

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SJR 1284

SPONSOR: Senator Latvala

SUBJECT: Proposed Constitutional Amendment; Public Records and Meetings

DATE: January 31, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rhea	Wilson	GO	Favorable
2.	_____	_____	RC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This Senate Joint Resolution would authorize placement on the ballot during the next general election a proposal to amend Article I, s. 24(c) of the State Constitution. Instead of the current simple majority vote to create an exemption to public records or meetings requirements, the resolution would require a two-thirds vote of each house of the Legislature to create an exemption.

This bill provides for amendment by vote of the electors of the following sections of the State Constitution: Article, I, s. 24(c).

II. Present Situation:

Article I, s. 24 of the State Constitution provides every person with the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf. Further, it requires that all meetings of collegial public bodies at which official acts are to be taken or at which public business is to be transacted or discussed, must be open and noticed.

The section specifically includes the legislative, executive, and judicial branches and each agency or department created under them. It also includes counties, municipalities, and districts, as well as constitutional officers, boards, and commissioners or entities created pursuant to law or the State Constitution.

The State Constitution permits the creation of exemptions to open government requirements and establishes the means by which these exemptions are to be established. Under Article I, s. 24(c)

of the State Constitution, the Legislature may provide by general law for the exemption of records provided that:

- (1) the law creating the exemption states with specificity the public necessity justifying the exemption; and
- (2) the exemption is no broader than necessary to accomplish the stated purpose of the law.

A law creating an exemption is permitted to contain only exemptions to public records or meetings requirements and must relate to one subject.

Currently, a simple majority of votes is necessary to create an exemption.

A review of public record exemption bills that were passed during the last three years shows that all bills that passed did so with high majorities, in excess of the two-thirds that would be required by this bill.

Votes for Passage of Public Records Exemptions								
1999 Session			2000 Session			2001 Session		
Bill	H	S	Bill	H	S	Bill	H	S
HB 219	115-0	39-0	HB 439	115-0	39-0	HB 385	117-0	32-0
HB 357	111-2	40-0	HB 1037	120-0	39-0	HB 387	117-0	34-2
HB 1081	117-0	38-0	HB 2417	118-0	38-0	HB 393	113-0	38-0
HB 2121	116-0	40-0	SB 4-A			HB 395	116-0	38-0
SB 180	108-0	40-0	SB 318	116-1	39-0	HB 397	117-0	40-0
SB 674	105-6	40-0	SB 836	110-0	39-0	HB 399	116-0	37-0
SB 928	117-0	40-0	SB 1256	115-0	38-0	HB 401	116-1	39-0
SB 1596	117-1	39-0	SB 2250	115-0	40-0	HB 403	116-0	37-0
SB 2350	119-0	39-0				HB 405	117-0	39-0
						HB 407	118-0	37-0
						HB 1083	91-12	40-0
						HB 1385	112-1	39-0
						HB 1541	116-3	34-0
						HB 1565	119-0	35-0
						HB 1805	115-0	39-0
						SB 772	119-1	39-0
						SB 840	115-0	35-0
						SB 892	108-5	36-0
						SB 904	114-3	34-2
						SB 1200	99-21	39-0
						SB 1562	108-9	38-0
						SB 1726	114-5	38-0
						SB 1766	120-0	39-0
						SB 1836	118-0	38-0
						SB 2220	119-0	39-0

The State Constitution provides for constitutional amendment by a number of means. The Constitution Revision Commission is authorized in Article XI, s. 2 of the State Constitution. The commission is composed of thirty-seven members:

1. The Attorney General of the State;
2. Fifteen members selected by the Governor;
3. Nine members selected by the Speaker of the House of Representatives and nine members selected by the President of the Senate; and
4. Three members selected by the chief justice of the Supreme Court of Florida with the advice of the justices.

The commission must be established within thirty days before the convening of the 2017 regular session of the Legislature and each twentieth year thereafter. Within 180 days prior to the next general election after appointment of the commission, the commission must file its proposal, if any, of a revision to the State Constitution.

Another means of amendment of the State Constitution is by citizen initiative under Article XI, s. 3 of the State Constitution. This power may be invoked by filing with the Secretary of State a petition containing a copy of the proposed revision or amendment, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to eight percent of the votes cast in each of such districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen.

Additionally, the power to call a constitutional convention to consider a revision of the entire constitution is reserved to the people under Article XI, s. 4 of the State Constitution.

The Legislature also is authorized to propose amendments to the State Constitution under Article XI, s. 1 of the State Constitution. The constitution states:

Amendment of a section or revision of one or more articles, or the whole, of this constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the legislature. The full text of the joint resolution and the vote of each member voting shall be entered on the journal of each house.

III. Effect of Proposed Changes:

The Senate Joint Resolution would place on the ballot at the next general election or at a special election authorized for that purpose a proposal that would require a two-thirds vote, instead of the current simple majority vote, to create an exemption to public records requirements.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill would modify the current requirement that exemptions to public records requirements pass both houses of the Legislature by a majority vote and increase the vote required to two-thirds of each house.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

This bill, which authorizes amendment of Article I, s. 24 of the State Constitution, requires agreement by three-fifths of the membership of each house of the Legislature. Further, the full text of the joint resolution and the vote of each member voting must be entered on the journal of each house.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.