

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: Education Pre-K - 12 Committee

BILL: CS/SJR 388

INTRODUCER: Education Pre-K - 12 Committee and Senator Wilson

SUBJECT: Commissioner of Education/Cabinet

DATE: February 21, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Matthews</u>	<u>ED</u>	<u>Fav/CS</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>EA</u>	_____
4.	_____	_____	<u>RC</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This Joint Resolution restores the Commissioner of Education as an elected member of the cabinet with supervision of the free public education system in a manner prescribed by law.

This bill substantially amends Section 4 of Article IV and Section 2 of Article IX of the State Constitution.

II. Present Situation:

Cabinet Membership

Section 4 of Article IV of the State Constitution provides for the following cabinet positions:

- Attorney General;
- Chief Financial Officer; and
- Commissioner of Agriculture.

Commissioner of Education

Prior to 2003, the Commissioner of Education held a post on the state cabinet. In 1998, Florida voters approved a ballot initiative, *Restructuring the State Cabinet*, amending Section 2 of Article IX of the State Constitution, effective January 7, 2003. This initiative provided for a number of restructuring measures, to include the removal of the Commissioner of Education as a cabinet post.¹

¹ Ballot Initiative Number 8, Passed Nov. 3, 1998.

Alternatively, the State Board of Education appoints the Commissioner of Education.² The Commissioner of Education serves as chief executive officer of the K-20 education system and operates in a support capacity to the State Board of Education.³ Section 2 of Article IX of the State Constitution additionally grants the State Board of Education supervision over the system of free public education as provided by law.

Joint Resolutions to Amend the State Constitution

Under Section 1, Article XI, of the State Constitution, constitutional amendments 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. Submission of the amendment at an earlier special election requires both affirmative vote of three-fourths of the membership of each house of the Legislature and limitation to a single amendment or revision, pursuant to Section 5 of Article XI of the State Constitution.

Regarding the standard of review for amendments that are proposed by the Legislature, the Florida Supreme Court has typically applied a presumption of validity to these amendments.⁴

Paragraph (e) of Section 5, Article XI, of the State Constitution, requires 60 percent voter approval for a constitutional amendment to pass.

III. Effect of Proposed Changes:

This Senate Joint Resolution provides for a change in the selection of the Commissioner of Education, from a State Board of Education appointment to an elected cabinet position. This bill provides that the Commissioner of Education is to supervise the free public education system in the manner prescribed by law.

As required by s. 101.161, F.S., this bill provides a ballot statement, including a ballot title.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

² Section 2, Article IX of the State Constitution.

³ s. 1000.03(2)(c), F.S.

⁴ Thomas R. Rutherford, *The People Drunk Or The People Sober? Direct Democracy Meets the Supreme Court of Florida*, 15 STTLR 61, 75 (2002).

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 2, Article IX, State Constitution

This provision grants the State Board of Education supervision of free public education in the manner prescribed by law. The joint resolution provides that the Commissioner of Education supervises the free public education system in a manner prescribed by law. Therefore, statutory authority would govern the relationship between the Commissioner and the State Board of Education regarding the supervision of free public education.

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.

VIII. Summary of Amendments:

None.

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