

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1053 Special Election

**SPONSOR(S):** Transportation & Economic Development Appropriations Subcommittee, Dorworth

**TIED BILLS:** CS/HJR 381, HB 1163 **IDEN./SIM. BILLS:** SB 1564

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	13 Y, 2 N	Nelson	Hoagland
2) Transportation & Economic Development Appropriations Subcommittee	8 Y, 5 N, As CS	Rayman	Davis
3) Economic Affairs Committee	11 Y, 5 N	Nelson	Tinker

### SUMMARY ANALYSIS

The CS for HB 1053 provides for a special election to be held on January 31, 2012, the scheduled date of Florida's presidential preference primary. At that election, amendments to the State Constitution proposed in HJR 381 or SJR 658, reducing the limitation on annual ad valorem assessment increases applicable to non-homestead real property and providing an additional homestead exemption for new owners of homestead property, will be submitted to the electors for approval or rejection.

The sum of \$400,000 in nonrecurring funds from the General Revenue Fund is appropriated to the Department of State for Fiscal Year 2011-12 for the purpose of advertising these proposed constitutional amendments.

This bill creates unnumbered sections of Florida law, and takes effect upon becoming a law if enacted by a vote of at least three-fourths of the membership of each house of the Legislature, and if HJR 381 or SJR 658 is adopted by both houses.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Amendments to the Florida Constitution

Section 5(a), Art. XI of the State Constitution, provides:

A proposed amendment to or revision of this [state] constitution, or any part of it, shall be submitted to the electors at the next general election held more than ninety days after the joint resolution or report of revision commission, constitutional convention or taxation and budget reform commission proposing it is filed with the custodian of state records, *unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing. (emphasis added)*

Section 5(d), Art. XI of the State Constitution, requires that the proposed amendment, with notice of the date it will be submitted to the electors, be published in one newspaper of general circulation in each Florida county where a newspaper is published once in the 10th week and once in the sixth week immediately preceding the week in which the election is held.

##### Florida General Elections

Pursuant to s. 97.021(15), F.S., “general election” means an election held on the first Tuesday after the first Monday in November in even-numbered years, for the purpose of filling national, state, county and district offices and for voting on constitutional amendments not otherwise provided for by law. The next Florida general election is scheduled for November 6, 2012.

##### Florida Presidential Primaries

Florida’s upcoming presidential preference primary is scheduled to be held on January 31, 2012. Section 103.101(1), F.S., currently requires that each political party other than a minor political party, on the last Tuesday in January in each year the number of which is a multiple of four, elect one person as the candidate for nomination of such party for President of the United States or select delegates to the national nominating convention, as provided by party rule.<sup>1</sup>

##### **Effect of Proposed Changes**

The CS for HB 1053 provides for a special election pursuant to s. 5, Art. XI of the State Constitution, on the date of Florida’s presidential preference primary, which will be conducted concurrent with other statewide elections held on that date, if any. At that election, amendments to the State Constitution proposed in HJR 381 or SJR 658, reducing the limitation on annual assessment increases applicable to non-homestead real property and providing an additional homestead exemption for new owners of homestead property, will be submitted to the Florida electors for approval or rejection.

This bill specifies that publication of the notice for the proposed constitutional amendment will be in accordance with s. 5, Art. XI of the State Constitution. A sum of \$400,000 in nonrecurring funds from

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<sup>1</sup> Section 3 of ch. 2007-30, L.O.F., changed Florida’s presidential preference primary from the second Tuesday in March.

the General Revenue Fund is appropriated to the Department of State for Fiscal Year 2011-12 for the purpose of advertising the constitutional amendments.

This act takes effect upon becoming a law if enacted by a vote of at least three-fourths of the membership of each house of the Legislature, and if HJR 381 or SJR 658 is adopted by both houses of the Legislature.

**B. SECTION DIRECTORY:**

Section 1: Provides for a special election on the date of the presidential preference primary.

Section 2: Provides for a publication of notice.

Section 3: Provides for an appropriation.

Section 4: Provides for an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The bill appropriates the sum of \$400,000 in nonrecurring funds from the General Revenue Fund to the Department of State for Fiscal Year 2011-12 for the purpose of advertising the constitutional amendment. The department estimates the full publication costs for advertising CS/CS HJR 381 to be \$399,617.10.<sup>2</sup> Whether this sum is sufficient will depend on the final wording of the joint resolution and the language that is to be placed on the ballot.<sup>3</sup>

The department normally is the defendant in lawsuits challenging proposed amendments to the Florida Constitution. The cost for defending these lawsuits has ranged from \$10,000 to \$150,000, depending on a number of variables.<sup>4</sup>

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

Supervisors of elections may incur minimal costs from adding one additional issue to the ballot.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

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<sup>2</sup> Department of State, *House Joint Resolution 381CS/CS (2011) Fiscal Analysis* (March 31, 2011).

<sup>3</sup> Department of State, *Senate Joint Resolution 1564 (2011) Fiscal Analysis* (March 9, 2011).

<sup>4</sup> Department of State, *House Joint Resolution 439 (2011) Fiscal Analysis* (February 3, 2011).

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Election laws are exempt from the requirements of s. 18, Art. VII of the State Constitution.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

##### **Drafting Issues**

None.

##### **Other Comments**

Two bills have been filed in the 2011 Legislative Session (HB 695 and SB 860) that change Florida's presidential preference primary to the first Tuesday in March. Pursuant to s.196.011, F.S., the homestead exemption filing deadline is March 1. If the presidential preference primary is moved to a date after this deadline, and the proposed constitutional amendment passes, persons eligible for the additional homestead exception will not have the opportunity to file until March 1 of the following year.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 6, 2011, the Transportation & Economic Development Appropriations Subcommittee reported the bill favorably with one amendment as a Committee Substitute. The amendment adjusted the appropriation to \$400,000 in nonrecurring funds from the General Revenue Fund to the Department of State for Fiscal Year 2011-12 for the purpose of advertising the constitutional amendment. The bill analysis is drafted to the Committee Substitute.