

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: SB 2402

SPONSOR: Senators Atwater and Smith

SUBJECT: Constitutional Amendments and Revisions; Initiatives Petition Subjects; Judicial Review

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>Brown</u>	<u>Lang</u>	<u>JU</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Bill 2402 authorizes a special election to be held concurrently with the August 31, 2004 primary election, for the purpose of submitting Senate Joint Resolution 2396 to the voters. That joint resolution limits the scope of constitutional amendments and revisions that can be placed on the ballot by citizen initiative to include only those proposed measures that:

- Alter, amend, or repeal an existing article or amendment to the Constitution;
- Address a fundamental right of a citizen of Florida; or,
- Seek to create, implement, or otherwise change a basic structure of state government,

as determined by the Florida Supreme Court.

This bill takes effect upon becoming law, but must pass by a three-fourths (3/4ths) vote of each house of the Florida Legislature.

This bill creates unnumbered sections of the Florida Statutes.

II. Present Situation:

Most proposed constitutional amendments or revisions are submitted to the voters at a general election held more than 90 days after the amendment or revision is filed with the Secretary of State.¹ The Constitution authorizes the Legislature, however, to mandate an earlier special election to submit an amendment or revision to the electors for their consideration, provided:

¹ S. 5(a), art. XI, *Fla. Const.*.

- The law is adopted by a three-fourths (3/4ths) affirmative vote of each house;
- The proposed amendment or revision is limited to a single amendment or revision; and,
- The date set for the earlier special election is more than 90 days after the proposed amendment or revision is filed with the Secretary of State.²

Staff is aware of at least one other precedential occasion where the Legislature authorized a special election on a joint resolution to coincide with another scheduled election. In 1975, the Legislature authorized Senate Joint Resolution 1061 to be placed before the voters in conjunction with the Presidential Preference Primary of March 1976.³ That measure sought to establish a limit on local taxes to be used for water management purposes. It passed.

III. Effect of Proposed Changes:

Senate Bill 2402 authorizes a special election to be held concurrently with the August 31, 2004 primary election, for the purpose of submitting Senate Joint Resolution 2396 to the voters. That joint resolution limits the scope of constitutional amendments and revisions that can be placed on the ballot by citizen initiative to include only those proposed measures that:

- Alter, amend, or repeal an existing article or amendment to the Constitution;
- Address a fundamental right of a citizen of Florida; or,
- Seek to create, implement, or otherwise change a basic structure of state government,

as determined by the Florida Supreme Court.

If adopted by the electors at the August 31 special election, the new limitations on proposed constitutional amendments and revisions by initiative will take effect January 4, 2005; *the new limitations will not impact any measure appearing on the 2004 general election ballot.*

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

² *Id.*

³ Ch. 75-245, at 702, Laws of Fla.

D. Other Constitutional Issues:

The Constitution provides that a legislatively-authorized special election on a proposed constitutional amendment or revision must occur at least 90 days after the amendment or revision is filed with the Secretary of State. Art. XI, s. 5 (a). Thus, in order to have the special election on August 31, 2004 to coincide with the primary election, Senate Joint Resolution 2396 must be filed with the Secretary of State *no later than June 1, 2004*.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be some additional printing expenses associated with a longer ballot. But, because the special election authorized in the bill is to be run concurrently with the 2004 primary election, the fiscal impact is likely to be minimal. (In the unlikely event that a county does not have to conduct a primary election [no contested legislative primaries and no local elections tied to the primary date], however, the additional localized expense of conducting the special election could be substantial.)

VI. Technical Deficiencies:

None. See Amendment #1 traveling with the bill.

VII. Related Issues:

This bill is linked to Senate Joint Resolution 2396.

VIII. Amendments:

#1 by Ethics and Elections:
Technical; inserts missing SJR number.