

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.)

BILL: SB 2104

SPONSOR: Senator Webster

SUBJECT: Ballot Summaries

DATE: March 20, 2000

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bradshaw</u>	<u>Bradshaw</u>	<u>EE</u>	<u>Favorable</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Senate Bill 2104 changes the requirements for ballot summaries for constitutional amendments proposed by the Legislature. Section 101.161, F. S., requires that the substance of the amendment be an explanatory statement of the chief purpose of the measure, not exceeding 75 words in length. The bill provides an exception to the ballot summary requirements for constitutional amendments proposed by the Legislature by joint resolution. The bill retains the requirements for ballot summaries for constitutional amendments proposed by other means and for local referendum issues.

This bill substantially amends section 101.161 of the Florida Statutes.

II. Present Situation:

Article XI of the Florida Constitution provides the following methods for proposing amendments to the Constitution:

- (1) A joint resolution of the Legislature agreed to by three-fifths vote of each house;
- (2) A proposal by the constitution revision commission;
- (3) A proposal by citizen initiative;
- (4) A revision by constitutional convention; or
- (5) A proposal by the taxation and budget reform commission.

In addition to constitutional amendments, various local referenda appear on ballots pursuant to special act, resolution, or ordinance.

Section 101.161, F.S., provides that whenever a constitutional amendment or other public measure is submitted to the voters, the substance of the amendment or measure shall be printed on the ballot in clear and unambiguous language, along with a ballot title. The substance of the amendment is an explanatory statement of the chief purpose of the amendment, which may not

exceed 75 words in length. The ballot title, the caption by which the measure is commonly referred, may not exceed 15 words in length. The wording of the substance of the amendment and the ballot title are required to be embodied in the joint resolution, constitutional revision commission proposal, constitutional convention proposal, taxation and budget reform commission proposal, or enabling resolution or ordinance.

In a number of cases, the Florida Supreme Court has kept constitutional amendments off the ballot based upon defective ballot language. The court explained that the purpose of the statute is “to provide fair notice of the content of the proposed amendment so that the voter will not be misled as to its purpose, and can cast an intelligent and informed ballot.” *Advisory Opinion to Attorney General re Fee on Everglades Sugar Production*, 681 So.2d 1124, 1127 (Fla.1996).

Currently, the death penalty amendment placed on the ballot by HJR 3505 and approved by the voters in 1998 is being challenged in the Florida Supreme Court. In *Armstrong v. Harris*, No. 95,223, the plaintiffs argue that the *ballot summary* for Amendment 2 is misleading because it fails to disclose that it may affect citizens’ rights in non-capital as well as capital cases, that the *title* is misleading because the amendment is not necessary to preserve the death penalty, and that the amendment may alter the constitutional separation of powers. See Initial Brief of Appellant. Briefing was completed in June 1999, and the court heard oral argument in September 1999. The case is currently pending.

III. Effect of Proposed Changes:

Senate Bill 2104 provides an exception to the ballot summary requirements of s. 101.161, F.S., for amendments proposed by joint resolution of the Legislature. Current law requires the ballot summary to be an explanatory statement of the chief purpose of the measure, not exceeding 75 words in length. The ballot summary requirements in s. 101.161, F.S., would remain in effect for constitutional amendments proposed by other means and for local public measures.

This bill would treat constitutional amendments proposed by the Legislature differently from amendments proposed by other means. However, it would not be the only instance where proposed amendments are treated differently. Amendments proposed by initiative pursuant to Article XI, section 3, Florida Constitution, can only embrace one subject while amendments proposed by the Legislature or by other means need not comply with the single subject limitation. The Florida Supreme Court has explained this difference:

[T]he single-subject limitations exists because section 3 does not afford the same opportunity for public hearing and debate that accompanies the proposal and drafting processes of sections 1, 2, and 4.

Advisory Opinion to the Attorney General re Fish and Wildlife Conservation Commission, 705 So.2d 1351, 1353 (Fla. 1998).

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:

None.

C. Government Sector Impact:

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 about \$47,000. If the length of ballot summaries were to increase, advertising costs could increase. However, this cost is expected to be minimal.

In addition, ballot production costs could increase for the counties. With unlimited ballot summaries, those counties using a punch card voting system might have space problems with their ballots.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

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