

**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.)

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Prepared By: The Professional Staff of the Committee on Ethics and Elections

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BILL: SB 7016

INTRODUCER: Ethics and Elections Committee

SUBJECT: Initiative Petitions Proposing an Amendment to the State Constitution

DATE: March 11, 2025

REVISED: \_\_\_\_\_

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Biehl</u>	<u>Roberts</u>	_____	<b>EE Submitted as Comm. Bill/Fav</b>

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**I. Summary:**

SB 7016 makes the following changes to provisions governing initiative petitions proposing an amendment to the Florida Constitution:

- Limits the number of cycles a petition sponsor can remain active without achieving the signature threshold for Supreme Court review to three general elections and limits sponsorship of initiative petitions to one per political committee.
- Requires petition sponsors to post a bond, with an exception for those for whom a bond is an undue burden.
- Creates font size and page length requirements for initiative petitions.
- Requires additional personal identifying information for voters signing petition forms and for applicants for petition circulators.
- Prohibits certain felons and noncitizens from acting as petition circulators and increases fines for late submission or nonsubmission of petition forms.
- Requires a person who collects more petition forms than his or her own, those of his or her immediate family members, plus two more to register as a petition circulator.
- Requires training for petition circulators.
- Requires supervisors of elections to notify voters whose signatures are verified and provide an opportunity for such persons to report that their signatures were forged or misrepresented.
- Clarifies the process for supervisors to receive payment for verifying signatures and requires sponsors to keep a deposit on balance with each supervisor.
- Revises petition form retention and reporting requirements.
- Clarifies processes for certification of and challenge of constitutional amendments.
- Provides for inclusion of the financial impact statement on the petition form and adds the financial impact statement to the issues subject to automatic Supreme Court review.
- Provides additional civil and criminal penalties for violations of laws governing citizens' initiatives.
- Prohibits the use of public funds to advocate for or against any issue that is the subject of a proposed constitutional amendment.

The bill also prescribes timelines for implementation. Except as otherwise specified, the bill takes effect upon becoming a law.

## II. Present Situation:

### Political Committees

Florida law defines “political committee” to mean:

- A combination of two or more individuals, or a person other than an individual, that, in an aggregate amount in excess of \$500 during a single calendar year:
  - Accepts contributions for the purpose of making contributions<sup>1</sup> to any candidate,<sup>2</sup> political committee, affiliated party committee, or political party;
  - Accepts contributions for the purpose of expressly advocating the election or defeat of a candidate or the passage or defeat of an issue;
  - Makes expenditures<sup>3</sup> that expressly advocate the election or defeat of a candidate or the passage or defeat of an issue; or
  - Makes contributions to a common fund, other than a joint checking account between spouses, from which contributions are made to any candidate, political committee, affiliated party committee, or political party.
  - The sponsor of a proposed constitutional amendment by initiative who intends to seek the signatures of registered electors.<sup>4</sup>

<sup>1</sup> Section 106.011(5)(a), F.S., defines “contribution” to mean (a) a gift, subscription, conveyance, deposit, loan, payment, or distribution of money or anything of value, including contributions in kind having an attributable monetary value in any form, made for the purpose of influencing the results of an election or making an electioneering communication; (b) a transfer of funds between political committees, between electioneering communications organizations, or between any combination of these groups; (c) the payment, by a person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee without charge to the candidate or committee for such services; or (d) the transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit; and the term includes interest earned on such account or certificate.

<sup>2</sup> Section 106.011(3), F.S., defines “candidate” to mean a person to whom any of the following applies: 1) a person who seeks to qualify for nomination or election by means of the petitioning process; 2) a person who seeks to qualify for election as a write-in candidate; 3) a person who receives contributions or makes expenditures, or consents for any other person to receive contributions or make expenditures, with a view to bring about his or her nomination or election to, or retention in, public office; 4) a person who appoints a treasurer and designates a primary depository; or 5) a person who files qualification papers and subscribes to a candidate’s oath as required by law. The definition excludes any candidate for a political party executive committee.

