

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 Governmental Oversight and Accountability

BILL: SJR 204

INTRODUCER: Senator Brandes

SUBJECT: Abolishing the Constitution Revision Commission

DATE: January 26, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>RC</u>	_____

I. Summary:

SJR 204 abolishes the Constitution Revision Commission by repealing provisions establishing it in the State Constitution. Currently, the State Constitution requires that a constitution revision commission be convened once every 20 years to examine the State Constitution and propose any amendments that it deems appropriate.

If this joint resolution is agreed to by three-fifths of the membership of each house of the legislature, the constitutional amendment proposed in the resolution will be placed on the 2022 General Election ballot or at an earlier special election specifically authorized by law for that purpose. If approved by at least 60 percent of the votes cast on the measure, the proposed amendment will take effect January 3, 2023.

II. Present Situation:

Overview

The State Constitution requires that a constitution revision commission (commission) be established every 20 years and that it have the authority to propose to voters a revision of all or any part of the State Constitution. The most recent commission convened in 2017-2018, and proposed seven amendments to the State Constitution which appeared on the 2018 General Election ballot.

Constitution Revision Commission

Origin and History

The State Constitution was revised extensively in 1968 by way of three joint resolutions proposed by the legislature and approved by the voters. The revisions included the establishment of a constitution revision commission as a means of proposing constitutional revisions to the

voters, and the requirement that it convene once every 20 years, beginning in 1977. Accordingly, three Commissions have convened: in 1977-1978, 1997-1998, and most recently in 2017-2018.¹

Members

The State Constitution requires that the commission be comprised of 37 members, and it provides guidelines for the selection of these members. The Attorney General must serve on the commission, and the rest of the members must be chosen by the Governor (15), Speaker of the House (9), President of the Senate (9), and the Chief Justice of the Florida Supreme Court (3). Additionally, the Governor must appoint a chair from among the 37 members.²

Task, Procedures, and Authority

The commission's task is to examine the State Constitution and decide which, if any, amendments to propose to the voters. The amendments must be submitted to the Secretary of State at least 180 days before the next general election.³ In turn, the amendments must be submitted to the voters at the next general election held more than 90 days after submission to the Secretary of State. To become effective, an amendment must be approved by at least 60 percent of the votes cast on the measure.⁴

The constitutional provision giving rise to the commission does little to prescribe how a commission must go about its task. Indeed, it says only that the commission must convene at the call of its chair, adopt rules of procedure, and "hold [an unspecified number of] public hearings."⁵

The State Constitution May Be Amended Only through the Processes it Prescribes

The State Constitution provides that it may be amended if the voters approve an amendment originating from one of five sources: the legislature, a constitution revision commission, a citizen initiative, a constitutional convention, or a taxation and budget reform commission.⁶

The Florida Supreme Court has stated that these processes are the *only* ways by which it may be amended:

The Constitution is the charter of our liberties. It cannot be changed, modified or amended by [governmental] fiat. It provides within itself the only method for its amendment, and . . . When a constitution directs how a thing shall be done, that is in effect a prohibition to its being done in any other way.⁷

¹ Constitution Revision Commission, *History*, <https://crc.law.fsu.edu/about/history.html> (last visited Sept. 11, 2019).

² FLA. CONST. art. XI, s. 2.

³ FLA. CONST. art. XI, s. 2.

⁴ FLA. CONST. art. XI, s. 5.

⁵ FLA. CONST. art. XI, s. 2.

⁶ FLA. CONST. art. XI.

⁷ *Browning v. Florida Hometown Democracy, Inc., PAC*, 29 So. 3d 1053, 1064 (Fla. 2010) (internal citations and quotations omitted); *accord State v. Florida State Imp. Com'n*, 60 So. 2d 747, 754 (Fla. 1952) (Terrell, J., and Adams, C.J., concurring) *abrogated on other grounds by Boschen v. City of Clearwater*, 777 So. 2d 958 (Fla. 2001).

Joint Resolution

A joint resolution by the legislature is one of the ways in which an amendment to the State Constitution may originate.⁸ Like a bill, it may begin in either house of the legislature.

To be submitted to the voters, a joint resolution must be agreed to by three-fifths of the membership of each house.⁹ Unless expedited by the legislature, the joint resolution is then submitted to the voters at the next general election. If the amendment proposed in the resolution is approved by at least 60 percent of the votes cast on the measure, it becomes effective in the January following the election unless otherwise specified in the amendment or in a revision of the constitution.¹⁰

III. Effect of Proposed Changes:

SJR 204 proposes to amend the State Constitution to repeal the provisions that establish a constitution revision commission. The joint resolution also amends other constitutional provisions that reference a constitution revision commission. These changes effectively abolish the constitution revision commission and a commission's authority to propose constitutional amendments to be placed on the ballot for approval by the voters.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

⁸ FLA. CONST. art. XI. An amendment or revision may originate as a proposal by the legislature, a constitution revision commission, a constitutional convention, a taxation and budget reform commission, or the people directly, by way of an initiative.

⁹ FLA. CONST. art. XI, s. 1.

¹⁰ FLA. CONST. art XI, s. 5.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of State, Division of Elections, provided the following information regarding the cost of advertising the proposed amendment contained in the resolution:

The statewide average cost for the Division of Elections to advertise constitutional amendments, in English and Spanish, in newspapers for the 2020 election cycle was **\$86.85** per English word of the originating document. This cost does not reflect the cost of the initial Spanish translation. This cost also does not include the cost of printing and distributing required by [section 101.71](#), Fla. Stat., to provide a sufficient number of copies in poster or booklet form of the constitutional amendments for each of the 67 Supervisors of Elections to post or make available at each polling room or each voting site. Again the state law requirement has historically been implemented to print and distribute booklets which include the ballot title, ballot summary, the full text of the constitutional amendment, and if applicable the financial impact statement.

With the 2019 legislative change in section [100.371\(13\)\(e\)4.](#), Fla. Stat., the summary of the initiative financial information statement (distinct from the financial impact statement) was also included as part of the booklets but not the newspaper advertising for 2020 and thereafter. This did increase costs of printing/distributing the booklets and the cost of Spanish translation, as required by law, including the Voting Rights Act.

Accurate cost estimates for the next constitutional amendment advertising cannot be determined until the total number of amendments to be advertised is known and updated quotes are obtained from the newspapers.¹¹

¹¹ Email from W. Pierce Schuessler, Director of Policy and Budget, Florida Department of State (Jan. 20, 2021) (on file with the Senate Committee on Governmental Oversight and Accountability).

VI. Technical Deficiencies:

Considering that a taxation and budget reform commission (TBRC) is substantially similar to a constitution revision commission, the Legislature may wish to consider proposing an amendment to the State Constitution to abolish the TBRC.

The TBRC, created by Article VI, s. 6 of the State Constitution, is comprised of appointees who have the power to propose constitutional amendments directly to the electors. These amendments may include a “revision of this constitution or any part of it dealing with taxation or the state budgetary process.”¹²

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

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.

¹² FLA. CONST. art. XI, s. 6(e).