

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HJR 1127 Limiting Subject of Constitutional Amendments Proposed by Citizen Initiative

**SPONSOR(S):** Beltran

**TIED BILLS:** IDEN./SIM. BILLS: SJR 1412

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Public Integrity & Elections Committee	11 Y, 5 N	Roy	Rubottom
2) Judiciary Committee			

**SUMMARY ANALYSIS**

The Florida Constitution may be amended if voters approve an amendment proposed by the Legislature.

An initiative proposal may be invoked by filing with the custodian of state records a petition containing the proposed revision or amendment, signed by a number of electors in each of 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 the districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen. The petition must be filed with the custodian of state records by February 1 of the year in which the general election is held. Since 1976, 44 initiative proposals have been submitted to Florida voters with 33 being approved as constitutional amendments.

Proposals by the legislature to amend a section or revise one or more articles, or the whole, of the Florida Constitution may be proposed by joint resolution agreed to by three-fifths (3/5) of the membership of each house of the legislature. The resolutions are not subject to the veto power of the Governor but are filed by the Legislature directly with the Secretary of State. Once approved, such proposals are submitted to the voters at the next general election.

HJR 1127 proposes an amendment to Section 3 of Article XI of the Florida Constitution limiting the scope of constitutional revisions and amendments proposed by initiative. Such proposals would be limited to matters relating to procedural subjects or to the structure of the government. If approved by 3/5 of the membership of each house of the Legislature, the amendment would be placed on the 2022 general election ballot. If the amendment is approved by 60% of voters, it would be effective the first Tuesday after the first Monday in 2023.

The bill provides a ballot statement consisting of a 14 word title and a 36 word summary. The summary reflects the substance of the proposed amendment word for word.

The bill is likely to have an insignificant fiscal impact on state government.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### *Current Situation*

The Florida Constitution is the charter of the liberties of Floridians.<sup>1</sup> It may be amended only if the voters approve an amendment originating from the Legislature, the Constitution Revision Commission, the Taxation and Budget Reform Commission, a constitutional convention, or a citizen initiative.<sup>2</sup> A citizen initiative must embrace only one subject<sup>3</sup>, unless it concerns limiting the power of government to raise revenue, but proposals originating from the other sources are not so limited.<sup>4</sup>

An initiative proposal may be invoked by filing with the custodian of state records a petition containing the proposed revision or amendment, signed by a number of electors in each of 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 the districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen. The petition must be filed with the custodian of state records by February 1 of the year in which the general election is held.<sup>5</sup>

Proposals by the legislature to amend a section or revise one or more articles, or the whole, of the Florida Constitution may be proposed by joint resolution agreed to by three-fifths (3/5) of the membership of each house of the legislature.<sup>6</sup> The resolutions are not subject to the veto power of the Governor but are filed by the Legislature directly with the Secretary of State.

Joint resolutions that propose a constitutional amendment or revision must include:

- One or more ballot statements set forth in order of priority.
- 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.
- In the joint resolution contains only one ballot statement, the ballot summary may not exceed 75 words in length.
- If the joint resolution contains more than one ballot statement, the first ballot summary, in order of priority, may not exceed 75 words in length.
- The Department of State shall furnish a designating number<sup>7</sup> and the appropriate ballot statement to the supervisor of elections of each county.
- The ballot statement must be printed on the ballot after the list of candidates, followed by the word “yes” and also by the word “no,” and shall be styled in such a manner that a “yes” vote will indicate approval of the amendment or revision and a “no” vote will indicate rejection.

Proposed constitutional amendments that qualify for ballot placement are placed on the ballot by the Secretary of State in the order they are received in the Secretary’s office.

Since 1976, 44 citizen’s initiatives have been submitted to Florida voters, 11 were defeated, and 33 were passed. A 2004 initiative repealed a 2000 initiative relating to a high-speed railway. The dates, subjects, passage status and sponsors of the proposals are listed below<sup>8</sup>:

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<sup>1</sup> Browning v. Fla. Hometown Democracy, Inc., PAC, 29 So. 3d 1053, 1064 (Fla. 2010) (internal citations omitted).

<sup>2</sup> Art. XI, Fla. Const.

<sup>3</sup> Art. XI, s. 3, Fla. Const.

<sup>4</sup> Art. XI, ss. 1, 2, 4, 6, Fla. Const. The taxation and budget reform commission is limited to proposing constitutional revisions dealing with taxation or the state budgetary process. Art. XI, s. 6(e), Fla. Const.

<sup>5</sup> Art. XI, s. 5(b), Fla. Const.

<sup>6</sup> Art. XI, ss. 1, Fla. Const

<sup>7</sup> S. 101.161(2), F.S.

<sup>8</sup> “Initiatives / Amendments / Revisions Database.”, Florida Division of Elections,

<https://dos.elections.myflorida.com/initiatives/>.

**STORAGE NAME:** h1127a.PIE

**DATE:** 1/19/2022

<b>Elec Date</b>	<b>Subject</b>	<b>Status</b>	<b>Sponsor</b>
11/08/1976	Ethics in Government	Passed	Initiative Committee Not Available
11/07/1978	Casino Gambling	Defeated	Initiative Committee Not Available
03/11/1980	Homestead Exemption	Passed	Initiative Committee Not Available
11/04/1986	Casino Gambling Authorized Subject To County Option	Defeated	Initiative Committee Not Available
11/04/1986	State Operated Lotteries	Passed	Initiative Committee Not Available
11/08/1988	English is the Official Language of Florida	Passed	Florida English Campaign
11/08/1988	Limitation of Non-Economic Damages in Civil Actions	Defeated	Florida Committee for Liability Reform
11/03/1992	AUTHORIZING MUNICIPALITIES AND COUNTIES TO LEVY A ONE-CENT SALES TAX WITH LOCAL VOTER APPROVAL	Defeated	Florida Taxation and Budget Reform Commission
	Homestead Valuation Limitation	Passed	Save Our Homes Inc. PAC
11/03/1992	Limited Political Terms in Certain Elective Offices	Passed	Citizens for Limited Political Terms PAC
11/08/1994	LIMITED CASINOS	Defeated	Proposition For Limited Casinos, Inc.
11/08/1994	Limiting Marine Net Fishing	Passed	Save Our Sealife Committee
11/08/1994	Revenue Limits: May People's Amendments Limiting Government Revenue be Allowed to Cover Multiple Subjects?	Passed	Tax Cap Committee
11/05/1996	Everglades Trust Fund	Passed	Save Our Everglades Committee
11/05/1996	Fee on Everglades Sugar Production	Defeated	Save Our Everglades Committee
11/05/1996	Responsibility for Paying Costs of Water Pollution Abatement in the Everglades	Passed	Save Our Everglades Committee
11/05/1996	TAX LIMITATION: SHOULD TWO-THIRDS VOTE BE REQUIRED FOR NEW CONSTITUTIONALLY-IMPOSED STATE TAXES/FEEES?	Passed	Tax Cap Committee
11/07/2000	Florida Transportation Initiative for statewide high speed monorail, fixed guideway or magnetic levitation system.	Passed	Floridians for 21st Century Travel Connections & Choices
11/05/2002	Animal Cruelty Amendment: Limiting Cruel and Inhumane Confinement of Pigs During Pregnancy	Passed	Floridians for Humane Farms
11/05/2002	Florida's Amendment to Reduce Class Size	Passed	Coalition to Reduce Class Size
11/05/2002	Local Trustees and Statewide Governing Board to Manage Florida's University System	Passed	Education Excellence for Florida
11/05/2002	Protect People from the Health Hazards of Second-Hand Tobacco Smoke by Prohibiting Workplace Smoking	Passed	Smoke-Free for Health, Inc.
11/05/2002	Voluntary Universal Pre-Kindergarten Education	Passed	Pre-K Committee (Parents for Readiness Edu. for our Kids)
11/02/2004	Authorizes Miami-Dade and Broward County Voters to Approve Slot Machines in Parimutuel Facilities	Passed	Floridians For a Level Playing Field
11/02/2004	Florida Minimum Wage Amendment	Passed	Floridians for All PAC
11/02/2004	Patients' Right to Know About Adverse Medical Incidents	Passed	Floridians for Patient Protection
11/02/2004	Public Protection from Repeated Medical Malpractice	Passed	Floridians for Patient Protection
11/02/2004	Repeal of High Speed Rail Amendment	Passed	Derail the Bullet Train (DEBT)