<sup>3</sup> Section 106.011(10)(a), F.S., defines “expenditure” to mean a purchase, payment, distribution, loan, advance, transfer of funds by a campaign manager or deputy campaign treasurer between a primary deposit and a separate interest-bearing account or certificate of deposit, or gift of money or anything of value made for the purpose of influencing the results of an election or making an electioneering communication.

<sup>4</sup> Section 106.011(16)(a), F.S. The following entities are not considered political committees: 1) national political parties, the state and county executive committees of political parties, and affiliated party committees; 2) corporations or other business entities formed for purposes other than to support or oppose issues or candidates, if their political activities are limited to contributions to candidates, political parties, affiliated party committees, or political committees or expenditures in support of or opposition to an issue from corporate or business funds and if no contributions are received by such corporations or business entities; or 3) electioneering communications organizations (s. 106.011(16)(b), F.S.).

Each political committee must:

- File a statement of organization within 10 days after its organization.<sup>5</sup>
- Through a designated campaign treasurer, file regular reports of all contributions received, and all expenditures made, by or on behalf of the political committee.<sup>6</sup>

### **Proposed Constitutional Amendments, Generally**

Amendments to the Florida Constitution can be proposed by five distinct methods: 1) joint legislative resolution, 2) the Constitutional Revision Commission, 3) citizens' initiative, 4) a constitutional convention, or 5) the Taxation and Budget Reform Commission.<sup>7</sup> Depending on the method, all proposed amendments or revisions to the Florida Constitution must be submitted to the electors at the next general election held more than 90 days after the joint resolution or report of revision commission, constitutional convention or taxation and budget reform commission proposing it is filed with the custodian of state records, or for citizen initiatives, if all the required signatures were submitted prior to February 1 of the year in which the general election will be held.<sup>8</sup>

The Florida Constitution mandates that all proposed amendments or revisions<sup>9</sup> be adopted by at least a 60 percent affirmative vote of those electors voting on the measure.

### **Citizens' Initiatives**

The Florida Constitution provides citizens with the right to propose constitutional amendments through an initiative petition process.<sup>10</sup> The process includes the following signature requirements:

- The total number of signatures must be equal to at least eight percent of the number of voters in the last presidential election.
- The signatures must come from voters in at least one-half of the congressional districts of the state.<sup>11</sup>

The steps in the citizens' initiative petition process are as follows:

- The individual or group wishing to propose an amendment must register as a political committee with the Department of State's Division of Elections (Division).<sup>12</sup>

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<sup>5</sup> Section 106.03(1)(a), F.S. A political committee which is organized to support or oppose statewide, legislative, or multicounty candidates or issues to be voted upon on a statewide or multicounty basis must file its statement of organization with the Department of State's Division of Elections (s. 106.03(3)(a), F.S.).

<sup>6</sup> Section 106.07(1), F.S. Generally, such reports must include a list of specified information, including, but not limited to, the full name, address, and occupation, if any, of each person who made one or more contributions to or for such committee within the reporting period, together with the amount and date of such contributions (s. 106.07(4)(a), F.S.).

<sup>7</sup> See FLA. CONST. art XI, ss. 1-4 and 6.

<sup>8</sup> See FLA. CONST. art XI, s. 5.

<sup>9</sup> When the Florida Constitution uses the word 'amendment' it is in reference to a section of the constitution, while the word 'revision' relates to one or more articles or the whole constitution. See FLA. CONST. art. XI, s. 1.

<sup>10</sup> FLA. CONST. art. XI, s. 3.

<sup>11</sup> FLA. CONST. art. XI, s. 3.

<sup>12</sup> Section 100.371(2), F.S. There is currently no limit on the number of initiatives each political committee may sponsor or on the number of cycles a political committee sponsoring an initiative may stay active without reaching the signature threshold required for Florida Supreme Court review.

- The sponsoring political committee must submit its initiative petition form to the Division for approval of its format.<sup>13</sup>
- After the Division approves the format of a petition form, the Division assigns a serial number to the initiative petition.<sup>14</sup>
- After assignment of a serial number, the sponsoring political committee may begin circulating petitions for signature by registered Florida voters.<sup>15</sup>
- Each signed initiative petition form must be submitted by the sponsoring political committee to the supervisor of elections' office in the county of residence of the signee for signature verification.<sup>16</sup>
- When the sponsoring political committee has obtained specified thresholds for verified signatures,<sup>17</sup> the Secretary of State (Secretary) sends the petition to the Attorney General,<sup>18</sup> who must within 30 days of receipt petition the Florida Supreme Court (Court) for an advisory opinion as to whether the text of the proposed amendment complies with state constitutional requirements<sup>19</sup>, whether the proposed amendment is facially invalid under the United States Constitution, and whether the proposed ballot title and substance comply with statutory requirements<sup>20, 21</sup>. The Secretary concurrently sends a copy of the petition to the Financial Impact Estimating Conference, which completes and submits to the Secretary and Attorney General a financial impact statement for the proposed amendment.<sup>22</sup>
- By February 1 of the year of the general election, the Secretary determines whether the required number and distribution of signatures has been met.<sup>23</sup> If so, the Secretary issues a certificate of ballot position to the sponsoring political committee.<sup>24</sup> No later than the next day, the Division director assigns the designated number for the proposed amendment.<sup>25</sup>

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<sup>13</sup> Rule 1S-2.009 (Constitutional Amendment by Initiative Petition), F.A.C. The form must include the amendment title and summary; sponsor information; the voter's name, address, voter registration number, and date of birth; the voter's signature and the date signed; the petition circulator's information, if applicable; and notice that the form becomes public record once filed, that it is a first-degree misdemeanor to knowingly sign the same petition more than once, and that an improperly completed form will not be validated. In addition, petition forms collected by paid petition circulators must contain an affirmation by the circulator that the petition was signed in the circulator's presence (s. 100.371(5)(b), F.S.).

<sup>14</sup> *Id.*

<sup>15</sup> *See id.* and s. 100.371(2), F.S.

<sup>16</sup> Section 100.371(11)(a), F.S. Each signature must be verified by the relevant supervisor of elections.

<sup>17</sup> The verified signatures on petitions must be equal to at least 25% of the number of signatures required statewide and in at least one-half of Florida's congressional districts.

<sup>18</sup> Section 15.21, F.S.

<sup>19</sup> FLA. CONST. art. XI, s. 3, in part limits citizens' initiatives (except those limiting the power of government to raise revenue) to a single subject.

<sup>20</sup> Section 101.161, F.S., provides format and content requirements for ballot titles and summaries. The ballot summary must be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. The ballot title must consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of. However, those requirements do not apply to amendments or revisions proposed by joint resolution of the Legislature. All proposals are subject to requirements pertaining to a financial impact statement that must be included in the ballot summary.

<sup>21</sup> Section 16.061(1), F.S.

<sup>22</sup> Section 100.371(13), F.S.

<sup>23</sup> Section 100.371(1), F.S.

<sup>24</sup> Section 100.371(12), F.S.

<sup>25</sup> Rule 1S-2.0011 (Constitutional Amendment Ballot Position), F.A.C.

Additional details about the current citizens' initiative process are provided under the subheadings below.

### ***Petition Circulators***

A person may not collect signatures or initiative petitions for compensation without first registering as a petition circulator with the Department of State (DOS).<sup>26</sup> Compensating a petition circulator based on the number of petition forms gathered is a third-degree felony.<sup>27</sup>

### ***Signature Verification***

Each signed initiative petition form must be submitted within 30 days<sup>28</sup> by the sponsoring political committee to the supervisor of elections' office in the county of residence of the signee for signature verification.<sup>29</sup> If a petition form collected by any petition circulator is not promptly delivered to the supervisor, the sponsor is liable for the following fines:

- \$50 for each petition received by the supervisor more than 30 days after the elector signed the petition form, or \$250 per petition form if the sponsor or petition circulator acted willfully.
- \$500 for each petition form collected but not submitted, or \$1,000 per petition form if the sponsor or petition circulator acted willfully.<sup>30</sup>

Each supervisor must verify signatures within 60 days after receipt of the petition forms and payment by the sponsor of the actual cost<sup>31</sup> of signature verification, unless the petition forms are submitted less than 60 days before February 1 of an even-numbered year, in which case the supervisor must verify the signatures within 30 days after receipt and payment.<sup>32</sup>

There is currently no requirement that a voter be notified if his or her signature is verified as having signed a petition.

