

By Senator Cowin

20-680-03

1                                   A bill to be entitled  
2           An act relating to constitutional amendments;  
3           amending s. 16.061, F.S.; requiring the  
4           Attorney General to immediately petition the  
5           Supreme Court for review of certain fiscal  
6           impact statements; deleting duties of the  
7           Attorney General with respect to constitutional  
8           amendments proposed other than by initiative;  
9           amending s. 100.371, F.S.; revising times  
10          within which the Revenue Estimating Conference  
11          must complete its analysis and fiscal impact  
12          statement for amendments proposed by  
13          initiative; prescribing ballot language to be  
14          used if a fiscal impact statement is not timely  
15          approved by the Supreme Court; repealing s.  
16          100.381, F.S., relating to fiscal impact  
17          statement requirements for amendments proposed  
18          other than by initiative; amending s. 101.161,  
19          F.S.; prescribing placement of the fiscal  
20          impact statement on the ballot; amending s.  
21          101.62, F.S., relating to absentee ballots, to  
22          conform; reenacting ss. 15.21, 216.136(3)(a),  
23          F.S., to conform to the changes by this act;  
24          providing procedures for commencing the fiscal  
25          impact statement development and review process  
26          for certain proposed initiatives; exempting  
27          certain proposed initiatives from the fiscal  
28          impact statement requirement; providing an  
29          effective date.

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

1           Section 1. Section 16.061, Florida Statutes, is  
2 amended to read:

3           16.061 Initiative petitions ~~Proposed constitutional~~  
4 ~~revisions or amendments.--~~

5           (1) The Attorney General shall, within 30 days after  
6 receipt of a proposed revision or amendment to the State  
7 Constitution by initiative petition from the Secretary of  
8 State, petition the Supreme Court, requesting an advisory  
9 opinion regarding the compliance of the text of the proposed  
10 amendment or revision with s. 3, Art. XI of the State  
11 Constitution and the compliance of the proposed ballot title  
12 and substance with s. 101.161. The Attorney General shall,  
13 within 30 days after receipt of the initiative petition's  
14 fiscal impact statement or revised fiscal impact statement  
15 from the Revenue Estimating Conference, or immediately after  
16 receipt if received less than 120 days before the election at  
17 which the question of ratifying the amendment will be  
18 presented, petition the Supreme Court requesting an advisory  
19 opinion regarding compliance of the statement with s.  
20 100.371(6). ~~and the compliance of the fiscal impact statement~~  
21 ~~with ss. 100.371 and 101.161. For all other proposed revisions~~  
22 ~~or amendments to the State Constitution, the Attorney General~~  
23 ~~shall, upon the Revenue Estimating Conference finalizing the~~  
24 ~~fiscal impact statement, petition the Supreme Court requesting~~  
25 ~~an advisory opinion regarding compliance of the text of the~~  
26 ~~fiscal impact statement with ss. 100.371, 100.381, and~~  
27 ~~101.161.~~The petition may enumerate any specific factual  
28 issues which the Attorney General believes would require a  
29 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           ~~(3) Any fiscal impact statement that the court finds~~  
2 ~~not to be in accordance with s. 100.371, s. 100.381, or s.~~  
3 ~~101.161 shall be remanded solely to the Revenue Estimating~~  
4 ~~Conference for redrafting.~~

5           Section 2. Subsections (6) and (7) of section 100.371,  
6 Florida Statutes, are amended to read:

7           100.371 Initiatives; procedure for placement on  
8 ballot.--

9           (6)(a) Within 45 days after receipt of a proposed  
10 revision or amendment to the State Constitution by initiative  
11 petition from the Secretary of State, or within 30 days after  
12 such receipt if receipt occurs 120 days or less before the  
13 election at which the question of ratifying the amendment will  
14 be presented, ~~for any initiative approved by the Florida~~  
15 ~~Supreme Court for the general election ballot for 2002, within~~  
16 ~~45 days after the effective date of this subsection, whichever~~  
17 ~~occurs later~~, the Revenue Estimating Conference shall complete  
18 an analysis and fiscal impact statement to be placed on the  
19 ballot of the estimated increase or decrease in any revenues  
20 or costs to state or local governments resulting from the  
21 proposed initiative. The Revenue Estimating Conference shall  
22 provide an opportunity for any proponents or opponents of the  
23 initiative to submit information and may solicit information  
24 or analysis from any other entities or agencies, including the  
25 Office of Economic and Demographic Research.

