

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: CS/SJR 2898

SPONSOR: Ethics and Elections Committee, Senator Atwater and others

SUBJECT: Constitutional Amendment Reform

DATE: April 12, 2004

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Rubinas</u>	<u>Rubinas</u>	<u>EE</u>	<u>Fav/CS</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>GO</u>	_____
4.	_____	_____	<u>FT</u>	_____
5.	_____	_____	<u>RC</u>	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Joint Resolution 2898 provides that any proposed amendment to the State Constitution imposing an estimated cost to state government of at least \$1 million per fiscal year must:

- Impose new state taxes or fees sufficient to fund the amendment; and
- Pass by a two-thirds (2/3rds) affirmative vote of those casting ballots in the election.

If such amendment is approved by the voters, the Legislature may only appropriate funds generated by the new tax or fee to implement the measure unless the Legislature, by general law, revises the taxes and fees imposed in a manner that does not affect the level of expenditures that would be otherwise required by the amendment. The Committee Substitute for Senate Joint Resolution 2898 also provides that the Legislature may, but need not, appropriate funds in an amount greater than the expenditures required by any amendment to implement the purposes of the measure.

This joint resolution must pass the Legislature by a three-fifths (3/5ths) affirmative vote of each chamber in order to be presented to the voters.

If SJR 2898 is approved by a majority of electors voting on the issue, it will take effect on January 4, 2005. It will not impact any proposed constitutional amendment or revision that appears on the 2004 general election ballot.

This bill substantially amends Sections 3 and 5, and creates Section 8, of Article XI of the State Constitution.

II. Present Situation:

There is currently no provision in the Florida Constitution requiring a proposed constitutional amendment to include a newly-created funding mechanism (State tax or fee) based on the fiscal impact of the proposed measure. Thus, passage of most constitutional amendments and revisions have historically required a simple majority vote of the electors voting on the proposed measure.¹ If, however, the proposed constitutional amendment or revision were to create a new State tax or fee, the Constitution provides that the proposed measure must be approved by a two-thirds (2/3rds) vote of the electors voting in the election in which the proposed amendment is considered.²

III. Effect of Proposed Changes:

Senate Joint Resolution 2898, embodying the so-called “no hidden taxes” constitutional amendment reform proposal, provides that fiscally significant proposed constitutional amendments must contain a newly-created funding source.

Specifically, the joint resolution provides that any proposed amendment to the State Constitution imposing an estimated cost to state government greater than \$1 million per fiscal year must:

- Impose new state taxes or fees sufficient to fund the amendment (including the implementation costs of the new taxes or fees); and
- Pass by a two-thirds (2/3rds) affirmative vote of those casting ballots in the election.

The cost estimate is made in a manner provided by law.

If such amendment is approved by the voters, the Legislature may only appropriate funds generated by the new tax or fee to implement the measure unless the Legislature, by general law, revises the taxes and fees imposed in a manner that does not affect the level of expenditures that would be otherwise required by the amendment. The Committee Substitute for Senate Joint Resolution 2898 also provides that the Legislature may, but need not, appropriate funds in an amount greater than the expenditures required by any amendment to implement the purposes of the measure.

The joint resolution also creates an exemption from the single-subject requirement for proposed citizen initiatives that qualify and are subject to the new fund stream and passage requirement.

Finally, SJR 2898 provides that the proposed constitutional amendment cannot contain a provision exempting it from the new fund stream/passage requirement.

¹ Section 5(d), Art. XI, FLA. CONST.; Section 12(d), Art. X, FLA. CONST.

² Section 7, Art. XI, FLA. CONST.

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 upon the length of the amendment; however, the cost per amendment is estimated to be approximately \$35,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SJR 2898 is linked to Senate Bill 2890, which authorizes that the issue be placed before the voters at a special election on August 31, 2004. That bill must pass each chamber of the Legislature by a three-fourths (3/4ths) affirmative vote.

VIII. Amendments:

None.