

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Judiciary Committee

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BILL: SJR 108

INTRODUCER: Senator Negron

SUBJECT: Constitution Revision Commission and Taxation and Budget Reform Commission

DATE: January 30, 2012

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Connor	Cibula	JU	<b>Pre-meeting</b>
2.	_____	_____	BC	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

This joint resolution repeals provisions in the State Constitution providing for a Constitution Revision Commission and a Taxation and Budget Reform Commission, both of which are scheduled to convene every 20 years and have the authority to examine the State Constitution and directly submit constitutional amendments for the consideration of the voters.

This joint resolution substantially amends article II, s. 5 and article XI, s. 5 of the Florida Constitution.

This joint resolution repeals article XI, ss. 2 and 6 of the Florida Constitution.

**II. Present Situation:**

In Florida, there are five processes for amending the State Constitution: proposal by the Legislature of a joint resolution agreed to by three-fifths of the membership of each house,<sup>1</sup> which is the most common method;<sup>2</sup> proposal by the Constitutional Revision Commission, which meets every 20 years;<sup>3</sup> proposal by citizen initiative;<sup>4</sup> a constitutional convention;<sup>5</sup> and proposal of the Taxation and Budget Reform Commission.<sup>6</sup>

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<sup>1</sup> FLA. CONST. art. XI, s. 1.

<sup>2</sup> Talbot D'Alemberte, THE FLORIDA STATE CONSTITUTION: A REFERENCE GUIDE, 146 (1991).

<sup>3</sup> FLA. CONST. art. XI, s. 2.

<sup>4</sup> FLA. CONST. art. XI, s. 3.

<sup>5</sup> FLA. CONST. art. XI, s. 4.

<sup>6</sup> FLA. CONST. art. XI, s. 6.

### Constitution Revision Commission

The Constitution Revision Commission (CRC or commission) was established in the 1968 revision of the Florida Constitution.<sup>7</sup> The CRC meets every twenty years and is currently scheduled to meet before the convening of the 2017 regular session.<sup>8</sup> The CRC has a total of 37 members, which include the Attorney General, 15 members selected by the Governor, 9 members selected by the Speaker of the House, 9 members selected by the President of the Senate, and 3 members selected by the Chief Justice of the Supreme Court.<sup>9</sup> When the organization and makeup of the commission was debated in the process of drafting the 1968 Florida Constitution, one delegate suggested mandating the existence of the CRC in the constitution, but leaving the composition of its members to be prescribed by law.<sup>10</sup> This idea was rejected, because the purpose of creating the CRC as described at the time was to “bypass the Legislature” and have the “[c]ommission go into operation without the necessity of law.”<sup>11</sup>

Each CRC convenes at the call of the chair, whom the Governor designates, and must adopt rules of procedure, examine the State Constitution, hold public hearings, and file proposed amendments to the constitution, if any, with the custodian the Secretary of State.<sup>12</sup> Florida’s Constitution Revision Commission is unique among mechanisms in other states in that it has the ability to submit proposed constitutional amendments directly to the people for consideration.<sup>13</sup> There was an amendment to abolish the CRC in 1980, which was defeated by a vote of 1,512,682 (56.5%) to 1,164,824 (43.5%).<sup>14</sup>

### Taxation and Budget Reform Commission

The Taxation and Budget Reform Commission (TBRC or commission) was created in 1988<sup>15</sup> for the purpose of examining “the tax structure and revenue needs of the State with an aim toward recommending equitable ways to fund current and future growth needs of the State.”<sup>16</sup> The TBRC was patterned after the Constitution Revision Commission.<sup>17</sup> The TBRC is scheduled to meet every 20 years. The TBRC is composed of 25 voting members as follows: 11 members selected by the Governor; 7 members selected by the President of the Senate; and 7 members selected by the Speaker of the House of Representatives. The voting members may not include a person who is a member of the Legislature at the time of appointment. However, the TBRC also includes 4 ex-officio non-voting members who must be members of the Legislature at the time of

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<sup>7</sup> D’Alemberte, *supra* note 2, at 147.

<sup>8</sup> FLA. CONST. art. XI, s. 2(a).

<sup>9</sup> FLA. CONST. art. XI, s. 2(a)(1)-(4).

<sup>10</sup> *Debate on Amendment 198*, Constitutional Revision Commission 181 (Dec. 15, 1966) (statement by Mr. Askew) (on file with the Senate Committee on Judiciary).

<sup>11</sup> *Debate, supra* note 11 at 182 (statement by Chairman Smith) (delegates also debated whether the number of lawyers permitted to serve on the commission should be limited).

<sup>12</sup> FLA. CONST. art. XI, s. 2(b)-(c).

<sup>13</sup> D’Alemberte, *supra* note 2, at 147.

<sup>14</sup> Florida Department of State Division of Elections, *November 4, 1980 General Election Official Results*, <http://enight.dos.state.fl.us/Index.asp?ElectionDate=11/4/1980&DATAMODE> (last visited Jan. 27, 2012).

<sup>15</sup> HJR 1616 (1988).

<sup>16</sup> House Committee on Finance and Taxation, *Staff Analysis and Economic Impact Statement, HJR 1616* (May 10, 1988) (on file with the Senate Committee on Judiciary).

<sup>17</sup> *Id.*

appointment.<sup>18</sup> The chair is elected by the members of the commission and cannot be a member of the Legislature.<sup>19</sup> Revision of the constitution by the TBRC requires an affirmative vote of two-thirds of the full commission.<sup>20</sup> The TBRC is required to examine the state's budget in great detail, including revenue needs and expenditures, appropriateness of the tax structure, and governmental productivity and efficiency.<sup>21</sup> The TBRC is then required to hold public hearings as needed and then issue a report with the results of its review and recommended changes to Florida taxation and budget laws.<sup>22</sup> Similar to the CRC, the TBRC may also submit proposed constitutional amendments directly to the people, but only within the subject of taxation or the state budgetary process.<sup>23</sup>

### **Amending the Constitution Generally**

As previously discussed, article XI of the Florida Constitution sets forth various methods for proposing amendments to the Constitution, along with the methods for approval or rejection of proposals. One method by which constitutional amendments may be proposed is by joint resolution agreed to by three-fifths of the membership of each house of the Legislature.<sup>24</sup> Any such proposal must be submitted to the electors, either at the next general election held more than 90 days after the joint resolution is filed with the Secretary of State, or, if 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, at an earlier special election held more than 90 days after such filing.<sup>25</sup> If the proposed amendment is approved by a vote of at least 60 percent of the electors voting on the measure, it becomes effective as an amendment to the Florida Constitution 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.<sup>26</sup>

### **III. Effect of Proposed Changes:**

This joint resolution repeals provisions in the State Constitution providing for a Constitution Revision Commission and a Taxation and Budget Reform Commission, both of which are scheduled to convene every 20 years and have the authority to examine the State Constitution and directly submit constitutional amendments for the consideration of voters.

This joint resolution will take effect on January 7, 2013, if approved by the electors at the 2012 General Election.

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<sup>18</sup> FLA. CONST. art. XI, s. 6(a)(1)-(3).

<sup>19</sup> FLA. CONST. art. XI, s. 6(c).

<sup>20</sup> *Id.*

<sup>21</sup> FLA. CONST. art. XI, s. 6(d).

<sup>22</sup> FLA. CONST. art. XI, s. 6(e).

<sup>23</sup> *Id.*; see also *Ford v. Browning*, 992 So. 2d 132 (Fla. 2008) (examining the scope of the TBRC's constitutional authority).

<sup>24</sup> FLA. CONST. art. XI, s. 1.

<sup>25</sup> FLA. CONST. art. XI, s. 5(a).

<sup>26</sup> FLA. CONST. art. XI, s. 5(e).

**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:

In order for the Legislature to submit SJR 108 to the voters for approval, the joint resolution must be agreed to by three-fifths of the membership of each house.<sup>27</sup> If SJR 108 is agreed to by the Legislature, it will be submitted to the voters at the 2012 General Election. In order for SJR 108 to take effect, it must be approved by at least 60 percent of the voters voting on the measure.<sup>28</sup>

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

Each constitutional amendment is required to be published in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week preceding the general election.<sup>29</sup> Costs for advertising vary depending upon the length of the amendment.

**VI. Technical Deficiencies:**

Members of a revision commission are not elected to a commission. However, a commission may include elected officials. Moreover, the Constitution Revision Commission includes the Attorney General as a voting member. As such, the Legislature may wish to clarify the ballot summary by including the words “to a commission” after the word “elected” on line 172 of the ballot summary.

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<sup>27</sup> FLA. CONST. art. XI, s. 1.

<sup>28</sup> FLA. CONST. art. XI, s. 5(e).

<sup>29</sup> FLA. CONST. art. XI, s. 5(d).

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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

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