### ***Record Retention and Reporting***

A supervisor must retain all signature forms for at least one year following the election for which the petition was circulated.<sup>33</sup>

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<sup>26</sup> Section 100.371(3)(a), F.S. There are currently no restrictions on who may register as a petition circulator. Applicants for petition circulator must provide name; permanent address; temporary address, if applicable; and date of birth.

<sup>27</sup> Section 104.86, F.S.

<sup>28</sup> An initiative petition sponsor is liable for a fine of \$50 for each day late, per petition, and for a \$2,500 fine if willful. There is no penalty for delivery completed petition forms after the deadline.

<sup>29</sup> Section 100.371(11)(a), F.S. Each signature must be verified by the relevant supervisor of elections. The sponsoring political committee must pay the actual cost of verification to the supervisor of elections.

<sup>30</sup> Section 100.371(7)(a), F.S.

<sup>31</sup> Each supervisor must post the actual cost of signature verification on his or her website and may increase such cost, as necessary, on February 2 of each even-numbered year (s. 100.371(11)(b), F.S.).

<sup>32</sup> Section 100.371(11)(a), F.S.

<sup>33</sup> *Id.*

On the last day of each month, or on the last day of each week from December 1 of an odd-numbered year through February 1 of the following year, each supervisor must post on his or her website, for each initiative:

- The total number of signatures submitted, invalid signatures, and signatures processed, and the aggregate number of verified valid signatures and the distribution of such signatures by congressional district.
- Specific to the reporting period, the total number of signed petition forms received and verified, the distribution of verified valid signatures by congressional district, and the total number of verified petition forms forwarded to the Secretary.<sup>34</sup>

### ***Financial Impact Estimating Conference and Financial Impact Statement***

The Financial Impact Estimating Conference (FIEC) is established to review, analyze, and estimate the financial impact of amendments to or revisions of the State Constitution proposed by initiative. It consists of four principals:

- One person from the Executive Office of the Governor;
- The coordinator of the Office of Economic and Demographic, or his or her designee;
- One person from the professional staff of the Senate; and
- One person from the professional staff of the House of Representatives.<sup>35</sup>

A FIEC may be appointed for each initiative. The President of the Senate and the Speaker of the House of Representatives, jointly, are the sole judge for the interpretation, implementation, and enforcement of the FIEC process.<sup>36</sup>

After the Secretary submits to the FIEC an initiative petition that has received the required number of verified signatures, the FIEC has 75 days to complete an analysis and financial impact statement to be placed on the ballot of the estimated increase or decrease in any revenues or costs to state or local governments and the overall impact to the state budget resulting from the proposed initiative.<sup>37</sup> If the FIEC fails to reach consensus, the impact is listed as indeterminate.<sup>38</sup>

The financial impact statement does not currently get added to the petition form that is signed by voters.

### **Fraud in Citizens' Initiatives**

In October 2024, the Office of Election Crimes and Security<sup>39</sup> (Office) issued a report on investigations concerning initiative petition fraud.<sup>40</sup> Investigated allegations included reports of

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<sup>34</sup> Section 100.371(11)(c), F.S.

<sup>35</sup> Section 100.371(13)(c), F.S.

<sup>36</sup> *Id.*

<sup>37</sup> Section 100.371(13)(a), F.S.

<sup>38</sup> Section 100.371(13)(d)3., F.S.

<sup>39</sup> The Office of Election Crimes and Security is created within the DOS to aid the Secretary in completion of his or her duties by conducting preliminary investigations into allegations of election law violations, both by initiating independent inquiries and by receiving complaints (s. 97.022, F.S.).

