

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 Committee on Judiciary

BILL: SPB 7062

INTRODUCER: For consideration by the Judiciary Committee

SUBJECT: Citizen Initiative

DATE: February 18, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Cibula</u>	<u>Cibula</u>	_____	JU Submitted as Comm. Bill/FAV

I. Summary:

SPB 7062 is a joint resolution to amend the Florida Constitution to change the geographic distribution requirement for signatures on citizen initiative petitions. To place an initiative on the ballot, initiative proponents will be required to show that an initiative has some public support in all, instead of half, of the state's 27 congressional districts.

Proponents must demonstrate sufficient public support by collecting signatures on initiative petitions from each congressional district of the state in a number equal to 8 percent of the votes cast in each district in the last presidential election. Under the current geographic distribution requirement in the Constitution, signatures must satisfy the 8 percent threshold in at least half of the state's 27 congressional districts.

The joint resolution does not change the total number of signatures on petitions that must be obtained to place a citizen initiative amendment on the ballot.

II. Present Situation:

The Florida Constitution authorizes five methods by which proposed amendments may be submitted to the electors for approval.¹ These methods of amendment allow proposals to be submitted to the electors by the Legislature, the constitution revision commission, the taxation and budget reform commission, a constitutional convention, and a citizen initiative.

The authorization for citizen initiatives is set forth in Article XI, section 3 of the Florida Constitution, which states:

The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those limiting the power of government to raise revenue,

¹ FLA. CONST. Art. XI.

shall embrace but one subject and matter directly connected therewith. It may be invoked by filing with the custodian of state records a petition containing a copy of the proposed revision or amendment, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to eight percent of the votes cast in each of such districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen.

The Constitution requires the proponents of a citizen initiative amendment to demonstrate that the initiative has sufficiently broad public support. Public support is demonstrated by collecting signatures of registered voters equal to 8 percent of the voters voting in the last presidential election. This means that at least 766,200 valid signatures must be collected to place an initiative on the 2020 General Election Ballot.² Additionally, the 8 percent threshold must also be met in at least half or 14 of the state's 27 congressional districts as shown in the table below.³

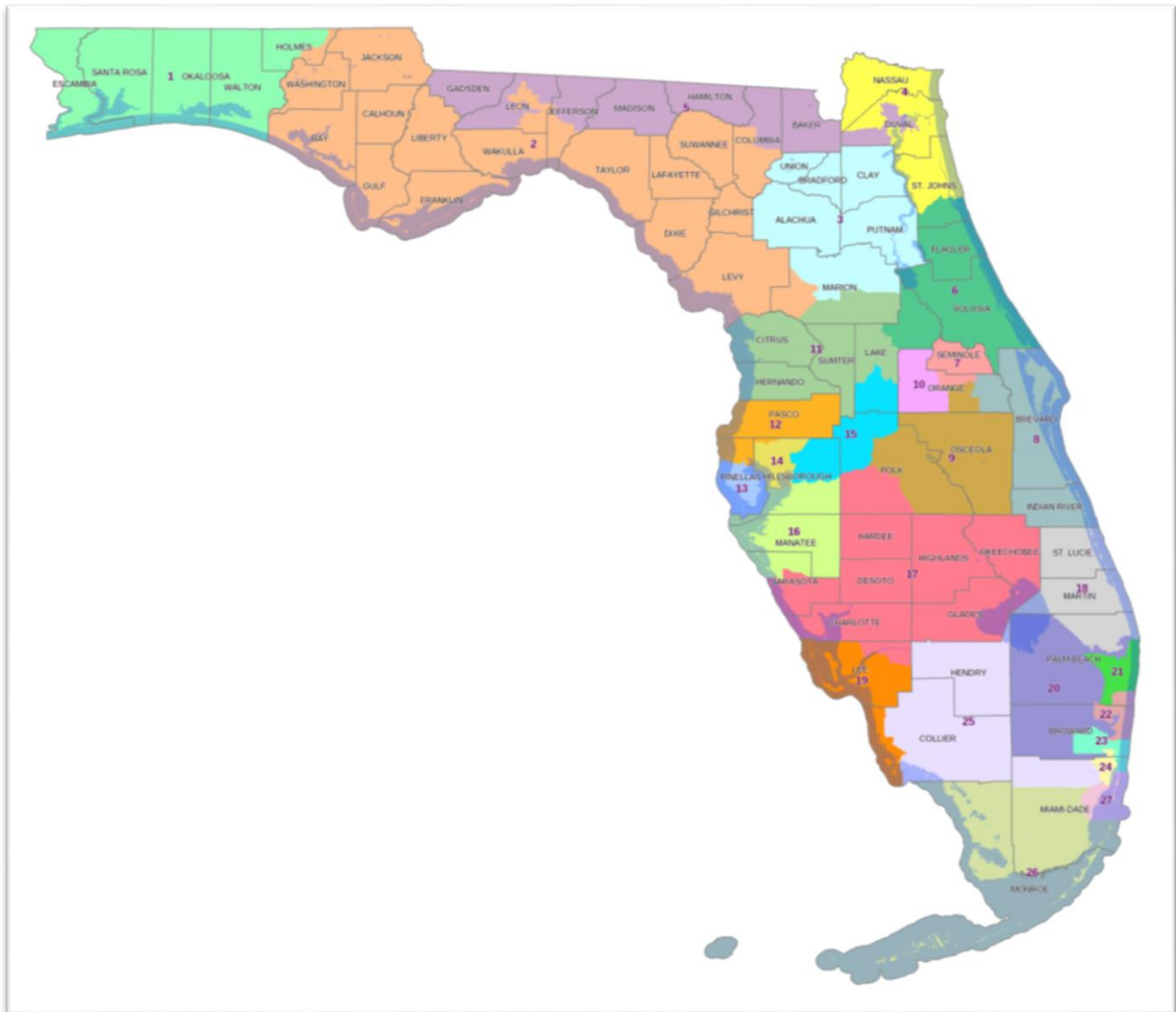
Congressional District	Votes Cast in 2016 Presidential Election	8% Threshold (for Ballot Position)
First	386,504	30,921
Second	360,098	28,808
Third	356,715	28,538
Fourth	428,190	34,256
Fifth	316,115	25,290
Sixth	385,918	30,874
Seventh	370,466	29,638
Eighth	409,569	32,766
Ninth	362,593	29,008
Tenth	320,548	25,644
Eleventh	417,253	33,381
Twelfth	386,775	30,942
Thirteenth	367,818	29,426
Fourteenth	336,289	26,904
Fifteenth	340,331	27,227
Sixteenth	403,805	32,305
Seventeenth	360,061	28,805
Eighteenth	388,772	31,102
Nineteenth	389,415	31,154
Twentieth	291,984	23,359
Twenty-First	355,842	28,468
Twenty-Second	361,305	28,905
Twenty-Third	342,784	27,423
Twenty-Fourth	269,446	21,556
Twenty-Fifth	269,983	21,599
Twenty-Sixth	294,742	23,580
Twenty-Seventh	304,012	24,321
Total	9,577,333	766,200

