

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.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: SJR 96

INTRODUCER: Senator Negrón

SUBJECT: Commissioner of Education

DATE: January 4, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	deMarsh-Mathues	ED	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This joint resolution proposes a substantial amendment to Sections 3 and 4 of Article IV, and Section 2 of Article IX of the State Constitution that would, subject to voter approval:

- Restore the office of Commissioner of Education as an elected post and Cabinet member; and
- Recreate the State Board of Education from the membership of the state Cabinet and the Governor.

Should this proposed constitutional amendment be adopted by the voters, the office of Commissioner of Education by election would recommence January 6, 2015.

This joint resolution does not amend, create, or repeal any sections of the Florida Statutes.

II. Present Situation:

State Cabinet

In 1998, the state Constitution Revision Commission submitted a revision to the State Constitution amending Article IV, Section 4 to reduce the Cabinet from six elected officials to three. This included removal of the Commissioner of Education (Commissioner) from the Cabinet and changing the office to an appointed position. Approved by the voters, it took effect January 7, 2003.¹

¹ *Restructuring the State Cabinet*, Constitution Revision Commission, Ballot Placement May 5, 1998, Passage of Revision 8, November 3, 1998. The ballot summary provided for the merging of the cabinet offices of treasurer and comptroller into one

As a result of the amendment, the Cabinet is currently composed of three constitutionally recognized, independently elected public officials who serve as Cabinet members: an attorney general, a chief financial officer, and a commissioner of agriculture. In addition to discrete roles that they are required to serve, they also operate in concert regarding both the Internal Improvement and the Land Acquisition Trust Fund, and as the agency head for the Department of Law Enforcement.²

Requirements for cabinet service include an age requirement of at least 30 years old and a residency requirement of seven years.³

Commissioner of Education

Florida law establishes the Commissioner as the chief educational officer of the state, and the sole custodian of the K-20 data warehouse.⁴ The Commissioner works in collaboration with the State Board of Education (SBE) to fulfill all statewide level aspects of the mission and goals of the K-20 education system, other than for the state university system.⁵

Specific Commissioner duties include:

- Organizing and naming the structural units of the Department of Education (DOE);
- Providing counsel to the SBE in all areas of education;
- Making recommendations to the SBE on the State School Fund;
- Submitting recommendations to the SBE for a coordinated K-20 education budget;
- Acting in a cooperative capacity with the Federal government and other public agencies, and in an informative role with the public; and
- Responding to requests by the Legislature.⁶

State Board of Education

The SBE is comprised of seven members who are appointed by the Governor to staggered 4-year terms, subject to confirmation by the Senate.⁷ The board is the chief implementing and coordinating body of public education in Florida, other than the state university system.⁸ The SBE duties include exercising general supervision over the divisions of the DOE, as necessary to ensure coordination of educational plans and programs and resolve controversies and to

chief financial officer; reduction of cabinet membership to the chief financial officer, attorney general and agricultural commissioner; elimination of the secretary of state and commissioner of education from the elected cabinet; change in composition of the state board of education from the governor and cabinet to a board appointed by the governor, with the board to appoint the education commissioner. Available online at the Department of State website at: <http://election.dos.state.fl.us/initiatives/initiativelist.asp>. Last checked December 21, 2011. Chapter 2003-6, L.O.F., made conforming changes relating to the Governor, Cabinet, and the Governor and the Cabinet collectively, or the Governor and certain members of the Cabinet sitting as boards, commissions, or other collegial bodies. The Legislature phased-in statutory changes to implement the provisions related to the Commissioner and the State Board of Education. *See* ch. 2000-321, L.O.F., and ch. 2001-170, L.O.F.

² Fla. Const., art. IV, s. 4.

³ Fla. Const., art. IV, s. 5.

⁴ s. 1001.10(1), F.S.

⁵ *Id.*

⁶ ss. 1001.10(6) and 1001.11, F.S.

⁷ s. 1001.01, F.S.

⁸ s. 1001.02, F.S.

minimize problems of articulation and student transfers, to ensure that students moving from one level of education to the next have acquired competencies necessary for satisfactory performance at that level, and to ensure maximum use of facilities.⁹

Constitutional Amendments

Article XI of the Florida Constitution provides 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.¹⁰ 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.¹¹ 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.¹²

III. Effect of Proposed Changes:

This proposed constitutional amendment would expand the current Cabinet to include a fourth member, the Commissioner of Education. The role of the Commissioner would include, along with the rest of the Cabinet, service as trustee of the Internal Improvement Trust Fund and the Land Acquisition Trust Fund, and agency head of the Department of Law Enforcement. Age and residency requirements would apply.

Additionally, the SBE would be the Cabinet and the Governor, rather than through appointment by the Governor. The number of SBE members would be reduced from seven to four. The SBE would no longer appoint the Commissioner.

This proposed constitutional amendment provides for the restoration of an elected, rather than appointed post for Commissioner of Education, to take effect January 6, 2015, so that the primary election for the Commissioner of Education would take place in 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁹ s. 1001.02(2)(c), F.S.

¹⁰ Fla. Const., art. XI, s.1.

¹¹ Fla. Const., art. XI, s. 5(a).

¹² Fla. Const., art. XI, s. 5(e).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This joint resolution does not require ballot placement at a special election. Therefore, special election costs would not be incurred. Still, each proposed 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.¹³ Costs for advertising vary depending upon the length of the amendment.

The Department of State (DOS) executes the publication of the joint resolution if placed on the ballot. The cost varies depending on the length of the full text. The DOS estimates that required publication of a proposed constitutional amendment costs \$106.14 per word.¹⁴ The estimated total cost for advertising the amendment amounts to \$97,542.66.¹⁵ These funds must be spent regardless of whether the amendment passes.

Should the amendment be legally challenged, the DOS is typically the defendant in these suits.¹⁶ Estimates for legal defense range anywhere from \$10,000 to \$150,000.¹⁷

VI. Technical Deficiencies:

Lines 104-128 specify the ballot language for the proposed constitutional amendment and provide that the Commissioner is currently appointed by the Board of Education. An amendment to line 115 would clarify that the appointment is currently made by the State Board of Education.

VII. Related Issues:

None.

¹³ Fla. Const., art. XI, s. 5(d).

¹⁴ Fiscal Note on SJR 96, Florida Department of State, September 19, 2011, on file with the Senate Committee on Education Pre-K – 12.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

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.

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