26           (b)1. Members of the Revenue Estimating Conference  
27 shall reach a consensus or majority concurrence on a clear and  
28 unambiguous fiscal impact statement, no more than 50 words in  
29 length and immediately submit the statement to the Attorney  
30 General. Nothing in this subsection prohibits the Revenue  
31 Estimating Conference from setting forth a range of potential

1 impacts in the fiscal impact statement. ~~Any fiscal impact~~  
2 ~~statement that a court finds not to be in accordance with this~~  
3 ~~section, s. 100.381, or s. 101.161 shall be remanded solely to~~  
4 ~~the Revenue Estimating Conference for redrafting. The Revenue~~  
5 ~~Estimating Conference shall redraft the fiscal impact~~  
6 ~~statement within 15 days.~~

7           2. If the members of the Revenue Estimating Conference  
8 are unable to agree on the statement required by this  
9 subsection, the following statement shall appear on the ballot  
10 pursuant to s. 101.161(1): "The fiscal impact of this measure,  
11 if any, cannot be reasonably determined at this time."

12           3. Any fiscal impact statement that the Supreme Court  
13 finds not to be in accordance with this subsection shall be  
14 remanded solely to the Revenue Estimating Conference for  
15 redrafting, provided the court's advisory opinion is rendered  
16 at least 75 days before the election at which the question of  
17 ratifying the amendment will be presented. The Revenue  
18 Estimating Conference shall prepare and adopt a revised fiscal  
19 impact statement no later than 5 p.m. on the 15th day after  
20 the date of the court's opinion.

21           4. If, by 5 p.m. on the 55th day before the election,  
22 the Supreme Court has not issued an advisory opinion approving  
23 a fiscal impact statement prepared by the Revenue Estimating  
24 Conference for an initiative amendment that otherwise meets  
25 the legal requirements for ballot placement, the following  
26 statement shall appear on the ballot pursuant to s.  
27 101.161(1): "Due to time constraints, the fiscal impact of  
28 this measure, if any, could not be included on the ballot."

29           5. If, by 5 p.m. on the 55th day before the general  
30 election, the Supreme Court has not issued an advisory opinion  
31 approving a fiscal impact statement prepared by the Revenue

1 Estimating Conference for an initiative amendment that  
2 otherwise meets the legal requirements for ballot placement at  
3 the general election, the following statement shall appear on  
4 the advance general election absentee ballot pursuant to s.  
5 101.161(1): "Due to time constraints, the fiscal impact of  
6 this measure, if any, could not be included on the ballot."

7 ~~(c) The fiscal impact statement must be separately~~  
8 ~~contained and be set forth after the ballot summary as~~  
9 ~~required in s. 101.161(1).~~

10 (7) The Department of State may adopt rules in  
11 accordance with s. 120.54 to carry out the provisions of  
12 subsections (1)-(5) of this section.

13 Section 3. Section 100.381, Florida Statutes, is  
14 repealed.

15 Section 4. Subsection (1) of section 101.161, Florida  
16 Statutes, is amended to read:

17 101.161 Referenda; ballots.--

18 (1) Whenever a constitutional amendment or other  
19 public measure is submitted to the vote of the people, the  
20 substance of such amendment or other public measure shall be  
21 printed in clear and unambiguous language on the ballot after  
22 the list of candidates, followed by the word "yes" and also by  
23 the word "no," and shall be styled in such a manner that a  
24 "yes" vote will indicate approval of the proposal and a "no"  
25 vote will indicate rejection. The wording of the substance of  
26 the amendment or other public measure and the ballot title to  
27 appear on the ballot shall be embodied in the joint  
28 resolution, constitutional revision commission proposal,  
29 constitutional convention proposal, taxation and budget reform  
30 commission proposal, or enabling resolution or ordinance.  
31 Except for amendments and ballot language proposed by joint

1 resolution, the substance of the amendment or other public  
2 measure shall be an explanatory statement, not exceeding 75  
3 words in length, of the chief purpose of the measure. In  
4 addition, the ballot shall include following the ballot  
5 summary a separate fiscal impact statement concerning the  
6 measure prepared by the Revenue Estimating Conference in  
7 accordance with s. 100.371(6) ~~or s. 100.381~~. The ballot title  
8 shall consist of a caption, not exceeding 15 words in length  
9 by which the measure is commonly referred to or spoken of.

10 Section 5. Paragraph (a) of subsection (4) of section  
11 101.62, Florida Statutes, is amended to read:

12 101.62 Request for absentee ballots.--

13 (4)(a) To each absent qualified elector overseas who  
14 has requested an absentee ballot, the supervisor of elections  
15 shall, not fewer than 35 days before the first primary  
16 election, mail an absentee ballot. Not fewer than 45 days  
17 before the second primary and general election, the supervisor  
18 of elections shall mail an advance absentee ballot to those  
19 persons requesting ballots for such elections. The advance  
20 absentee ballot for the second primary shall be the same as  
21 the first primary absentee ballot as to the names of  
22 candidates, except that for any offices where there are only  
23 two candidates, those offices and all political party  
24 executive committee offices shall be omitted. Except as  
25 provided in ~~ss. s.~~99.063(4) and 100.371(6)(b)5., the advance  
26 absentee ballot for the general election shall be as specified  
27 in s. 101.151, except that in the case of candidates of  
28 political parties where nominations were not made in the first  
29 primary, the names of the candidates placing first and second  
30 in the first primary election shall be printed on the advance  
31 absentee ballot. The advance absentee ballot or advance

1 absentee ballot information booklet shall be of a different  
2 color for each election and also a different color from the  
3 absentee ballots for the first primary, second primary, and  
4 general election. The supervisor shall mail an advance  
5 absentee ballot for the second primary and general election to  
6 each qualified absent elector for whom a request is received  
7 until the absentee ballots are printed. The supervisor shall  
8 enclose with the advance second primary absentee ballot and  
9 advance general election absentee ballot an explanation  
10 stating that the absentee ballot for the election will be  
11 mailed as soon as it is printed; and, if both the advance  
12 absentee ballot and the absentee ballot for the election are  
13 returned in time to be counted, only the absentee ballot will  
14 be counted. The Department of State may prescribe by rule the  
15 requirements for preparing and mailing absentee ballots to  
16 absent qualified electors overseas.

17 Section 6. For the purpose of incorporating the  
18 amendments of sections 100.371 and 101.161, Florida Statutes,  
19 in references thereto, section 15.21, Florida Statutes, is  
20 reenacted to read:

21 15.21 Initiative petitions; s. 3, Art. XI, State  
22 Constitution.--The Secretary of State shall immediately submit  
23 an initiative petition to the Attorney General and to the  
24 Revenue Estimating Conference if the sponsor has:

25 (1) Registered as a political committee pursuant to s.  
26 106.03;

27 (2) Submitted the ballot title, substance, and text of  
28 the proposed revision or amendment to the Secretary of State  
29 pursuant to ss. 100.371 and 101.161; and

30 (3) Obtained a letter from the Division of Elections  
31 confirming that the sponsor has submitted to the appropriate

1 supervisors for verification, and the supervisors have  
2 verified, forms signed and dated equal to 10 percent of the  
3 number of electors statewide and in at least one-fourth of the  
4 congressional districts required by s. 3, Art. XI of the State  
5 Constitution.

6 Section 7. For the purpose of incorporating amendments  
7 to section 100.371, Florida Statutes, in references thereto,  
8 paragraph (a) of subsection (3) of section 216.136, Florida  
9 Statutes, is reenacted to read:

10 216.136 Consensus estimating conferences; duties and  
11 principals.--

12 (3) REVENUE ESTIMATING CONFERENCE.--

13 (a) Duties.--The Revenue Estimating Conference shall  
14 develop such official information with respect to anticipated  
15 state and local government revenues as the conference  
16 determines is needed for the state planning and budgeting  
17 system. Any principal may request the conference to review  
18 and estimate revenues for any trust fund. Also, the conference  
19 shall prepare fiscal impact statements for constitutional  
20 amendments pursuant to s. 100.371(6).

21 Section 8. The Secretary of State shall immediately  
22 submit to the Revenue Estimating Conference any active  
23 initiative petition that met the requirements of section  
24 15.21, Florida Statutes, before the effective date of this  
25 act.

26 Section 9. This act does not apply to any  
27 constitutional amendment proposed by initiative which has been  
28 certified for ballot position by the Secretary of State before  
29 the effective date of this act.

30 Section 10. This act shall take effect July 2, 2003.

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SENATE SUMMARY

Revises procedures relating to development and review of fiscal impact statements for proposed constitutional amendments. Deletes duties of the Attorney General with respect to amendments proposed other than by initiative and revises guidelines, including time limits, with respect to those proposed by initiative. Prescribes language to be included on the ballot when there was insufficient time to provide an approved fiscal impact statement.