

HOUSE OF REPRESENTATIVES ANALYSIS

BILL #: HB 1883 (PCB FT 03-04) **RELATING TO:** Financial Impact of Initiative Petitions
SPONSOR(S): Committee on Finance & Tax
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
(1) <u>Finance & Tax</u>	<u>20 Y, 1 N</u>	<u>Overton</u>	<u>Diez-Arguelles</u>
(2) _____	_____	_____	_____
(3) _____	_____	_____	_____
(4) _____	_____	_____	_____
(5) _____	_____	_____	_____

SUMMARY ANALYSIS

In the 2002 general election the voters amended the Florida Constitution to require that the Legislature provide by general law for the provision of a statement to the public regarding the probable financial impact of any amendment proposed to the Florida Constitution by initiative petition.

The bill implements the amendment to the Florida Constitution by requiring the newly created Financial Impact Estimating Conference (FIEC) to prepare a clear and unambiguous 50-word financial impact statement for inclusion in the ballot summary for an amendment to the Constitution proposed by initiative petition. The principals of the Financial Impact Estimating Conference are the Executive Office of the Governor, the Executive Office of the Chief Financial Officer, the Coordinator of the Office of Economic and Demographic Research, and professional staff of the Senate and House of Representatives who have appropriate expertise in the subject matter of the initiative, or their designees. A Financial Impact Estimating Conference may be appointed for each initiative.

In addition to developing the 50-word financial impact statement, the FIEC must also draft an initiative financial information statement. The statement should describe in greater detail than the financial impact statement any projected increase or decrease in revenues, costs, expenditures, or indebtedness that the state would likely experience if the ballot measure were approved by state voters. Where appropriate, the initiative financial information statement may include both estimated dollar amounts and a description placing the estimated dollar amounts into context. The initiative financial information statement must include both a summary of not more than 500 hundred words and more detailed information that includes the assumptions that were made to develop the fiscal impacts, work papers, and any other information deemed relevant by the Fiscal Impact Estimating Conference.

The Department of State must print, and furnish to each supervisor of elections, a copy of the summary from the initiative financial information statement. The supervisors shall include the summary from the initiative financial information statement with the required publication or mailing of the sample ballot to the voters. The Secretary of State and the Office of Economic and Demographic Research shall make available online the entire initiative financial information statement.

The bill has an effective date of July 2, 2003.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

House Joint Resolution 571, which was adopted by the Legislature during the 2001 Session, proposed an amendment to article XI, section 5, Florida Constitution, to require that the Legislature provide by general law for the provision of a statement to the public regarding the probable financial impact of any amendment proposed to the Florida Constitution by initiative petition. HJR 571 appeared on the ballot for the 2002 general election as revision number 2 and was approved by 78% of the voters.

In 2002, prior to the approval of HJR 571 by the voters, the Legislature enacted Ch. 2002-390, Laws of Florida, requiring a fiscal impact statement on the ballot for all constitutional amendments. The Florida Supreme Court subsequently held that the law was unconstitutional because it was not necessary to ensure ballot integrity, the only basis on which legislation impacting the initiative process could be upheld.¹ The Court noted, however, that “[i]f Floridians wish to have a fiscal impact statement included with all initiatives to amend the constitution, then they can vote to adopt House Joint Resolution 571.”

Ch. 2002-390, Laws of Florida, required the Revenue Estimating Conference to develop by consensus or majority concurrence a clear and unambiguous 50-word fiscal impact statement for a proposed amendment to the Florida Constitution. The Revenue Estimating Conference’s (REC) primary duty is to develop official information with respect to anticipated state and local government revenues as the conference determines is needed for the state planning and budgeting system. These estimates are reached by consensus of the four principals. The principals of the REC are the Executive Office of the Governor, the Coordinator of the Office of Economic and Demographic Research, and professional staff of the Senate and House of Representatives who have appropriate expertise.

Sec. 16.061(1), F.S., requires the Attorney General petition the Supreme Court for an advisory opinion regarding the compliance of the text of the amendment proposed by initiative petition with the Florida Constitution. To comply with the Constitution, the proposed amendment may only have one subject and the title must be clear and unambiguous. The Attorney General must petition the Supreme Court within 30 days after receipt of a proposed amendment from the Secretary of State. Ch. 2002-390, Laws of Florida, added that the Attorney General must also petition the Supreme Court for an advisory opinion whether the 50-word fiscal impact statement is clear and ambiguous. If the Supreme Court finds the 50-word fiscal impact statement is not clear or is ambiguous, it must remand the matter to the REC solely for the purpose of redrafting the statement and the REC must redraft the statement within 15 days. s. 16.061(3), F.S.