<sup>40</sup> Florida Department of State Office of Election Crimes and Security, *Interim Report to Legislature on Initiative Petition Fraud Related to the Abortion Initiative (23-07)*, October 11, 2024 (on file with the Senate Committee on Ethics and Elections).

petition circulators signing petition forms on behalf of deceased individuals, forging or misrepresenting elector signatures on petition forms, using electors' personal identifying information without consent, and perjury/false swearing. The Office reported nearly all of the investigations had been referred to law enforcement for further investigation and prosecution.<sup>41</sup>

### **Certification and Challenge of Election Results**

The state Elections Canvassing Commission certifies the returns of the election for each federal, state, and multicounty office.<sup>42</sup> Each county canvassing board must provide unofficial returns to the Department of State for each federal, statewide, or multicounty office or ballot measure.<sup>43</sup>

The certification of election or nomination of any person to office, or of the result on any question submitted by referendum, may be contested in the circuit court by any unsuccessful candidate for such office or nomination thereto or by any elector qualified to vote in the election related to such candidacy, or by any taxpayer. The grounds for contesting an election are:

- Misconduct, fraud, or corruption on the part of any election official or any member of the canvassing board sufficient to change or place in doubt the result of the election.
- Ineligibility of the successful candidate for the nomination or office in dispute.
- Receipt of a number of illegal votes or rejection of a number of legal votes sufficient to change or place in doubt the result of the election.
- Proof that any elector, election official, or canvassing board member was given or offered a bribe or reward for the purpose of procuring the successful candidate's nomination or election or determining the result on any question submitted by referendum.<sup>44</sup>

### **Restrictions on Use of Public Funds in Elections**

Any political committee that accepts the use of public funds, equipment, personnel, or other resources to collect dues from its members may not make independent expenditures in support of or opposition to a candidate or elected public official.<sup>45</sup> A political committee that violates this provision is liable for a civil fine of up to \$5,000 to be determined by the Florida Elections Commission or the entire amount of the expenditures, whichever is greater.<sup>46</sup>

In addition, a local government may not expend, and a person or group may not accept, public funds for a political advertisement or any other communication sent to electors concerning an issue, referendum, or amendment, including any state question, that is subject to a vote of the electors.<sup>47</sup>

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<sup>41</sup> *Id.*

<sup>42</sup> Section 102.111(2), F.S.

<sup>43</sup> Section 102.141(7)(c), F.S.

<sup>44</sup> Section 102.168, F.S.

<sup>45</sup> However, expenditures may be made for the sole purpose of jointly endorsing three or more candidates (s. 106.087(2)(a), F.S.).

<sup>46</sup> Section 106.087(2), F.S.

<sup>47</sup> Section 106.113(2), F.S. "Public funds" means all moneys under the jurisdiction or control of the local government (s. 106.113(1)(b), F.S.).

### III. Effect of Proposed Changes:

SB 7016 contains whereas clauses related to fraud in signature gathering for citizens' initiatives and provides related legislative findings and legislative intent. The bill accordingly makes significant changes to provisions governing citizens' initiatives, as follows.

#### **Sponsors of Initiative Petitions (section 6)**

The bill limits sponsorship of initiative petitions to one initiative per political committee.

The bill also limits the number of cycles a sponsor can remain active without achieving the signature threshold for Court review to three general elections. Proposed amendments filed before February 1, 2022, must be refiled after February 2, 2026, to remain active. A proposed amendment that expires under this provision may be refiled as a new initiative.

The bill requires a sponsor to, before circulating petition forms, post a \$1 million bond payable to the division, to be conditioned upon the payment of all fines adjudged against the sponsor. In lieu of a bond, a sponsor may pay the amount of the bond via cashier's check, official bank check, or money order. The bond requirement may be waived upon a sponsor's written certification of undue burden. If such certification is made, a sponsor may not pay petition circulators; payment of petition circulators will result in immediate rescission of the bond waiver. If a sponsor who obtains a bond waiver receives a contribution,<sup>48</sup> the funds must first be used to reimburse supervisors for verification of signatures, then to obtain the required bond, and only after those two obligations are satisfied may the sponsor pay petition circulators.

#### **Petition Forms (section 6)**

The bill adds to the petition form that is signed by voters a requirement that a voter provide his or her Florida driver license or identification card number, or the last four digits of his or her social security number.

It also:

- Expands the petition circulator affidavit to specify that that the petition was *completed and signed by the voter* in the circulator's presence.
- Requires the financial impact statement provided by the FIEC to be added to the petition form once complete.
- Requires petition forms to be in a type of at least 10 points and limits the length of a petition form to one page, front and back.

