

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 2392

SPONSOR: Senators Atwater and Smith

SUBJECT: Constitutional Amendments or Revisions; Passage Requirements

DATE: March 9, 2004

REVISED: 03/11/04 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fox</u>	<u>Rubinas</u>	<u>EE</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>RC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Joint Resolution 2392 increases the current affirmative passage requirement for proposed constitutional amendments or revisions, however proposed (i.e., citizen initiative, legislative joint resolution), from a simple majority of those voting on the matter (50 percent plus one vote) to 60 percent (3/5ths) of those voting on the matter.

The joint resolution takes effect upon approval by the voters, but does not apply to amendments or revisions that are certified for ballot placement by June 1, 2004. Additionally, unless this joint resolution is adopted by the voters at a special election *prior to the general election in November*, all proposed constitutional amendments or revisions on the November 2004 general election ballot, whenever certified, will require only a simple affirmative majority vote for passage.

NOTE: This joint resolution is linked to Senate Bill 2398, which, if passed by a three-fourths (3/4ths) affirmative vote of each house, would place the 60 percent passage requirement issue on the August 2004 primary election ballot for consideration by the voters. Even if that bill fails to pass by the constitutionally-required three fourths (3/4ths) vote, this joint resolution, if passed by a three-fifths (3/5ths) affirmative vote of each house, would still appear on the November 2004 general election ballot.

The joint resolution embodies a recommendation of the Senate Select Committee on Constitutional Amendment Reform.

The joint resolution amends or creates the following sections of the Florida Constitution: Section 5, Article XI; Section 26, Article XII.

II. Present Situation:

The Constitution provides that a proposed amendment or revision must pass by a simple majority of electors voting on the measure.¹

III. Effect of Proposed Changes:

Senate Joint Resolution 2392 increases the current affirmative passage requirement for proposed constitutional amendments or revisions, however proposed (i.e., citizen initiative, legislative joint resolution), from a simple majority of those voting on the matter (50 percent plus one vote) to 60 percent (3/5ths) of those voting on the matter.

The joint resolution takes effect upon becoming law, but applies only to those amendments or revisions that are not certified for ballot placement by June 1, 2004; however, unless this joint resolution is adopted at a special election preceding the November general election, all constitutional amendments and revisions on the November 2004 general election ballot would only need to pass by a simple majority of those voting on the matter, irrespective of whether such measure was certified for ballot placement before or after June 1, 2004.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Grandfathering-in amendments/revisions certified for ballot placement by June 1, 2004 under the simple majority passage requirement may present some equal protection issues --- if the voters were to enact this joint resolution at a special election on August 31. In such circumstance, some amendments/revisions on the 2004 general election ballot might require a simple majority for passage while others *on the same ballot* might need 60 percent.

¹ The actual language in the Constitution provides that a proposed amendment or revision must be approved by “vote of the electors,” defined as “... the majority of those voting on the matter in the election, general or special ...”. Art. XI, s. 5(d); Art. X, s. 12(d), FLA CONST.

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:

On page 1, line 1, the joint resolution number needs to be inserted.

VII. Related Issues:

This joint resolution is linked to Senate Bill 2398, which, if passed by a three-fourths (3/4ths) affirmative vote of each house, would place the 60 percent passage requirement issue on the August 2004 primary election ballot for consideration by the voters. Even if that bill fails to pass by the constitutionally-required three fourths (3/4ths) vote, this joint resolution, if passed by a three-fifths (3/5ths) affirmative vote of each house, would still appear on the November 2004 general election ballot; in that case, however, all constitutional amendments and revisions on the November 2004 general election ballot would only need to pass by a simple majority of those voting on the matter, irrespective of whether such measure was certified for ballot placement after June 1, 2004.

VIII. Amendments:

#1 by Ethics and Elections:

Technical; inserts missing bill number.