Source: Division of Elections, 2018 Initiative Petition Handbook.

² Division of Elections, Florida Department of State, *2018 Initiative Petition Handbook* (last updated Dec. 29, 2017) <https://dos.myflorida.com/media/697659/initiative-petition-handbook-2018-election-cycle-eng.pdf>.

³ *Id.* at Appendix B.

A map of the state’s congressional districts is shown below.



Geographic distribution requirements for petition signatures reflect the view that they are important because they “force initiative proponents to demonstrate that their proposal has support statewide, not just among the citizens of the state’s most populous region.”⁴ In states lacking a geographic distribution requirement for signatures, “it is not only possible but common for initiative proponents to gather all their signatures in the state’s largest city. The voters in the largest city, therefore, may decide for the state as a whole what issues make the ballot and what issues do not.”⁵

⁴ *Angle v. Miller*, 673 F.3d 1122, 1135 (9th Cir. 2012) (quoting National Conference of State Legislatures, *Initiative Petition Signature Requirements* (Apr. 7, 1010)).

⁵ National Conference of State Legislatures, *Initiative Petition Signature Requirements* (Sept. 20 2012), <https://www.ncsl.org/research/elections-and-campaigns/signature-requirements.aspx>.

III. Effect of Proposed Changes:

This joint resolution proposes an amendment to the Florida Constitution to change the geographic distribution requirement for signatures on citizen initiative petitions. To place an initiative on the ballot, initiative proponents will be required to show that an initiative has some public support in all of the state's 27 congressional districts instead of half of the state's congressional districts.

Proponents must demonstrate sufficient public support by collecting signatures on an initiative petition from each congressional district of the state in a number equal to 8 percent of the votes cast in each district in the last presidential election. Under the current geographic distribution requirement in the Constitution, signatures must satisfy the 8 percent threshold in at least half, or 14, of the state's 27 congressional districts. The joint resolution does not change the total number of signatures on petitions that must be obtained to place a citizen initiative amendment on the ballot.

If approved by at least 60 percent of the electors voting on the measure at the 2020 general election, the joint resolution will take effect January 5, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Because this joint resolution proposes an amendment to the Florida Constitution, it must be approved by a three-fifths vote of the membership of each house of the Legislature in order for the amendment to be submitted to the electors.⁶

⁶ FLA. CONST. s. 1, Art. X.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This amendment will likely increase costs of proponents to place a citizen initiative amendment to the Florida Constitution on the ballot. It is likely more cost effective for petition circulators to collect signatures in densely populated congressional districts than it is for them to collect signatures in rural areas having lower population densities.⁷

C. Government Sector Impact:

The new geographic distribution requirements may result in supervisors of elections in rural areas overlooked in past initiative campaigns having to verify more signatures on initiatives. Conversely, supervisors of elections in densely populated areas will likely see a decrease in the number of petitions submitted for verification.

VI. Technical Deficiencies:

The ballot statement for constitutional amendments proposed by the Legislature must “consist of a ballot title, by which the measure is commonly referred to or spoken of, not exceeding 15 words in length, and a ballot summary that describes the chief purpose of the amendment or revision in clear and unambiguous language.”⁸ The ballot statement accompanying the joint resolution is shown below:

Proposing an amendment to the State Constitution to require that a specified number of petitions must be signed by the electors in each congressional district of the state in order for a citizen initiative to amend or revise the State Constitution to be placed on the ballot.

The ballot summary likely needs to be revised to include more details about the chief purpose of the amendment.

VII. Related Issues:

None.

VIII. Statutes Affected:

This joint resolution substantially amends Article XI, section 3 of the Florida Constitution.

⁷ See *Semple v. Griswold*, 934 F.3d 1134, 1142 (10th Cir. 2019) (quoting difficulties claimed by plaintiffs challenging a requirement that signatures for initiative petitions be collected in each of Colorado’s Senate districts).

⁸ Section 161.161(3)(a), F.S.

IX. Additional Information:

- A. **Committee Substitute – Statement of 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.