#### **Petition Circulators (sections 4 and 6)**

The bill limits the number of signed petition forms a person may collect before he or she must register as a petition circulator. Specifically, a person may not distribute, collect, deliver, or otherwise physically collect more than two signed petition forms in addition to his or her own

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<sup>48</sup> As defined in s. 106.011(5)(a), F.S.



petition form or a signed petition form belonging to an immediate family member. This change expands the definition of petition circulators to include both paid and unpaid persons.

The bill prohibits the following persons from registering as petition circulators:

- A person who has been convicted of a felony violation and has not had his or her right to vote restored.
- A person who is not a U.S. citizen.

The bill requires any signed petition form submitted by an ineligible or unregistered petition circulator to be invalidated.

The bill also:

- Authorizes the Division to revoke a petition circulator's registration if the circulator violates statutory requirements.
- Adds to the petition circulator application a requirement that the applicant provide a copy of his or her driver license or identification card and the last four digits of his or her social security number.
- Creates a training requirement for petition circulators.

### **Signature Verification (section 6)**

The bill reduces the number of days a sponsor has to submit signed petition forms to the appropriate supervisor of elections to 10 from 30.

Regarding payment for verification, the bill:

- Clarifies that signatures may not be verified until payment has been received and processed by the supervisor.
- Allows supervisors to include operational and personnel costs in the verification fee, along with other costs associated with signature verification.
- Allows supervisors to update costs 90 days after the bill becomes law, and annually on March 1 thereafter.
- Allows supervisors to post two costs, one for petition forms received more than 60 days before February 1 of an even-numbered year, and one for petition forms received less than 60 days before that date.
- Requires a sponsor to keep a deposit for payment on balance with each supervisor.

Regarding notification to voters, the bill:

- Requires each supervisor to, upon verifying a signature, mail a notice of such to the voter, pursuant to a prescribed process.
- Allows a voter who believes his or her signature was misrepresented or forged to notify the supervisor and have that petition invalidated.

The bill also, for any reporting period in which the percentage of invalid signatures exceeds 25 percent, requires the supervisor to notify the Office of Election Crimes and Security, and requires the Office to investigate the potential fraud.

**Record Retention and Reporting (section 6)**

The bill:

- Requires supervisors of elections to transmit petition forms to the Division at specified intervals.
- Expands the existing reporting requirement for supervisors regarding verification of signatures to also require reporting of the total number of signatures reported as fraudulent or misrepresented and therefore revoked.

**Penalties (sections 6, 12, 13, 14, 15, and 19)**

The bill revises fines regarding late- or not-submitted signed petition forms to the supervisor of elections to:

- Increase fines for late-submitted petition forms to \$50 *per each day late*, and to \$2,500 for each petition form if the sponsor or petition circulator acted willfully.
- Increase fines for non-submitted petition forms to \$5,000 if the sponsor or petition circulator acted willfully.
- Create a new fine for submission of a signed petition form after the deadline, specifically \$100 per each day late, up to a maximum of \$5,000, for each petition form, or \$5,000 for each petition form if the sponsor or petition circulator acted willfully.

The bill creates a substantive prohibition against basing any kind of compensation for petition circulators on the number of petition forms gathered. A person who violates the prohibition will be subject to an existing third-degree felony.

The bill expands:

- The existing third-degree felony for signing another person's name or a fictitious name to a petition form to also prohibit filling in missing information on a form.
- The existing racketeering provision to include a violation relating to petition circulators and sponsors of initiative petitions.

The bill creates the following new prohibitions and penalties:

- A third-degree felony for a person collecting forms on behalf of a sponsor to copy or retain a voter's personal identifying information for any reason other than to provide such information to the sponsor.
- If a person collecting petition forms on behalf of a sponsor signs another person's name or a fictitious name or fills in missing information, the sponsor is liable for a \$5,000 fine for each such petition.
- Prohibit a sponsor, or a person collecting forms on behalf of a sponsor, from mailing or otherwise providing a petition form with a voter's information prefilled, and specify a fine of \$50 for each such petition.
- A third-degree felony for a person who violates the new limit on collecting signed petition forms.

**FIEC and Financial Impact Statement (sections 2, 3, and 8)**

The bill adds compliance of the financial impact statement with statutory requirements to the subjects the Court must review regarding the initiative petition.<sup>49</sup> It also requires the financial impact statement to be added to the petition form once completed.

The bill clarifies that:

- The FIEC may be convened only by the President of the Senate and the Speaker of the House of Representatives, jointly.
- The FIEC principals are professional staff of the Governor and Legislature and not outside entities.

**Certification and Challenge of Election Results (sections 6, 10, and 11)**

The bill:

- Directs the Secretary to rescind a petition initiative's certificate of ballot position if an advisory opinion issued by the Court pursuant to the automatic initiative review process deems the initiative petition invalid.
- Adds constitutional amendments to the types of elections the state Elections Canvassing Commission must certify.
- Adds to the existing contest of elections statute the ability to challenge a constitutional amendment under specified circumstances.

**Use of Public Funds to Advocate Regarding a Proposed Amendment (section 16)**

The bill prohibits the use of public funds to advocate for or against any matter that is the subject of a proposed constitutional amendment, regardless of the method used to propose the amendment. The prohibition includes the use of state funds to publish, broadcast, or disseminate public service messages concerning an amendment or a revision on the ballot, regardless of whether the public service messages are limited to factual information.

**Implementation/Effective Dates (sections 7, 19, 20, 21, and 23)**

The bill "grandfathers" in initiative petitions filed with the Secretary prior to the bill's effective date, so no verified petitions are impacted. Thirty days after the bill becomes law, petition forms for existing initiatives must be updated to include the newly required fields.

Supervisors must pause verification of signatures for 90 days after the bill becomes law to allow for implementation of new provisions. They must continue to accept signed petitions during that time.

Petition circulators must re-register 30 days after the bill becomes law to ensure they comply with new requirements.

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<sup>49</sup> The Court has previously declined jurisdiction to review the fiscal impact statement as part of the automatic initiative review process because it was not part of the petition (*see Floridians Protecting Freedom, Inc., et al., v. Passidomo*, 392 So.3d 777 (Fla. 2024)).

The financial impact statement must be included on petitions filed after the bill becomes law.

Except as otherwise provided, the bill takes effect upon becoming a law.

#### 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:

The United States Supreme Court has issued numerous opinions defining First Amendment freedom of speech limits on election laws, including some specifically related to ballot-initiative petitions.

The Court has concluded that the circulation of such petitions represents core political speech and merits the highest level of protection.<sup>50</sup> However, the Court also has recognized that regulation of elections is necessary to ensure fairness and order.<sup>51</sup> States allowing ballot initiatives have considerable leeway to protect the integrity and reliability of the initiative process, as they have with respect to election processes generally.<sup>52</sup> So, restrictions on an initiative process will be upheld against a First Amendment challenge if such restrictions “protect the integrity and reliability of the initiative process” and do not “unjustifiably inhibit the circulation of ballot-initiative petitions.”<sup>53</sup>

In First Amendment challenges to laws governing initiative petitions, the Court has analyzed whether the restrictions in question significantly inhibit communication with voters about proposed political change and, if so, whether they are warranted by the state interests alleged to justify those restrictions.<sup>54</sup> A key factor considered by the Court in this context is whether the effect of the law will limit the number of persons who carry

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<sup>50</sup> *Meyer v. Grant*, 486 U.S. 414 (1988).

<sup>51</sup> *Storer v. Brown*, 415 U.S. 724 (1974); see *Timmons v. Twin Cities Area New Party*, 520 U.S. 351 (1997); *Anderson v. Celebrezze*, 460 U.S. 780 (1983).

<sup>52</sup> *Biddulph v. Mortham*, 89 F.3d 1491 (11th Cir. 1996).

<sup>53</sup> *Buckley v. American Constitutional Law Found., Inc.*, 525 U.S. 182 (1999).

