

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HJR 129 Requiring Broader Public Support for Constitutional Amendments or Revisions

SPONSOR(S): Judiciary Committee, Roth

TIED BILLS: **IDEN./SIM. BILLS:** SJR 1410

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ethics, Elections & Open Government Subcommittee	12 Y, 6 N	Skinner	Toliver
2) Judiciary Committee	16 Y, 7 N, As CS	Loyed	Kramer
3) State Affairs Committee	14 Y, 6 N	Skinner	Williamson

SUMMARY ANALYSIS

Florida electors can amend the Florida Constitution by approving an amendment or a revision originating from one of five sources: the Legislature, the Constitution Revision Commission, the Taxation and Budget Reform Commission, a citizen initiative, or a constitutional convention. For an amendment or revision to take effect, at least 60 percent of the electors voting on the measure must approve it. An approved amendment or revision takes effect on the first Tuesday after the first Monday in January following the election, unless otherwise specified.

The joint resolution changes the threshold required to approve an amendment or revision from 60 percent of the electors voting on the measure to 66.67 percent of such electors.

The joint resolution has a nonrecurring fiscal impact on the Department of State for the publication of the proposed constitutional amendment in newspapers of general circulation in each county and for publication of booklets or posters with the amendment language for use in polling places. Such requirements would have to be met if the joint resolution passes both houses of the Legislature.

The joint resolution, if passed by the Legislature, would be considered by the electorate at the next general election on November 5, 2024. If adopted at this election, the joint resolution would take effect January 7, 2025.

A joint resolution proposing an amendment or revision to the Florida Constitution requires a three-fifths vote of the membership of each house of the Legislature to appear on the next general election ballot. If the HJR is subsequently placed on the ballot, the Constitution requires approval by 60 percent of the electors voting on the measure for passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Florida Constitution is the charter of the liberties of Floridians.¹ It may be amended only if the electors approve an amendment or a revision originating from the Legislature, the Constitution Revision Commission (CRC), the Taxation and Budget Reform Commission (TBRC), a citizen initiative, or a constitutional convention.² A citizen initiative must embrace only one subject, except for those which limit the power of government to raise revenue,³ but proposals that originate from the other sources are not so limited.⁴

After the Legislature, CRC, TBRC, citizen initiative, or constitutional convention successfully proposes an amendment or a revision, the measure is placed on the ballot at the next general election,⁵ which occurs every even-numbered year on the first Tuesday after the first Monday in November.⁶ The proposed amendment or revision must be published⁷ twice in newspapers of general circulation in each county in which a newspaper is published, once in the tenth week preceding the election and once in the sixth week, to notify the electors of the measure.⁸

If at least 60 percent of the electors⁹ voting on the measure approve it, the measure passes and becomes part of the Florida Constitution.¹⁰ An approved amendment or revision takes effect on the first Tuesday after the first Monday in January following the election, unless otherwise specified.¹¹

Effect of the Joint Resolution

The joint resolution changes the threshold required for approving a constitutional amendment or revision from 60 percent of the electors voting on the measure to 66.67 percent of such electors.

A joint resolution proposing a constitutional amendment or revision requires a three-fifths vote of the membership of each house of the Legislature to appear on the next general election ballot.¹² The joint resolution, if passed by the Legislature, would be considered by the electorate at the next general election on November 5, 2024, where 60 percent of the electors voting on the measure must approve it for passage. If approved, the amendment will take effect January 7, 2025.

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

² Article XI, ss. 1, 2, 3, 4, and 6, FLA. CONST.

³ Article XI, s. 3, FLA. CONST.

⁴ Article XI, ss. 1, 2, 4, and 6, FLA. CONST.

⁵ Article XI, s. 5(a), FLA. CONST.

⁶ Article VI, s. 5(a), FLA. CONST.

⁷ Such publication must also include notice of the date of the general election in which the proposed amendment or revision will be submitted to the electors. *See* Article XI, s. 5(d), FLA. CONST.

⁸ Article XI, s. 5(d), FLA. CONST.

⁹ In 2005, the Legislature passed HJR 1723, which proposed a constitutional amendment raising the vote threshold for the approval of a constitutional amendment from a majority of voters voting on an amendment to 60 percent of voters voting on an amendment. The amendment was placed on the ballot in the 2006 general election and passed with 57.8 percent of the vote. *See* 2006 General Election Official Results Constitutional Amendment, Florida Department of State Division of Elections, available at <https://results.elections.myflorida.com/Index.asp?ElectionDate=11/7/2006&DATAMODE> (last visited February 4, 2023).

¹⁰ Article XI, s. 5(e), FLA. CONST.

¹¹ *Id.*

¹² Article XI, s. 1, FLA. CONST.

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 (Division) 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,¹³ regardless of whether the amendment passes. Such requirements would have to be met if the joint resolution passes both houses of the Legislature.

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. The mandates provision applies only to a general law, not to a joint resolution to amend the Constitution.

2. Other:

A joint resolution proposing a constitutional amendment or revision requires a three-fifths vote of the membership of each house of the Legislature to appear on the next general election ballot.¹⁴

B. RULE-MAKING AUTHORITY:

Not applicable.

¹³ Section 101.171, F.S.

¹⁴ Article XI, s. 1, FLA. CONST.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 14, 2023, the Judiciary Committee adopted an amendment and reported the HJR favorably as a committee substitute. The amendment removed language requiring that the repeal of an amendment to or a revision of the constitution only require the approval by vote of at least the same percent of the electors as was required at the time of passage of such amendment or revision.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.