

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Background

Article IV of the State Constitution establishes the executive branch of state government and provides that the "...supreme executive power shall be vested in a governor." Section 4 of Article IV of the State Constitution subdivides the executive power by providing for three elected cabinet officers, an Attorney General, a Chief Financial Officer, and the Commissioner of Agriculture.

Prior to 2003, the six elected members on the state cabinet were the following: 1) Attorney General; 2) Commissioner of Agriculture; 3) Comptroller; 4) Secretary of State; 5) Treasurer; and 6) Commissioner of Education. In 1998, Florida voters approved a ballot initiative that was effective January 7, 2003. This initiative retained the Commissioner of Agriculture and the Attorney General, merged the Treasurer and Comptroller into one state cabinet office called the "Chief Financial Officer," and removed the Secretary of State and the Commissioner of Education from the state cabinet.¹

Article IX, s. 2 of the State Constitution establishes the State Board of Education and provides it with the power to supervise the system of free public education as provided by law. The board consists of seven members appointed by the Governor to staggered 4-year terms, subject to confirmation by the Senate. The board is required to appoint a commissioner of education.

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.² Additionally, the State Constitution grants the State Board of Education supervision over the system of free public education as provided by law.³

Effects of Proposed Changes

The joint resolution would place before the electorate the option to amend the State Constitution so that the Commissioner of Education would become an elected member of the state cabinet. The commissioner's duties would be to supervise the public education system in the manner prescribed by law.

The joint resolution creates section 27 of Article XII of the State Constitution. If approved⁴, the provision would take effect January 4, 2011, with the office of the Commissioner of Education filled initially at the 2010 general election.

As required by s. 101.161, F.S., the joint resolution provides a ballot statement, including a ballot title.

¹ Ballot Initiative Number 8, Passed Nov. 2, 1998.

² Section 1000.03(2)(c), F.S.

³ Section 2, Article IX of the State Constitution.

⁴ Paragraph (e) of s. 5, Art. XI, of the State Constitution, requires 60 percent voter approval for a constitutional amendment to pass.

C. SECTION DIRECTORY:

The legislation is a joint resolution proposing a constitutional amendment and, therefore, does not contain bill sections.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The joint resolution does not appear to have a fiscal impact on state revenues.

2. Expenditures:

The Division of Elections with the Department of State estimates that the non-recurring cost of compliance with the publication requirements would be approximately \$60,000 in 2007-2008 fiscal year.

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:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The municipality/county mandates provision relates only to general bills and therefore would not apply to this joint resolution.

2. Other:

Article XI, s.1, of the Florida Constitution provides for proposed changes to the Constitution originating with the Legislature:

SECTION 1: Proposal by legislature. – Amendment of a section or revision of one or more articles, or the whole, of this constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the legislature. The full

text of the joint resolution and the vote of each member voting shall be entered on the journal of each house.

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.⁵ Submission at an earlier special election requires both affirmative vote of three-fourths of the membership of each house of the Legislature and is limited to a single amendment or revision.⁶

The Florida Constitution provides that if the proposed amendment or revision is approved by the vote of electors, it is effective as an amendment to or revision of the Constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.⁷

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

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:

This is a joint resolution which requires passage by a 3/5 vote of each chamber.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

⁵ See Art. XI, s. 5(c), Fla. Const.

⁶ See Art. XI, s.5(a), Fla. Const.

⁷ See Art. XI, s.5(e), Fla. Const.