<sup>54</sup> *Meyer*, 486 U.S. 414; *Buckley*, 525 U.S. 182 at 192.

the initiative proponents' message, and, consequently, reduce the size of the audience initiative proponents can reach.<sup>55</sup> In striking down a ban on paid petition circulators, the Court held that the challenged restriction reduced the chances that initiative proponents would gather signatures sufficient in number to qualify for the ballot, and thus limited proponents' ability to make the matter the focus of statewide discussion; the restriction imposed a burden on political expression that the state failed to justify.<sup>56</sup>

Additional examples of initiative petition restrictions struck down by the Court include:

- A requirement that petition circulators be registered voters.<sup>57</sup>
- A requirement that petition circulators wear a name badge.<sup>58</sup>
- A requirement that initiative sponsors disclose specified information about all petition circulators.<sup>59</sup>
- A \$250 limit on contributions to committees formed to support or oppose ballot measure referenda.<sup>60</sup>

Examples of initiative petition restrictions upheld by the courts include:

- A minimum age requirement for petition circulators.<sup>61</sup>
- A six-month limit on the time period in which petitions can be circulated.<sup>62</sup>
- A requirement that a circulator attach to each petition section an affidavit containing the circulator's identifying information and a statement that he or she has read and understands the laws governing the circulation of petitions.<sup>63</sup>
- Single subject and unambiguous title requirements.<sup>64</sup>
- A requirement that the names of contributors and the amounts contributed be disclosed.<sup>65</sup>
- A prohibition against persons convicted of certain felonies related to elections or fraud from collecting completed voter registration applications on behalf of a third-party voter registration organization.<sup>66</sup>

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<sup>55</sup> *Meyer*, 486 U.S. 414 at 422-423.

<sup>56</sup> *Meyer*, 486 U.S. 414 at 423-425.

<sup>57</sup> *Buckley*, 525 U.S. 182 at 197.

<sup>58</sup> *Buckley*, 525 U.S. 182 at 200.

<sup>59</sup> *Buckley*, 525 U.S. 182 at 204.

<sup>60</sup> *Citizens Against Rent Control/Coalition for Fair Housing v. City of Berkeley, California*, 102 U.S. 434 (1981). In this case, the Court determined that the restraint imposed by the ordinance on rights of association and in turn on individual and collective rights of expression contravened both the right of association and the speech guarantees of the First Amendment.

<sup>61</sup> *American Constitutional Law Found., Inc., v. Meyer*, 120 F.3d 1092 (10th Cir. 1997).

<sup>62</sup> *Id.* at 1099.

<sup>63</sup> *American Constitutional Law Found., Inc.*, 120 F.3d 1092 at 1100.

<sup>64</sup> *Biddulph*, 89 F.3d 1491.

<sup>65</sup> *American Constitutional Law Found., Inc.*, 120 F.3d 1092 at 1104-1105. Specifically, the court held that disclosure of the names of initiative sponsors, and of the amounts they had spent gathering support for their initiatives, responded to a substantial state interest in maintaining a check on domination of the initiative process by affluent special interest groups.

<sup>66</sup> *Hispanic Federation, et al., v. Cord Byrd*, 719 F.Supp.3d 1236, United States District Court, N.D. Florida, March 2024.

The same order ruled against a prohibition against noncitizens from collecting completed voter registration applications. The issue is on appeal in the 11th Circuit.

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

None.

**B. Private Sector Impact:**

Sponsors of initiative amendments may incur indeterminate costs related to the new limits on sponsors and increased fines.

**C. Government Sector Impact:**

The supervisors of elections will incur costs associated with implementation of the new voter notification requirement. Annual cost estimates provided by supervisors range from \$9,927 for a small county to \$301,445 for a large county.<sup>67</sup> Supervisors may also incur costs to comply with the new requirement that they send signed petition forms to the division. The authorization for supervisors to adjust costs for signature verification annually and to post two costs, as well as to include costs for the voter notification requirement, is likely to offset much of the cost increases resulting from the bill.

The DOS may incur costs related to implementation of the bill's provisions. Any such costs are likely to be managed within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 15.21, 16.061, 97.021, 99.097, 100.371, 101.161, 102.111, 102.121, 102.168, 104.185, 104.186, 104.187, 106.19, 212.055, and 895.02.

This bill creates the following sections of the Florida Statutes: 104.188 and 106.151.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

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<sup>67</sup>Email from Florida Supervisors of Elections, March 6, 2025 (on file with the Senate Committee on Ethics and Elections).

B. Amendments:

None.

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

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