

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 1721 PCB JU 05-07 Constitutional Revision Process/Congressional Districts
SPONSOR(S): Judiciary Committee
TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|----------------------------------|-----------|---------|----------------|
| Orig. Comm.: Judiciary Committee | 10 Y, 2 N | Thomas | Hogge |
| 1) Ethics & Elections Committee | 7 Y, 4 N | Wiggins | Mitchell |
| 2) | | | |
| 3) | | | |
| 4) | | | |
| 5) | | | |

SUMMARY ANALYSIS

HJR 1721 proposes an amendment to Article XI, section 5, of the Florida Constitution, relating to amendments or revisions to the State Constitution. The joint resolution, if approved by voters, would require that an amendment to or revision of the Florida Constitution proposed by citizen initiative, in addition to being approved by a majority of the electors voting on the amendment or revision in the state, must also be approved by at least sixty percent of the electors voting on the amendment or revision in each of at least sixty percent of the congressional districts of the state. The present threshold for approval of an amendment or revision proposed by citizen initiative, other than one proposing a new tax or fee, is a simple majority of those voting on the proposal.

The joint resolution does not appear to have any fiscal impact on state government other than those costs related to placing the joint resolution on the ballot and publishing required notices. The Department of State estimates non-recurring costs of approximately \$37,000 for FY 2006-07.

At this time there is an indeterminate fiscal impact on local government. The joint resolution will change the way Supervisors of Elections collect and report election results.

The joint resolution does not contain a specific effective date. Therefore, if adopted by the voters, it will take effect January 2, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Expand Individual Freedom – by providing a mandatory geographic distribution of votes to gain approval of an amendment or revision proposed by citizen initiative, the joint resolution could make it more difficult to amend the Florida Constitution.

B. EFFECT OF PROPOSED CHANGES:

Revision or Amendment to the State Constitution

Amendments to Florida's Constitution can be proposed by five distinct methods: 1) joint legislative resolution, 2) the Constitutional Revision Commission, 3) citizen's initiative, 4) a constitutional convention, or 5) the Taxation and Budget Reform Commission.¹ Depending on the method, all proposed amendments or revisions to the constitution must be submitted to the electors at the next general election 1) held more than ninety days after the joint resolution, 2) 180 days after the report of the Constitutional Revision Commission or Taxation Budget Reform Commission, or 3) for citizen initiatives, if all the required signatures were submitted prior to February 1 of the year in which the general election is to be held.²

Article XI, section 3, of the Florida Constitution provides for the initiative process whereby citizens may propose amendments to the Constitution. This section specifically requires a geographic distribution of gathered signatures in order to place a proposal on the ballot.³ There are presently twenty-five congressional districts in Florida.

A proposed constitutional amendment or revision, other than one proposing a new tax or fee, requires approval of a majority of electors voting on the proposal.⁴ A new tax or fee proposed by constitutional amendment or revision requires approval of at least two-thirds of those voting in the election in which such amendment is considered.⁵

There are presently active petition drives underway to gather the signatures required to add 48 proposals to the Florida Constitution. Some of these petitions have been active since the 1990's. These proposals range from requiring legislators to pass the Florida Comprehensive Assessment Test, abolishing alimony, providing comprehensive health care for all citizens, addressing sales tax exemptions, lowering the voting age to sixteen, repealing the class size amendment, and Yari-Professor Fun-Der-Full Lawrence's legalization of marijuana.⁶

Effect of Joint Resolution

The joint resolution amends Article XI, section 5(e), of the Florida Constitution. The amendment, if approved by the voters, would require that an amendment to or revision of the Florida Constitution proposed by citizen initiative, in addition to being approved by a majority of the electors voting on the

¹ See Art. XI, ss. 1-4, and 6, Fla. Const.

² See Art. XI, ss. 2, 5, and 6, Fla. Const.

³ The initiative process "may be invoked by filing with the custodian of state records 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." Art XI, s. 3, Fla. Const.

⁴ See Art. XI, s. 5(e), Fla. Const.

⁵ See Art. XI, s. 7, Fla. Const.

⁶ See <http://election.dos.state.fl.us/initiatives/initiativelist.asp> for a current listing of active petitions.

amendment or revision in the state, must also be approved by at least sixty percent of the electors voting on the amendment or revision in each of at least sixty percent of the congressional districts of the state. Because voting statistics are kept on a county-by-county basis, and not statewide or by congressional districts, there is not a readily available method of calculating how past amendments or revisions proposed by citizen initiative would have fared had this joint resolution been in effect at the time they were adopted. There are twenty-five congressional districts in Florida.

If enacted, the proposed constitutional amendment will appear on the November 2006 ballot as follows:

TO AMEND OR REVISE STATE CONSTITUTION BY INITIATIVE

Proposes an amendment to Section 5 of Article XI of the State Constitution to require that an amendment to or revision of the State Constitution proposed by initiative, in addition to being approved by a majority of the electors voting on the amendment or revision in the state, must also be approved by at least 60 percent of the electors voting on the proposal in each of at least 60 percent of the congressional districts of the state.

C. SECTION DIRECTORY:

The legislation is a joint resolution proposing a constitutional amendment and, therefore, does not contain bill sections. The joint resolution proposes to amend Article XI, section 5(e), of the Florida Constitution relating to amendments and revisions.

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:

Non-Recurring

FY 2006-07

Department Of State, Division of Elections

Publication Costs

\$37,000 (General Revenue)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

See D: FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Many proposed amendments or revisions to the Florida Constitution are directed at private activities or particular industries. When approved by voters, such proposals may impact the private sector, both positively and negatively. While this proposal does not have a direct economic impact on the private

sector, requiring proposed constitutional amendments and revisions to have broader public approval may affect the likelihood of success of such future proposals.

D. FISCAL COMMENTS:

At this time there is an indeterminate fiscal impact on local government. The joint resolution will change the way election supervisors collect and report election results.

The Florida Constitution requires publication of a proposed amendment or revision to the constitution 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.⁷ The Division of Elections with the Department of State estimates that the non-recurring cost of compliance would be approximately \$37,000 in FY 2006-07.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision relates only to general bills and therefore would not apply to this joint resolution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The joint resolution does not raise the need for rules or rulemaking authority or direct an agency to adopt rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Amendments or revisions to the Florida Constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the Legislature.⁸ Passage in a committee requires a simple majority vote. If the joint resolution is passed in this session, the proposed amendment would be placed on the ballot for the 2006 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.⁹ 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.¹⁰

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

An amendment was adopted to this PCB in the Judiciary Committee on March 10, 2005. The amended version of the PCB differs from the original PCB in that the amended PCB provides that a proposed amendment or revision to the Florida Constitution proposed by citizen initiative, in addition to being approved by a majority of the electors voting on the amendment or revision in the state, must also be approved by at least sixty percent of the electors voting on the amendment or revision in each of at

⁷ See Art. XI, s. 5(c), Fla. Const.

⁸ See Art. XI, s. 1, Fla. Const.

⁹ See Art. XI, s. 5(a), Fla. Const. The 2006 general election is on November 7, 2006.

¹⁰ See Art. XI, s. 5(c), Fla. Const.

least sixty percent of the congressional districts of the state. This analysis is drawn to the amended PCB.