The bill amends Ch. 2002-390, Laws of Florida, and implements the 2002 constitutional amendment. The duty to prepare the financial impact statement² is removed from the REC and given to the newly created Financial Impact Estimating Conference (FIEC). The FIEC must develop the financial impact statement by

¹ Smith v. Coalition to Reduce Class Size, 827 So.2d 959 (Fla. 2002).

² The Constitution refers to a “financial impact” rather than a “fiscal impact”, so the bill changes all references accordingly.

majority agreement. The financial impact statement must be placed on the ballot by the Secretary of State. Also, the bill removes the requirement that financial impact statements be prepared for proposed amendments other than those proposed by initiative petition, since HJR 571 only addressed initiative petitions.

The principals of the Financial Impact Estimating Conference are the Executive Office of the Governor, the Executive Office of the Chief Financial Officer, the Coordinator of the Office of Economic and Demographic Research, and professional staff of the Senate and House of Representatives who have appropriate expertise in the subject matter of the initiative, or their designees. A Financial Impact Estimating Conference may be appointed for each initiative.

The financial impact statement must be developed within 25 days after receipt of a proposed amendment to the State Constitution by initiative petition from the Secretary of State. The Financial Impact Estimating Conference must submit the financial impact statement to the Attorney General. The Attorney General has 35 days from the receipt of the initiative petition from the Secretary of State to petition the Supreme Court for an advisory opinion regarding the compliance of the text of the amendment proposed by initiative petition with the Florida Constitution and for an advisory opinion whether the 50-word fiscal impact statement is clear and ambiguous. If the FIEC takes the full 25 days, the Attorney General will have 10 days from receipt of the financial impact statement to prepare the petition to the Supreme Court.

In addition to developing the 50-word financial impact statement, the FIEC must also draft an initiative financial information statement. The initiative financial information statement should describe in greater detail than the financial impact statement any projected increase or decrease in revenues, costs, expenditures, or indebtedness that the state would likely experience if the ballot measure were approved by state voters. Where appropriate, the initiative financial information statement may include both estimated dollar amounts and a description placing the estimated dollar amounts into context. The initiative financial information statement must include both a summary of not more than 500 hundred words and more detailed information that includes the assumptions that were made to develop the fiscal impacts, work papers, and any other information deemed relevant by the Fiscal Impact Estimating Conference.

The Department of State shall have printed, and shall furnish to each supervisor of elections, a copy of the summary from the initiative financial information statement. The supervisors shall include the summary from the initiative financial information statement with the publication or mailing of the sample ballot to the voters required by s. 101.20. The Secretary of State and the Office of Economic and Demographic Research shall make available online the entire initiative financial ballot information statement.

The bill has an effective date of July 2, 2003.

C. SECTION DIRECTORY:

Section 1: Amends s. 15.21, F.S., to change a reference to the Revenue Estimating Conference to the Financial Impact Estimating Conference.

Section 2: Amends s. 16.061, F.S., to change references to the Revenue Estimating Conference to the Financial Estimating Conference. Changes reference to the fiscal impact statement to the financial impact statement. Deletes language concerning proposed amendments to the constitution proposed by other than initiative petition.

Section 3: Amends s. 100.371, F.S.,:

(6) (a) Changes a reference to the Revenue Estimating Conference to the Financial Impact Estimating Conference. Directs the Financial Estimating Conference to submit the financial impact statement to the Attorney General and to the Secretary of State within 25 days after a receipt of a proposed amendment by initiative petition from the Secretary of State.

(6)(b) Provides the duties of the Financial Impact Estimating Conference. Provides the principals of the Financial Impact Estimating Conference. Provides the duties of the Secretary of State in disseminating information produced by the Financial Impact Estimating Conference.

Section 4: Amends s. 101.161, F.S., change references to the Revenue Estimating Conference to the Financial Estimating Conference. Changes reference to the fiscal impact statement to the financial impact statement. Deletes a reference to s. 100.138, F.S., the duties of the Revenue Estimating Confernece concerning proposed amendments to the constitution proposed by other than initiative petition.

Section 5: Amends s. 216.136(3)(c), F.S., to repeal the duties of the Revenue Estimating Conference regarding proposed amendments to the constitution by initiative petition.

Section 6: Repeals s. 100.381, F.S., which states the duties of the Revenue Estimating Conference concerning proposed amendments to the constitution proposed by other than initiative petition.

Section 7: Provides that the act shall take effect July 2, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: N/A
2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES