

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 1723 PCB JU 05-04 Constitutional Revision Process/Voting – Sixty Percent

Approval

SPONSOR(S): Judiciary Committee

TIED BILLS:

IDEN./SIM. BILLS: SB 6

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Judiciary Committee	11 Y, 2 N	Thomas	Hogge
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This proposed joint resolution changes the voting threshold necessary for the adoption of a constitutional amendment or revision to the Florida Constitution. The joint resolution, if approved by voters, would require at least sixty percent of those electors voting in the election in which such proposal was considered to approve any future amendment or revision. The joint resolution applies to any proposed constitutional amendment or revision, regardless of the source of the proposal. The present threshold for approval of a proposed amendment or revision, other than one proposing a new tax or fee, is a simple majority of those voting on the proposal.

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

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 increasing the required vote to gain approval of a proposed amendment or revision, the joint resolution, if approved by the voters, would make it more difficult to amend the Florida Constitution.

B. EFFECT OF PROPOSED CHANGES:

Revision or Amendment to the 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

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.³ 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.⁴ Below is a list of the approval percentages of some well known amendments adopted in the past:

TITLE	SOURCE	YEAR	APPROVAL PERCENTAGE
Sunshine Amendment	Initiative	1976	79.3%
Right to Privacy	Legislature	1980	60.6%
State Operated Lotteries	Initiative	1986	63.6%
3-day Waiting Period for Handgun Purchases	Legislature	1990	84.5%
Term Limits	Initiative	1992	76.8%
Taxpayers' Bill of Rights	Tax/Budget Commission	1992	90.0%
Restructuring of State Cabinet	Revision Commission	1998	55.5%
Revision 7 – Funding of State Courts	Revision Commission	1998	56.9%
High Speed Rail	Initiative	2000	52.7%
Class Size	Initiative	2002	52.4%
Confinement of Pigs	Initiative	2002	54.8%
Voluntary Pre-Kindergarten	Initiative	2002	59.2%
Dade and Broward – Slot Machines	Initiative	2004	50.8%
Minimum Wage	Initiative	2004	71.3%
Parental Notification - Minor's Termination of Pregnancy	Legislature	2004	64.7%

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

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

³ See Art. XI, s. 5(e), Fla. Const.

⁴ See Art. XI, s. 7, Fla. Const.

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.⁵

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 all amendments or revisions, regardless of the method by which the amendment or revision was proposed, be approved by at least sixty percent of those voting in the election in which such proposal was considered. The proposed change would not affect the more specific requirement of Article XI, section 7, of the Florida Constitution that requires a two-thirds vote for new taxes or fees.

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:

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

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.

⁵ See <http://election.dos.state.fl.us/initiatives/initiativelist.asp> for a current listing of active petitions.

D. FISCAL COMMENTS:

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.⁶ 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.⁷ 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 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.⁸ 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.⁹

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 would require at least sixty percent approval of those electors voting in the election in which such proposal was considered. This analysis is drawn to the amended PCB.

⁶ See Art. XI, s. 5(c), Fla. Const.

⁷ See Art. XI, s. 1, Fla. Const.

⁸ See Art. XI, s. 5(a), Fla. Const. The 2006 general election is on November 7, 2006.

⁹ See Art. XI, s. 5(c), Fla. Const.