

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: SJR 2388

INTRODUCER: Senator Webster

SUBJECT: Amendment to State Constitution

DATE: April 18, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Maclure	Maclure	JU	Pre-meeting
2.	_____	_____	GO	_____
3.	_____	_____	WM	_____
4.	_____	_____	RC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This Senate joint resolution expresses the intent of the Legislature to submit to the electors of the state a proposed amendment to the State Constitution.

II. Present Situation:

Under s. 1, art. XI of the State Constitution, amendments to the constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the Legislature. The proposed amendment must then be submitted to the electors at the next general election held more than 90 days after the joint resolution is filed with the custodian of state records, unless it is submitted at an earlier special election pursuant to a law enacted by affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment or revision.¹

The Supreme Court has typically applied a presumption of validity to amendments that are proposed by the Legislature.²

Section 101.161(1), F.S., requires that whenever a constitutional amendment is submitted to the vote of the people, the substance of the amendment must be printed in clear and unambiguous language on the ballot. The wording of the substance of the amendment and the ballot title to appear on the ballot must be embodied in the joint resolution.³

¹ Section 5(a), art. XI, Fla. Const.

² Thomas Rutherford, *The People Drunk or the People Sober? Direct Democracy Meets the Supreme Court of Florida*, 15 St. Thomas L. Rev. 61, 75 (2002); see *Pope v. Gray*, 104 So. 2d 841, 842 (Fla. 1958).

³ Section 101.161(1), F.S.

III. Effect of Proposed Changes:

This Senate joint resolution expresses the intent of the Legislature to submit to the electors of the state a proposed amendment to the State Constitution.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 1, art. XI of the State Constitution provides that the Legislature may propose to amend one or more articles by joint resolution agreed to by three-fifths of the membership of each house of the Legislature. If the amendment is approved, the default provision is that a proposed amendment would be submitted to the electors at the next general election more than 90 days after the proposed amendment is filed.⁴ However, the Legislature can move up the date of submission to the electors of a single amendment by enacting a law providing for submission at an earlier special election more than 90 days after the proposed amendment is filed.⁵

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Florida Department of State estimates that the cost of advertising a proposed constitutional amendment, as required by s. 5(d), art. XI of the State Constitution,

⁴ Article XI, s. 5(a), Fla. Const.

⁵ *Id.*

statewide is \$50,000. If the ballot summary is greater than 75 words or the constitutional amendment is lengthy, the cost estimate could be more.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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