11/02/2004	The Medical Liability Claimant's Compensation Amendment	Passed	Citizens For A Fair Share, Inc.
11/07/2006	PROTECT PEOPLE, ESPECIALLY YOUTH, FROM ADDICTION, DISEASE, AND OTHER HEALTH HAZARDS OF USING TOBACCO	Passed	Floridians For Youth Tobacco Education, Inc.
11/04/2008	Florida Marriage Protection Amendment	Passed	Florida4Marriage.org
11/02/2010	REFERENDA REQUIRED FOR ADOPTION AND AMENDMENT OF LOCAL GOVERNMENT COMPREHENSIVE LAND USE PLANS	Defeated	Florida Hometown Democracy, Inc., PAC
11/02/2010	STANDARDS FOR LEGISLATURE TO FOLLOW IN CONGRESSIONAL REDISTRICTING	Passed	FairDistrictsFlorida.org.
11/02/2010	STANDARDS FOR LEGISLATURE TO FOLLOW IN LEGISLATIVE REDISTRICTING	Passed	FairDistrictsFlorida.org.
11/04/2014	Use of Marijuana for Certain Medical Conditions	Defeated	People United for Medical Marijuana
11/04/2014	Water and Land Conservation - Dedicates funds to acquire and restore Florida conservation and recreation lands	Passed	Florida's Water and Land Legacy, Inc.
11/08/2016	Rights of Electricity Consumers Regarding Solar Energy Choice	Defeated	Consumers for Smart Solar
11/08/2016	Use of Marijuana for Debilitating Medical Conditions	Passed	People United for Medical Marijuana
11/06/2018	Voter Control of Gambling in Florida	Passed	Voters In Charge
11/06/2018	Voting Restoration Amendment	Passed	Floridians for a Fair Democracy, Inc.
11/03/2020	All Voters Vote in Primary Elections for State Legislature, Governor, and Cabinet	Defeated	All Voters Vote, Inc.
11/03/2020	Citizenship Requirement to Vote in Florida Elections	Passed	Florida Citizen Voters
11/03/2020	Raising Florida's Minimum Wage	Passed	Florida For A Fair Wage
11/03/2020	Voter Approval of Constitutional Amendments	Defeated	Keep Our Constitution Clean PC, Inc.

### *Proposed Changes*

HJR 1127 proposes an amendment to Section 3 of Article XI of the Florida Constitution addressing the power to propose a revision or amendment of the Florida Constitution by initiative. The amendment would limit a constitutional amendment proposed by initiative to matters relating to procedural subjects or to the structure of the government or of the Florida Constitution.

The bill also provides a ballot statement consisting of a 14 word title and a 36 word summary. The summary reflects the substance of the proposed amendment word for word.

If approved by the required legislative majorities, and by 60% of electors voting on the question, the amendment would be effective on the first Tuesday after the first Monday in January following the general election.<sup>9</sup>

<sup>9</sup> Art. XI, s. 5(e), Fla. Const.  
**STORAGE NAME:** h1127a.PIE  
**DATE:** 1/19/2022

**B. SECTION DIRECTORY:**

Joint Resolutions are not divided by section.

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

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

1. Revenues:

None.

2. Expenditures:

Article XI, s. 5(d) of the Florida Constitution requires publication of a proposed amendment in a newspaper of general circulation in each county. The Division of Elections within the Department of State must advertise the full text of the amendment twice in a newspaper of general circulation in each county where the amendment will appear on the ballot. The Division must also provide each supervisor of elections with either booklets or posters displaying the full text of each proposed amendment.<sup>10</sup>

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

2. Other:

The constitution provides that an amendment proposed by the Legislature shall be placed on the ballot if approved by a 3/5 vote of the membership of each house of the Legislature.<sup>11</sup> A number of controversial judicial opinions have stricken legislative proposals based on the court's interpretation of the proposal and the ballot summary laws. Amendments to the ballot law in 2011 mitigated the court's opportunity to strike legislative proposals from the ballot.<sup>12</sup>

**B. RULE-MAKING AUTHORITY:**

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<sup>10</sup> S. 101.171, F.S.

<sup>11</sup> Art. XI, s. 1, Fla. Const.

<sup>12</sup> S. 29, ch. 2011-40, L.O.F.

C. DRAFTING ISSUES OR OTHER COMMENTS:

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**