

STORAGE NAME: h0293a.er

DATE: February 14, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ELECTION REFORM
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HJR 293

RELATING TO: Verification of names and signatures on initiative petitions

SPONSOR(S): Representative Livingston

STATUTE(S) AFFECTED: amending Section 3, Article XI, Florida Constitution

COMPANION BILL(S): SB 522(i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) ELECTION REFORM YEAS 7 NAYS 2

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I. SUMMARY:

HJR 293 amends the Florida Constitution to authorize random-sampling verification of signatures presented for amending the Florida Constitution by citizens initiative. This joint resolution also provides for a preclearance verification period to ease problems experienced by Supervisors of Elections in verifying names and signatures on initiative petitions that are submitted for verification immediately before the deadline for certification. Sponsors of initiative petitions to be verified name-by-name, signature-by-signature could be required to submit their petitions to the Supervisors of Elections for verification no more than 60 days prior to the certification deadline with the Secretary of State. Sponsors of initiative petitions to be verified by random-sampling could be required to submit their petitions to the Supervisors of Elections for verification no more than 30 days prior to the certification deadline with the Secretary of State.

If passed by the Legislature, this constitutional amendment will be submitted to the electors at the November 1998 General Election.

This resolution does not appear to have a significant fiscal impact on state or local governments.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Article XI, section 3 of the Florida Constitution gives the people of Florida the power to propose constitutional amendments or revisions by initiative. The sponsor of an initiative must obtain a number of signatures of registered voters equal to eight percent of the votes cast in each of one-half of the congressional districts of the state, and in the state as a whole, in the last election in which presidential electors were chosen.

Signatures obtained are submitted to the Supervisor of Elections in the county in which the petitions were circulated for verification. Under section 100.371(6), Florida Statutes, the Department of State has the authority to promulgate rules by which names and signatures are verified. Currently, signatures are verified name-by-name, signature-by-signature. (s. 99.097(1), F.S. ; Section 1S-2.0091(2), F.A.C.). For each signature checked, ten cents, or the actual cost of checking a signature, whichever is less, is paid to the Supervisor by the sponsor of the initiative petition. (s. 99.097, F.S.). However, if the sponsor is unable to pay the charges without imposing an undue burden on its resources, it is entitled to have the signatures checked at no charge. (s. 97.097(4), F.S.). On December 1 of each election year, each Supervisor of Elections submits to the Comptroller the number of signatures checked at no charge. The Comptroller then reimburses the county commissioners from the General Revenue Fund ten cents per signature or the actual cost of checking such signatures, whichever is less. (s. 99.097(4), F.S.).

According to the Division of Elections, in the 1994 general election 16 out of the 29 committees which presented initiative petitions claimed undue burden. In the most recent general election, 23 out of 37 committees claimed undue burden. As stated previously, after a general election counties are able to request reimbursement for fees waived under section 99.097(4), F.S. to be paid out of the General Revenue Fund. In 1994 the State reimbursed the counties \$150,255.40 in waived fees. To date, the State has received requests for reimbursement from the 1996 general election in the amount of \$149,000.00. It should be noted, however, that the dollar figures cited herein are inclusive of all petition drives where undue burden may be claimed.

After the signatures have been verified, the Supervisor of Elections certifies the number of valid signatures to the Secretary of State showing the total number of signatures checked, the number of valid signatures, the distribution of signatures by congressional district, and a copy of the petition to which the verified signatures relate. Certificates are to be received by the Secretary of State no later than 5 p.m. on the 91st day prior to the general election. (Florida Constitution art. XI, s. 5; s. 100.371(4), F.S.; Department of State Rule 1S-2.0091). Presently, there are no earlier deadlines established for submitting petitions to the Supervisors for verification. Consequently, sponsors collect signatures right up until the certification deadline.

The Florida First District Court of Appeal has ruled that the provisions of Section 99.097(1) and (2), Florida Statutes, providing for verification by random sampling of names and signatures on petitions, were not applicable to the initiative petition verification process since the Florida Constitution has mandated that at least eight

percent of the described electors must sign an initiative petition before it can attain ballot status. (See, *Let's Help Florida v. Smathers*, 360 So.2d 494 (Fla. 1st DCA 1978)). Therefore, in order to implement random sampling verification of initiative petitions, Article XI, Section 3 of the Constitution would have to be amended.

Similarly, the Florida Supreme Court has held that the Secretary of State does not have the authority to provide a different deadline from that stated in the Florida Constitution therefore, changing the deadline for sponsors to submit their petitions to Supervisors for verification requires a constitutional amendment. (See, *Citizens Proposition for Tax Relief v. Firestone*, 386 So.2d 561 (Fla. 1980)).

B. EFFECT OF PROPOSED CHANGES:

This resolution amends section 3, Article XI of the State Constitution providing additional procedural safeguards to the initiative process.

The vast number of signatures generated by petition drives has strained Supervisors of Elections' budgets and resources as many petition backers have claimed undue burden to avoid paying the ten cent per signature verification fee. Ultimately, the cost for verification is passed on to taxpayers of the State as counties are reimbursed from the General Revenue Fund for the number of signatures they have verified. By using a random-sampling method of verification the cost assessed to sponsors of initiatives would be less, providing an incentive for sponsors to pay the fee instead of having to claim undue burden. Although indeterminate, amending the State Constitution to allow for random-sampling verification may also have a fiscal impact on local revenues, in that the verification process would be less time consuming and Supervisors would not have to spend as much money for overtime and temporary workers.

Because sponsors may collect signatures on initiative petitions right up until the deadline for certification, it is nearly impossible for Supervisors of Elections to verify last minute names and signatures and get certification to the Secretary of State on the same day. This resolution would allow Supervisors more time after petitions are submitted to verify and timely submit them to the Division of Elections, thereby protecting the integrity of the initiative process.

The constitutional amendment proposed by HJR 293 would be presented to electors at the November 1998 general election.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

- a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

By allowing random-sampling verification of names and signatures on initiatives, this resolution may reduce the amount of time and work Supervisors spend verifying same.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

Under the random-sampling method of verification, the cost assessed to sponsors of initiative petitions would be less. Assuming that this reduction in cost would provide an incentive for sponsors to pay the fee instead of claiming undue burden, there would be a reduction in the amount of money reimbursed to county commissioners from the General Revenue Fund.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not applicable.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

Not applicable.

(2) Who makes the decisions?

Not applicable.

(3) Are private alternatives permitted?

Not applicable.

(4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

Not applicable.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Each constitutional amendment is required to be published in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week preceding the general election. Costs for advertising vary depending on the length of the amendment; however, it is estimated that the cost per amendment averages \$35,000.00.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Cost of advertising amendment - est. \$35,000.00

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Sponsors of initiative petitions may experience a reduction in costs assessed by the Supervisors of Elections by having names and signatures verified by the random-sampling method.

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3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

Not applicable.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

None.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

None.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

None.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON ELECTION REFORM:

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