreme Court if the ballot summary and
16 title do not express the chief purpose of the
17 measure; providing requirements for the
18 petition; amending s. 16.061, F.S., relating to
19 initiative petitions; conforming provisions to
20 changes made by the act; providing an effective
21 date.

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23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Section 101.161, Florida Statutes, is
26 amended to read:

27 101.161 Referenda; ballots.--

28 (1) Whenever a constitutional amendment or other
29 public measure is submitted to the vote of the people, a
30 ballot title and a ballot summary containing the substance of
31 such amendment or other public measure shall be printed in

1 clear and unambiguous language on the ballot after the list of
2 candidates, followed by the word "yes" and also by the word
3 "no," and shall be styled in such a manner that a "yes" vote
4 will indicate approval of the proposal and a "no" vote will
5 indicate rejection. The wording of ~~the substance of the~~
6 ~~amendment or other public measure and the ballot title~~ and the
7 ballot summary to appear on the ballot shall be embodied in
8 the joint resolution, constitutional revision commission
9 proposal, constitutional convention proposal, taxation and
10 budget reform commission proposal, or enabling resolution or
11 ordinance. The ballot summary ~~substance of the amendment or~~
12 ~~other public measure~~ shall be an explanatory statement, ~~not~~
13 ~~exceeding 75 words in length~~, of the chief purpose of the
14 measure. The ballot title shall consist of a caption, not
15 exceeding 15 words in length, by which the measure is commonly
16 referred to or spoken of.

17 (2) The ~~substance and~~ ballot title and ballot summary
18 of a constitutional amendment proposed by initiative shall be
19 prepared by the sponsor and approved by the Secretary of State
20 in accordance with rules adopted pursuant to s. 120.54, the
21 substance of which may not exceed 75 words in length. The
22 Department of State shall give each proposed constitutional
23 amendment a designating number for convenient reference. This
24 number designation shall appear on the ballot. Designating
25 numbers shall be assigned in the order of filing or
26 certification of the amendments. The Department of State
27 shall furnish the designating number, the ballot title, and
28 the ballot summary ~~substance of each amendment~~ to the
29 supervisor of elections of each county in which such amendment
30 is to be voted on.

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1 Section 2. Section 101.163, Florida Statutes, is
2 created, to read:

3 101.163 Review of ballot summaries and titles.--This
4 section provides the exclusive process for review and
5 reformation of ballot summaries and titles for all
6 constitutional amendments and public measures submitted to the
7 vote of the people.

8 (1) When a measure is proposed as a constitutional
9 amendment or other public measure by the Legislature, after
10 final passage of a measure by the Legislature, the Secretary
11 of State shall submit the proposed ballot summary and title to
12 the Attorney General for review as to legal correctness.
13 Within 5 business days, the Attorney General shall, in
14 writing, notify the Secretary of State, the President of the
15 Senate, and the Speaker of the House of Representatives
16 whether the proposed ballot summary and title clearly express
17 the chief purpose of the measure. The Attorney General shall
18 state with specificity any and all defects found and, if
19 necessary, within 10 business days after determining that the
20 proposed ballot summary and title are defective, prepare and
21 file a ballot summary and title that clearly express the chief
22 purpose of the measure. However, the Attorney General may use
23 150 words in the ballot summary if it is necessary to clearly
24 and unambiguously express the chief purpose of the measure.

25 (2) The following procedure shall apply to review and
26 reformation of a ballot summary and title of a constitutional
27 amendment or other public measure proposed by any other
28 authorized method:

29 (a) After the filing of any other authorized proposal
30 or, in the case of an initiative, satisfaction of the
31 conditions expressed in s. 15.21, the Secretary of State or

1 other filing officer shall submit the proposed ballot summary
2 and title to the Attorney General for review as to whether the
3 ballot summary and title clearly and unambiguously express the
4 chief purpose of the measure. Within 5 business days after
5 filing or transmission by the Secretary of State in accordance
6 with s. 15.21, the Attorney General shall, in writing, notify
7 the Secretary of State whether the proposed ballot summary and
8 title clearly and unambiguously express the chief purpose of
9 the measure. The Attorney General shall state with
10 specificity any and all defects found and, if necessary,
11 within 10 business days after determining that the proposed
12 ballot summary and title are defective, prepare and file a
13 ballot summary and title that clearly and unambiguously
14 express the chief purpose of the measure.

15 (b) Within 10 business days after completion of the
16 review and possible reformation by the Attorney General, the
17 Secretary of State shall, if no petition is filed in the
18 Supreme Court challenging the ballot summary and title,
19 transmit to the county supervisors of elections an attested
20 copy of the measure, including the approved ballot summary and
21 title, and a certification that the requirements of this
22 section have been fulfilled. If a petition is filed in the
23 Supreme Court challenging the ballot summary and title within
24 the time specified in paragraph (c), the Secretary of State
25 shall certify to the county supervisors of elections the
26 ballot summary and title that is finally approved by the
27 Supreme Court.

28 (c) Any elector who claims that a ballot summary and
29 title do not clearly and unambiguously express the chief
30 purpose of the measure must, within 10 days after the ballot
31 summary and title are filed by the Attorney General with the

1 Secretary of State, petition the Supreme Court. Such petition
2 must include a proposed substitute ballot summary and title
3 for the proposed measure. In order for the petition to be
4 successful, the petitioner must establish, in order, that:

5 1. The substitute ballot summary and title clearly and
6 unambiguously express the chief purpose of the measure; and

7 2. The ballot summary and title approved by the
8 Attorney General do not clearly and unambiguously express the
9 chief purpose of the measure.

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11 If the petitioner fails to establish the element required in
12 subparagraph 1., the petition shall be dismissed without
13 considering the element in subparagraph 2.

14 (d) In the case of more than one successful
15 petitioner, the court must select the ballot summary that most
16 clearly expresses the chief purpose of the measure.

17 Section 3. Section 16.061, Florida Statutes, is
18 amended to read:

19 16.061 Initiative petitions.--

20 (1) The Attorney General shall, within 30 days after
21 receipt of a proposed revision or amendment to the State
22 Constitution by initiative petition from the Secretary of
23 State, petition the Supreme Court, requesting an advisory
24 opinion regarding the compliance of the text of the proposed
25 amendment or revision with s. 3, Art. XI of the State
26 Constitution ~~and the compliance of the proposed ballot title~~
27 ~~and substance with s. 101.161.~~ The petition may enumerate any
28 specific factual issues which the Attorney General believes
29 would require a judicial determination.

30 (2) A copy of the petition shall be provided to the
31 Secretary of State and the principal officer of the sponsor.

1 Section 4. This act shall take effect upon becoming a
2 law.

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5 SENATE SUMMARY

6 Revises the requirements for referenda placed on the
7 ballot to require that the substance of the amendment or
8 measure be contained in a ballot title and summary. Provides
9 for the ballot title and summary to be submitted
10 to the Attorney General for review. Requires that the
11 Attorney General file a revised ballot title and summary
12 with the Secretary of State if necessary. Provides
13 procedures under which an elector may petition the
14 Supreme Court if the elector claims that the ballot
15 summary and title do not express the chief purpose of the
16 measure.
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