

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	14 Y, 6 N	Petruzzelli	Kramer

SUMMARY ANALYSIS

The Florida Constitution may be amended if voters approve a proposed amendment originating from one of several sources, including the Legislature or the citizens of the State.

A citizen initiative proposal may be invoked by filing with the Secretary of State a petition containing the proposed 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 presidential election. The petition must be filed with the Secretary by February 1 of the year in which the general election is held. Since 1976, 44 citizen initiative proposals have been submitted to Florida voters with 33 being approved as constitutional amendments.

Proposals by the Legislature to amend the Florida Constitution may be proposed by joint resolution agreed to by three-fifths 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 to limit the scope of constitutional amendments that may be proposed through the citizen initiative process. Under this joint resolution, such proposals, except for proposals to limit the power of the government to raise revenue, would be limited to matters relating to procedural subjects or to the structure of the government or of the state constitution. If approved by three-fifths of the membership of each house of the Legislature, the amendment will be placed on the 2022 general election ballot. If the amendment is placed on the ballot and approved by at least sixty percent of the voters, the amendment will be effective the first Tuesday after the first Monday in 2023.

The joint resolution provides a ballot statement consisting of a 14-word title and a 36-word summary.

The joint resolution may have an insignificant fiscal impact on state government.

A joint resolution proposing an amendment to the Florida Constitution must be passed by three-fifths of the membership of each house of the Legislature to appear on the next general election ballot. If placed on the ballot, the Constitution requires at least 60 percent voter approval for passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Amending the Florida Constitution

The Florida Constitution is the charter of the liberties of Floridians.¹ 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.² A citizen initiative must embrace only one subject,³ unless it concerns limiting the power of government to raise revenue, but proposals originating from the other sources are not so limited.⁴

Amendment Proposed by Joint Resolution

Proposals by the Legislature to amend the Florida Constitution may be accomplished by joint resolution agreed to by three-fifths of the membership of each legislative house.⁵ A resolution is not subject to the veto power of the Governor but is filed by the Legislature directly with the Secretary of State.

A joint resolution proposing a constitutional amendment must include:

- One or more ballot statements set forth in order of priority.
- A ballot title, by which the measure is commonly referred to or spoken of, not exceeding fifteen words in length, and a ballot summary that describes the chief purpose of the amendment in clear and unambiguous language.⁶

If 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. The Department of State must furnish a designating number⁷ 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 and a “no” vote will indicate rejection.⁸

Amendment Proposed by Citizen Initiative

A citizen initiative proposal may be invoked by filing with the Florida Secretary of State a petition containing the proposed 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 presidential election.⁹

The petition must be filed with the Secretary by February 1 of the year in which the general election is held.¹⁰ The Secretary must refer the petition to the Attorney General, who in turn requests an advisory opinion from the Florida Supreme Court as to whether the proposed amendment complies with the

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

² Art. XI, Fla. Const.

³ Art. XI, s. 3, Fla. Const.

⁴ 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.

⁵ Art. XI, ss. 1, Fla. Const.

⁶ S. 101.161(3)(a), F.S.

⁷ S. 101.161(2), F.S.

⁸ S. 101.161(3)(b), F.S.

⁹ Art. XI, s. 3, Fla. Const.

¹⁰ Art. XI, s. 5(b), Fla. Const.

single-subject requirement and other legal requirements.¹¹ 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 initiative proposals to amend the Florida Constitution have been submitted to Florida voters. Of those proposals, 11 were defeated, and 33 were passed. The dates, subjects, passage status and sponsors of the proposals are listed below:¹²

Election Date	Subject	Status	Sponsor
11/08/1976	Ethics in Government	Passed	Not Available
11/07/1978	Casino Gambling	Defeated	Not Available
03/11/1980	Homestead Exemption	Passed	Not Available
11/04/1986	Casino Gambling Authorized Subject To County Option	Defeated	Not Available
11/04/1986	State Operated Lotteries	Passed	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 S. 16.061, F.S.; art. IV, s. 10, Fla. Const.; art. XI, s. 3, Fla. Const.

¹² Florida Division of Elections, Initiatives / Amendments / Revisions Database, <https://dos.elections.myflorida.com/initiatives/>.

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.

Effect of Proposed Changes

HJR 1127 proposes an amendment to section 3 of article XI of the Florida Constitution to address the power to propose an amendment of the Florida Constitution by citizen initiative. If passed, the amendment would limit a citizen initiative proposal to:

- An amendment limiting the power of the government to raise revenue; or
- Matters relating to:
 - Procedural subjects;

- The structure of the government; or
- The structure of the Florida Constitution.

The joint resolution provides a ballot statement consisting of a 14-word title and a 36-word summary. The title refers to the proposed amendment as “limiting subject of constitutional amendments proposed by citizen initiative.”

If approved by at least three-fifths of each legislative house and by at least sixty percent of the electors voting on the question, the amendment will take effect on the first Tuesday after the first Monday in January following the general election.¹³

B. SECTION DIRECTORY:

Not applicable.

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.¹⁴

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:

Not applicable.

¹³ Art. XI, s. 5(e), Fla. Const.

¹⁴ S. 101.171, F.S.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES