

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.)

Prepared By: Judiciary Committee

BILL: CS/CS/SB 2022

SPONSOR: Judiciary Committee, Ethics and Elections Committee, and Senator Posey

SUBJECT: Constitutional Amendments

DATE: April 29, 2005

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|---------------|
| 1. | Rubinas | Rubinas | EE | Fav/CS |
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| 6. | | | | |

I. Summary:

Committee Substitute for Committee Substitute for Senate Bill 2022 implements Constitutional Amendment 2, passed in November 2004, requiring initiative petitions to be filed with Secretary of State by February 1 of the year of a general election. The advisory opinion that must be issued by the Supreme Court must now be issued by April 1 of the year in which the proposed amendment is to appear on the ballot. The committee substitute removes the requirement that the Supreme Court remand financial impact statements that are not in compliance with s. 100.371, F.S., and allows these statements to be challenged by a sponsor or elector in circuit court.

The proposed language clarifies what information must be included in a financial impact statement. If a financial impact statement must be redrafted as the result of a court decision, the redraft must be complete by April 1 of the year in which the proposed amendment is to appear on the ballot, or a standard statement will appear on the ballot, stating that the impact has not been determined at this time.

The committee substitute amends sections 16.061 and 100.371, Florida Statutes.

II. Present Situation:

Prior to the passage of Amendment 2 in 2004, initiative petitions were required to be filed with the Secretary of State no sooner than 91 days before a general election.¹ The Secretary of State was then required to submit the petition to the Attorney General, who is required to request,

¹ Section 100.371(1), F.S.

within 30 days, an advisory opinion from the Supreme Court on the compliance of the text of the proposed amendment or revision with general law.²

In 2004, 68.4 percent of Florida voters approved Amendment 2, which requires that initiative petitions must be filed with the Secretary of State by February 1 of the year of a general election, and requires the Florida Supreme Court to render an advisory opinion addressing the validity of the initiative petition by April 1 of that year.³

III. Effect of Proposed Changes:

Committee Substitute for Committee Substitute for Senate Bill 2022 implements Constitutional Amendment 2, passed in November 2004, requiring initiative petitions to be filed with Secretary of State by February 1 of the year of a general election.

Section 1. Initiative petitions. [amending s. 16.061, F.S.]

The committee substitute provides a deadline for the Supreme Court to render an advisory opinion on whether a proposed revision or amendment to the constitution satisfies s. 3, Art. XI, of the Florida Constitution. Currently, the law requires that the Attorney General petition the Supreme Court for this advisory opinion within 30 days of receiving a proposed revision by initiative petition from the Secretary of State, but there is no time restriction provided to the court. The proposed legislation would require the court to render an opinion by April 1 of the year in which the general election is to be held where the proposed initiative would appear on the ballot; if the court has not issued an opinion by April 1, the initiative petition would be deemed valid and approved for placement on the ballot.

The proposed revision to s. 16.061, F.S., removes any reference to the Supreme Court finding a fiscal impact statement not in accordance with s. 100.371, F.S., and therefore any reference to the court remanding the statement to the Financial Impact Estimating Conference (the conference) for redrafting.

Section 2. Initiatives; procedure for placement on ballot. [amending s. 100.371, F.S.]

The proposed legislation provides that an initiative petition must be filed with the Secretary of State by February 1 of the year in which the general election is to be held if the amendment proposed by initiative is to be placed on the ballot for the general election. This section also deletes language in conflict with the Constitutional Amendment 2, which requires initiative petitions to be filed with the Secretary of State by February 1 of the year of the general election.

The committee substitute provides that the Financial Impact Estimating Conference must complete an analysis and statement of the probable financial impact of an amendment within 30 days after the conference a proposed initiative petition if it receives the petition after January 1 of the year in which the proposed amendment will appear on the ballot. The impact statement to be issued by the conference must now provide the cost of “full implementation,” including costs resulting from enactment, revision, or repeal of associated or implementing legislation by state

² Section 16.061, F.S.

³ Florida Division of Elections.

and local governments, and from the exercise of any expanded authority or discretion that would be granted to any entity by the passage and implementation of the proposed amendment.

The proposed legislation would also replace the Attorney General with the Secretary of State as the governmental official to whom the conference must immediately submit the impact estimate upon its completion. A sponsor or elector may challenge the conference's impact statement in the Second Judicial Circuit Court within 30 days of its submission to the secretary. The court must decide the case before April 1 of the year in which the general election is to be held, or a standard statement, that the financial impact cannot be determined at this time, will appear on the ballot. The proposed revisions remove references to the Supreme Court rejecting impact statements not in compliance with this section, conforming this section to the proposed revision to s. 16.061(3), F.S., which removes references to the Supreme Court remanding impact statements that are not in conformity with s. 100.371, F.S.

Section 3.

The committee substitute provides an effective date of upon becoming a law.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

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