



248738

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2009	.	
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The Committee on Judiciary (Peaden) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 86.112, Florida Statutes, is created to
read:

86.112 Circuit court jurisdiction.—

(1) The circuit court has jurisdiction to entertain actions
for declaratory relief for cases brought to determine whether
provisions of the State Constitution are unconstitutional under
the United States Constitution.

(a) Notwithstanding s. 86.091, any party seeking



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13 declaratory relief under this section shall name the Secretary
14 of State as the proper defendant.

15 (b) An action for declaratory relief under this section
16 must be brought in Leon County.

17 (c) If a provision of the State Constitution is found to be
18 unconstitutional, the circuit court shall enter an order
19 directing the Secretary of State to remove that provision from
20 the State Constitution.

21 (d) If the circuit court concludes, based on a showing of
22 clear and convincing evidence, that there was voter confusion
23 when adopting the unconstitutional provision, the court may not
24 apply principles of severability and shall order that any other
25 provision adopted along with the unconstitutional provision be
26 removed from the State Constitution.

27 (2) If such a request is made a part of the declaratory
28 relief sought under subsection (1), the circuit court has the
29 jurisdiction to:

30 (a) Declare redundant any portion of the State Constitution
31 the sole purpose of which is to provide statutory language and,
32 on a finding of redundancy, enter an order directing the
33 Secretary of State to remove the redundant material; or

34 (b) Enter an order directing the Secretary of State to
35 remove from the State Constitution any provisions previously
36 deemed unconstitutional.

37 (3) An appeal from the circuit court's order under this
38 section may be taken by any adversely affected party pursuant to
39 Florida Rule of Appellate Procedure 9.110.

40 Section 2. This act shall take effect upon becoming a law.
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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

 Delete everything before the enacting clause
and insert:

 A bill to be entitled

 An act relating to the jurisdiction of the circuit court;
creating s. 86.112, F.S.; providing that the circuit court has
jurisdiction to entertain an action for declaratory judgment to
provide relief when the State Constitution is found
unconstitutional under the United States Constitution; providing
venue and party requirements; providing for the circuit court to
issue an order directing the Secretary of State to remove
unconstitutional provisions from the State Constitution;
providing for the circuit court to order the removal of certain
constitutional provisions if there is a showing that voters were
confused at the adoption of the constitutional provision;
authorizing the circuit court to declare certain provisions of
the State Constitution redundant and to direct the Secretary of
State to remove the redundant provisions; authorizing the
circuit court to order the removal of provisions from the State
Constitution previously deemed unconstitutional; providing for
appellate review; providing an effective date.