

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HJR 249 Repeal of Constitution Revision Commission

SPONSOR(S): Civil Justice Subcommittee, Drake, Brad and others

TIED BILLS: HB 251 **IDEN./SIM. BILLS:** SJR 362

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	13 Y, 1 N, As CS	Jones	Poche
2) State Affairs Committee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Florida voters can amend the state Constitution by approving an amendment originating from one of five sources: the Legislature, the Constitution Revision Commission (CRC), the Taxation and Budget Reform Commission (TBRC), a citizen initiative, or a constitutional convention. The Constitution requires that the CRC meet every 20 years. The CRC has authority to propose to voters a revision of all or any part of the Florida Constitution. In the 2018 general election, seven proposals from the CRC were placed on the ballot.

CS/HJR 249 abolishes the CRC by repealing the constitutional provisions that establish it.

The joint resolution has a nonrecurring fiscal impact on the Department of State for the publication of the proposed constitutional amendment in newspapers of general circulation in each county and for publication of booklets or posters with the amendment language for use in polling places, as required by s. 101.171, F.S.

The joint resolution, if passed by the Legislature, would be considered by the electorate at the next general election on November 3, 2020. If adopted at the 2020 general election, the resolution would take effect January 5, 2021.

A joint resolution proposing an amendment to the Florida Constitution must be passed by three-fifths of the membership of each house of the Legislature to appear on the next general election ballot. If placed on the ballot, the Constitution requires 60 percent voter approval for passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Constitution Revision Commission

The Florida Constitution is the charter of the liberties of Floridians.¹ It may be amended only if the voters approve an amendment originating from the Legislature, the Constitution Revision Commission (CRC), the Taxation and Budget Reform Commission (TBRC), a citizen initiative, or a constitutional convention.²

The Florida Constitution was revised extensively in 1968 by three joint resolutions proposed by the Legislature and approved by the voters. The revisions included establishing the CRC as a means of proposing constitutional revisions to the voters, and the requirement that it convene once every 20 years, beginning in 1977. Three CRCs have convened, in 1977-1978, 1997-1998, and 2017-2018.³ The CRC has authority to propose to voters a revision of all or any part of the Florida Constitution.⁴

The CRC is composed of the following 37 members:

- The Attorney General.
- Fifteen members selected by the Governor.
- Nine members selected by the President of the Senate.
- Nine members selected by the Speaker of the House of Representatives.
- Three members selected by the Chief Justice of the Florida Supreme Court.⁵

The Governor must appoint a chair from among the 37 members.⁶ The CRC's task is to examine the 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.⁷ 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.⁸ To become effective, an amendment must be approved by at least 60 percent of the votes cast on the measure.⁹ If an amendment's effective date is not specified, it is effective the first Tuesday after the first Monday in January following the general election.¹⁰

¹ *Browning v. Florida Hometown Democracy, Inc., PAC*, 29 So. 3d 1053, 1064 (Fla. 2010) (internal citations omitted).

² Art. XI, Fla. Const.

³ Constitution Revision Commission, History, <http://flcrc.gov/about/history.html> (last visited Feb. 13, 2019).

⁴ Art. XI, s. 2(c), Fla. Const.

⁵ Art. XI, s. 2(a), Fla. Const.

⁶ Art. XI, s. 2(b), Fla. Const.

⁷ Art. XI, s. 2(c), Fla. Const.

⁸ Art. XI, s. 5(a), Fla. Const.

⁹ Art. XI, s. 5(e), Fla. Const.

¹⁰ *Id.*

Bundling or "Logrolling"

The Constitution requires each citizen initiative proposal to be limited to one subject.¹¹ This prevents bundling multiple issues into one proposal, also known as "logrolling." However, neither the CRC nor the TBRC is prohibited from bundling or logrolling.¹² Speaking specifically to the CRC, the Florida Supreme Court recently held:

Unlike proposed amendments that originate through initiative petitions, amendments proposed by the Constitution Revision Commission are not bound by the single-subject rule limiting amendments to one subject. . . . the Florida Constitution expressly authorizes bundling, as it gives the Commission authority to revise the entire constitution or any part of it. The power to amend the whole constitution in one proposal necessarily includes the lesser power to amend parts of the constitution in one proposal.¹³

The most recent CRC convened in 2017-2018 and proposed eight amendments to the Florida Constitution, seven of which appeared on the 2018 general election ballot.¹⁴ Some of the proposals contained multiple unrelated subjects,¹⁵ requiring voters to decide whether to vote for an amendment that combined changes they liked with unrelated changes they did not like. One proposal, for example, combined a proposal to ban drilling for oil with a ban on vaping in indoor workplaces.

Effect of Proposed Changes

CS/HJR 249 abolishes the CRC by repealing the constitutional provisions that establish it. The joint resolution does not change the other methods to amend the Constitution—through a legislative joint resolution, the TBRC, a citizen initiative, or a constitutional convention.

The joint resolution must pass each chamber with a three-fifths vote before it may be placed on the ballot. Thereafter, it must be approved by 60 percent of the electors voting on the measure. If approved by the voters, the joint resolution will take effect January 5, 2021.

B. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, s. 5(d) of the Florida Constitution requires publication of a proposed amendment in a newspaper of general circulation in each county. The Division of Elections must advertise the full text of the amendment twice in a newspaper of general circulation in each county where the

¹¹ Art. XI, s. 3, Fla. Const.

¹² Art. XI, ss. 2, 6, Fla. Const.

¹³ *Detzner v. Anstead*, 256 So. 3d 820, 823-24 (Fla. 2018).

¹⁴ Constitution Revision Commission, CRC Office – Press Release, <http://flcrc.gov/Media/PressReleases/Show/1099.html> (last visited Feb. 13, 2019); *Detzner v. League of Women Voters of Florida*, 256 So. 3d 803 (Fla. 2018) (removing Revision 8 from the ballot).

¹⁵ Fred Grimm, *Florida Ballot Proposals Bundled with Disparate Subjects, Deceptive Wording*, SUN SENTINEL (Apr. 27, 2018), <http://www.sun-sentinel.com/opinion/fl-op-column-fred-grimm-florida-ballot-proposals-20180426-story.html>.

amendment will appear on the ballot. The Division must also provide each Supervisor of Elections with either booklets or posters displaying the full text of each proposed amendment,¹⁶ regardless of whether the amendment passes.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The mandates provision applies only to general laws, not a joint resolution to amend the Constitution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 13, 2019, the Civil Justice Subcommittee adopted one amendment and reported the joint resolution favorably as a committee substitute. The amendment deleted a reference to the CRC within article XI, s. 5 of the Florida Constitution.

This analysis is drafted to the committee substitute as passed by the Civil Justice Subcommittee.

¹⁶ S. 101.171, F.S.
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DATE: 2/14/2019