

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SJR 464

SPONSOR: Senator Smith

SUBJECT: Constitutional amendments; fiscal impact statement

DATE: March 25, 2003

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fox</u>	<u>Rubinas</u>	<u>EE</u>	<u>Fav/1 amendment</u>
2.	<u>Keating</u>	<u>Johansen</u>	<u>FT</u>	<u>Favorable</u>
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	<u>RC</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Joint Resolution 464 requires *all* proposed constitutional amendments and revisions to carry a corresponding statement of probable fiscal impact. Currently, a fiscal impact statement need only be provided for constitutional amendments *proposed by citizen initiative*.

The resolution must pass by a 3/5ths vote of each house of the Legislature and be approved by the voters at the 2004 general election in order to become effective.

The resolution amends Section 5 of Article XI of the State Constitution.

II. Present Situation:

In 2002, the Legislature enacted ch. 2002-390, L.O.F., requiring a fiscal impact statement on the ballot for *all* constitutional amendments.¹ 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.² 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.”³ At the 2002 general election, Floridians did precisely that --- effectively negating the Supreme Court decision and authorizing a fiscal impact statement for constitutional amendments *proposed by initiative*.

¹ Chapter 2002-390, Laws of Florida.

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

³ *Id.* at 964-65. House Joint Resolution 571 states that the legislature shall provide by general law for the provision of a fiscal impact statement to the public, *prior to the holding of an election*. Read literally, this language does not appear to unequivocally authorize the inclusion of a fiscal impact statement *on the ballot* as opposed to some time preceding the election. However, the Court’s decision strongly suggested that the adoption of the amendment would serve to remove the statute’s constitutional infirmities.

Specifically, ch. 2002-390, L.O.F., requires the Revenue Estimating Conference to develop a statement, no more than 50 words in length, for inclusion on the general election ballot identifying the fiscal impact of each proposed citizen initiative that the Florida Supreme Court approves. The Conference must prepare the statement within 45 days of the Court's approval of the initiative. The Conference is required to reach consensus or majority concurrence of the fiscal statement. If the members of the Conference are unable to agree on the statement, the following statement shall appear on the ballot: "The fiscal impact of this measure, if any, can not be reasonably determined at this time." Chapter 2002-390, L.O.F., does not authorize or require a fiscal impact statement for constitutional amendments *proposed by means other than the initiative process*.

In Florida, the professional staffs from the Legislature, Executive and Judicial branches meet in a series of regularly scheduled Consensus Estimating Conferences to provide the forecasts needed to support the planning and budgeting process. These conferences are held at least three times a year, once in the fall to provide forecasts for the Governor's budget recommendations, once in the winter to provide final estimates for the Legislature's appropriation process, and once in the spring to adjust the winter forecast to reflect legislative changes. Impact conferences are held when estimates are needed to determine the impact of changes or proposed changes to current law or current administration or when a fiscal impact statement for a constitutional amendment proposed by citizen initiative is required.

Statutory authority for the consensus forecasts is provided in ss. 216.133 to 216.137, F.S., which specify the duties of each conference and designates the conference principals and participants. Revenue estimating is carried on as part of the overall consensus estimating process. Subsection (3) of s. 216.136, F.S., provides that the principals of the Revenue Estimating Conference are the Executive Office of the Governor, the coordinator of the Office of Economic and Demographic Research, and professional staff of the House and Senate who have forecasting expertise, or their designees. Historically, the representatives of the House and Senate have been the staff directors of the tax committees, and the policy coordinator overseeing tax issues has represented the Governor's Office.

III. Effect of Proposed Changes:

Senate Joint Resolution 464 requires all constitutional amendments or revisions to have a fiscal impact statement prior to the holding of an election, as provided by general law. This language includes amendments and revisions proposed by the Legislature, a constitution revision commission, a constitutional convention, or a taxation and budget reform commission. Presently, the State Constitution only requires *amendments proposed by initiative* to carry a fiscal impact statement.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Each constitutional amendment is required to be published in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week preceding the general election. Costs for advertising vary depending upon the length of the amendment; however, the cost per amendment is estimated to be approximately \$35,000.

VI. Technical Deficiencies:

The ballot statement on Page 2, lines 22-27, should be amended to specifically identify revisions to the constitution proposed by a constitution revision commission or constitutional convention, to provide adequate and accurate notice to the voters. The title should also be amended, to conform.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Ethics and Elections:

Technical; corrects the bill drafting mistake identified in the "VI. Technical Deficiencies" section of this analysis. (WITH TITLE AMENDMENT)