

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 1947 Initiative Petition 240 Days Prior to General Election
SPONSOR(S): Committee on Procedures
TIED BILLS: **IDEN./SIM. BILLS:** SJR 2394

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Ethics & Elections (sub)	8 Y, 3 N	Thomas	Randle
2) Procedures	18 Y, 14 N	Thomas	Randle
3)			
4)			
5)			

SUMMARY ANALYSIS

The joint resolution proposes an amendment to Section 3 of Article XI of the State Constitution relating to amendments or revisions to the State Constitution proposed by citizen initiative. The joint resolution provides that rather than ninety days, initiative petitions and the requisite signatures must be submitted to the state custodian of records at least 240 days prior to the next general election. This extension would not apply to amendments or revisions proposed by other methods.

Pursuant to Article XI, section 1 of the State Constitution, amendments or revisions to the constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the Legislature. The proposed amendment or revision shall then be submitted to the electors at the next general election held more than ninety days after the joint resolution is filed with the custodian of state records, unless it is submitted at an earlier special election pursuant to a law enacted by an affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment or revision.

This joint resolution does not appear to have any fiscal impact on state or local governments other than those costs related to placing the joint resolution on the ballot and publishing required notices. The Division of Elections estimates that these costs would be approximately \$35,000.

The joint resolution does not contain a specific effective date. Therefore, if adopted by the voters, it will take effect January 4, 2005.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1947.pr.doc
DATE: April 21, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Background

Section 3 of Article XI of Florida's State Constitution provides for citizen initiatives to propose amendments or revisions to the Constitution. Section 5(a) of Article XI of the State Constitution provides:

(a) A proposed amendment to or revision of this constitution, or any part of it, shall be submitted to the electors at the next general election held more than **ninety days** after the joint resolution, initiative petition or report of revision commission, constitutional convention or taxation and budget reform commission proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.

The state custodian of records is the Secretary of State.¹

Effect of Joint Resolution

The joint resolution proposes an amendment to Section 3 of Article XI of the State Constitution relating to amendments or revisions to the State Constitution proposed by citizen initiative. The joint resolution provides that rather than ninety days, initiative petitions and the requisite signatures must be submitted to the state custodian of records at least 240 days prior to the next general election. This extension would not apply to amendments or revisions proposed by other methods.

The joint resolution does not contain a specific effective date. Therefore, if adopted by the voters, it will take effect January 4, 2005.²

¹ See s. 20.10(1), F.S.

² Section 5(d), Art. XI, FLA. CONST, provides "If the proposed amendment or revision is approved by vote of the electors, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision."

House Select Committee on Constitutional Amendments

On October 20, 2003, Speaker Byrd appointed the Select Committee on Constitutional Amendments to assess how Florida amends its constitution and to make recommendations for possible change to the process. The Select Committee held ten public hearings and on March 15, 2004, completed its work by identifying the numerous comments and concerns regarding the existing constitutional amendment process and making its recommendations. This joint resolution reflects one of the Select Committee's recommendation. The explanation contained in the recommendation was:

Such extension of time allows more deliberation, legislative hearings and possible alternatives to be placed on the ballot. It also permits earlier termination of litigation so that ballots are finalized earlier. Without this change, any statutory process reforms must reflect the continued ability to file the signatures as late as the first week in August, creating serious logistic problems for both the election machinery and the courts.

Revision or Amendment to the Constitution

Florida's State Constitution can be amended in five ways: 1) joint legislative resolution, 2) by the revision commission, 3) citizen's initiative, 4) proposal by a constitutional convention, or 5) the taxation and budget reform commission.³ All amendments or revisions proposed by joint resolution, initiative petition, or proposal of constitutional convention must be submitted to the electors at the next general election held more than ninety days after submission to the state custodian of records.⁴ As for a proposal by the revision commission, such proposal must be filed no later than 180 days prior to the next general election.⁵ As for a proposal by the taxation and budget reform commission, such proposal must be filed no later than 180 days prior to the general election in the second year following the year in which the commission is established.⁶

Citizen's Initiative Process

The citizen's initiative provision is a self-executing constitutional amendment. However, the citizen's initiative process has and can be refined by statute or administrative rule, provided it is necessary to ensure ballot integrity.⁷ The Division of Elections must pre-approve the petition⁸ format prior to a person's or group's circulation of the petition for signatures.⁹ Once sufficient signatures are collected, the signatures are submitted to each county's supervisor of elections, who verifies the validity and registered-electors status of each signatory. Each supervisor then certifies the number of valid signatures to the Secretary of State, no later than the 91st day (about 3 months) before the general election.¹⁰ The Division of Elections then compiles and certifies the total number of verified signatures to determine whether the requisite number of signatures has been obtained.¹¹ If the requisite number of signatures is obtained, then the Secretary of State issues a certification of the ballot to the appropriate sponsoring political committee.¹²

³ See ss. 1-4 & 6, Art. XI, FLA. CONST.

⁴ See s. 5, Art. XI, FLA. CONST.

⁵ See s. 2(c), Art. XI, FLA. CONST.

⁶ See s. 6(e), Art. XI, FLA. CONST.

⁷ See *State ex rel. Citizens Proposition for Tax Relief v. Firestone*, 386 So.2d 561 (1980); *Smith v. Coalition to Reduce Class Size*, 827 So.2d 959 (2002).

⁸ A petition form is deemed a political advertisement as defined in s. 106.011(17), F.S.

⁹ According to the Department of State's Division of Elections website, the turn-around time for approval is a few days.

See <http://election.dos.state.fl.us>.

¹⁰ The deadline for the current year for filing an initiative petition is August 3, 2004.

¹¹ Rule 1S-2.010, F.A.C.

¹² *Id.*

C. SECTION DIRECTORY:

The legislation is a joint resolution proposing a constitutional amendment and, therefore, does not contain bill sections.

The joint resolution proposes an amendment to Section 3 of Article XI of the State Constitution relating to amendments or revisions to the State Constitution proposed by citizen initiative.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The joint resolution does not appear to have any impact on state revenues.

2. Expenditures:

The State Constitution requires that a proposed amendment or revision to the constitution be published in one newspaper of general circulation in each county in which a newspaper is published, once in the tenth week and once in the sixth week immediately preceding the week in which the election is held.¹³ The Division of Elections estimates that the cost of compliance would be approximately \$35,000.¹⁴

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The joint resolution does not appear to have any impact on local governments' revenues.

2. Expenditures:

The joint resolution does not appear to have any impact on local governments' expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If adopted by the citizens of Florida, this proposed constitutional amendment would not have a significant economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this joint resolution does not appear to require counties or cities to: spend funds or take action requiring the expenditure of funds; reduce the authority of counties or cities to raises revenues in the aggregate; or reduce the percentage of a state tax shared with counties or cities.

¹³ See Article XI, s. (5)(c), FLA. CONST.

¹⁴ Estimate based on 2002 advertising rates.

2. Other:

Article XI, s. 1, Fla. Const., provides that a constitutional amendment or revision may be proposed by joint resolution of the Legislature. Final passage in the House and Senate requires a three-fifths vote in each house. Passage in a committee requires a simple majority vote. If the joint resolution is passed in this session, the proposed amendment would be placed before the electorate at the 2004 general election, unless it is submitted at an earlier special election pursuant to a law enacted by an affirmative vote of three-fourths of the membership of each house of the Legislature and is limited to a single amendment or revision.¹⁵ Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, must be published in one newspaper of general circulation in each county in which a newspaper is published.¹⁶

The ballot summary must be sufficient to provide fair notice of the contents and effect of the amendment.¹⁷ Further, the ballot summary must fully advise the electorate of all consequences of the proposal¹⁸ and cannot be misleading or ambiguous.¹⁹ This ballot summary appears to meet constitutional requirements.

B. RULE-MAKING AUTHORITY:

The joint resolution does not raise the need for rules or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

¹⁵ See s. 5, Art. XI, FLA. CONST. The 2004 general election is on November 2, 2004.

¹⁶ See s. 5(c), Art. XI, FLA. CONST.

¹⁷ *Advisory Opinion to the Attorney General re: Stop Early Release of Prisoners*, 642 So.2d 724 (Fla. 1994).

¹⁸ *Armstrong v. Harris*, 773 So.2d 7 (Fla. 2000).

¹⁹ *Smith v. American Airlines, Inc.*, 606 So.2d 618 (Fla. 1992).