

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: Ethics and Elections Committee

BILL: SJR 4

SPONSOR: Senator King and others

SUBJECT: Constitutional Amendments; Initiatives Filter

DATE: March 11, 2005

REVISED: 03/15/05

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rubinas	Rubinas	EE	Fav/1 amendment
2.			JU	
3.			RC	
4.				
5.				
6.				

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

Senate Joint Resolution 4 limits the scope of constitutional amendments and revisions that can be placed on the ballot by initiative to include only those proposed measures that:

- Alter, amend, or repeal an existing article or amendment to the Constitution;
- Address a basic or fundamental right of a citizen of Florida; or,
- Change a basic structure of state government as established in Articles II through V of the Constitution.

The joint resolution, if passed by a 3/5ths vote of each chamber of the Legislature, will be voted on at the general election in November 2006.¹ If approved by a majority of those voting on the measure, the new initiative filter will take effect on January 2, 2007; it will not impact the 2006 proposed amendments and revisions.

This joint resolution substantially amends Article XI, section 3 of the Florida Constitution.

¹ A single-subject amendment to the Constitution, however, can be submitted to the voters in a special election, provided each house of the Legislature so requires by a law enacted by an affirmative three-fourths vote. Art. XI, section 5(a), Fla. Const.

II. Present Situation:

The Florida Supreme Court currently reviews initiatives to determine (1) whether the petition satisfies the single-subject requirement of the Florida Constitution; and (2) whether the ballot title and summary are printed in clear and unambiguous language, as required by statute.² There is no limitation or judicial review as to the *subject matter* of a proposed amendment or revision by initiative.

The Supreme Court's review of the initiative commonly known as the "pregnant pig" amendment, however, generated the following plea from three of the justices for subject-matter review of initiatives:

The technical requirements, such as the single-subject rule and the requirements of section 101.161(1), Florida Statutes (1991), appear insufficient to prevent abuse of the amendment process. At this juncture...I merely express my thought that some issues are better suited as legislatively enacted statutes than as constitutional amendments. It is my hope that the next [Constitutional] Revision Commission will have the opportunity to establish some criteria regarding the subject matter of initiatives that will preserve the constitution as a document of fundamental laws, while still preserving the popular power of the people...Unless changes are made to the citizen's initiative process, this Court has no choice but to restrict its review solely to whether the proposed constitutional amendment comports with the single subject and ballot summary requirements.³

III. Effect of Proposed Changes:

Senate Joint Resolution 4 limits the scope of initiatives to include only those proposed amendments or revisions that:

- Alter, amend, or repeal an existing article or amendment to the Constitution;
- Address a basic or fundamental right of a citizen of Florida; or,
- Change a basic structure of state government as established in Articles II through V of the Constitution.

The Florida Supreme Court would decide whether a proposed initiative meets one of these criteria in conjunction with the *single subject* determination.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

² [Advisory Opinion to the Atty. Gen. re: Voluntary Universal Pre-Kindergarten Educ., 824 So.2d 161 \(2002\).](#)

³ [Advisory Opinion to the Attorney General Re Limiting Cruel and Inhumane Confinement of Pigs During Pregnancy, 815 So.2d 597 \(Fla. 2002\)](#) (Pariente, J., concurring, joined by Anstead and Lewis, JJ.)

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 \$37,000.

VI. **Technical Deficiencies:**

On page 1, line 1, the joint resolution number needs to be inserted.

VII. **Related Issues:**

The identical language in this joint resolution passed the Senate last year in CS/SJR 2396 (1st engrossed) by a margin of 35-4. The bill ultimately died on the House calendar.

This joint resolution is similar to recommendations of the 2004 Senate Select Committee on Constitutional Amendment Reform.

VIII. **Summary of Amendments:**

Barcode 270996 by Ethics and Elections:

Amendment inserted the number of the joint resolution.

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