

FLORIDA FINANCIAL IMPACT ESTIMATING CONFERENCE

Voter Approval of Constitutional Amendments

Serial Number 19-08

December 13, 2019

FINANCIAL IMPACT STATEMENT

It is probable that the proposed amendment will result in additional state and local government costs to conduct elections in Florida. Overall, these costs will vary from election cycle to election cycle depending on the unique circumstances of each ballot and cannot be estimated at this time. The key factors determining cost include the number of amendments appearing for the second time on each ballot and the length of those amendments. Since the maximum state cost is likely less than \$1 million per cycle but the impact cannot be discretely quantified, the change to the state's budget is unknown. Similarly, the economic impact cannot be modelled, although the spending increase is expected to be below the threshold that would produce a statewide economic impact. Because there are no revenues linked to voting in Florida, there will be no impact on government taxes or fees.

SUMMARY OF INITIATIVE FINANCIAL INFORMATION STATEMENT

Based on the historical record in Florida, it is probable that the proposed amendment will result in additional state and local government costs to conduct elections. Overall, these costs will vary from election cycle to election cycle depending on the unique circumstances of each ballot and cannot be estimated at this time.

As identified by the Florida Department of State, state government will incur increased costs to meet advertising requirements and provide a sufficient number of English and Spanish booklets containing the full text of the amendments for each polling room or early voting area. The added costs only relate to proposed amendments appearing for the second time. Had the proposed amendment been in place for the 2018 election when eleven of twelve amendments passed, the additional cost to the 2020 election would have been approximately \$1 million dollars.

As discussed by a representative of the Florida Supervisors of Elections, local governments would also experience increased costs to conduct elections. These increases are mainly due to the potential lengthening of the ballot in any given election cycle. These costs include added expenses for printing and mailing that are anticipated to be greater in counties which print in multiple languages. Further, there may be one-time costs for new programming, voter education, and the potential purchase of additional equipment. The additional equipment would be required to accommodate the longer ballots, as well as statutory timeframes for recording results. In some cases, the purchase of additional equipment would be coupled with additional staff to operate it. Other costs could include the addition or expansion of voting locations and conceivably the time or resources needed for recounts. The total increase in local costs cannot be determined at this time.

Since the maximum state cost is likely less than \$1 million per cycle but the impact cannot be discretely quantified, the change to the state's budget is unknown. Similarly, the economic impact cannot be modelled, although the spending increase is expected to be below the threshold that would produce a statewide economic impact. Because there are no revenues linked to voting in Florida, there will be no impact on government taxes or fees.

SUBSTANTIVE ANALYSIS

A. Proposed Amendment

Ballot Title:

Voter Approval of Constitutional Amendments

Ballot Summary:

Requires all proposed amendments or revisions to the state constitution to be approved by the voters in two elections, instead of one, in order to take effect. The proposal applies the current thresholds for passage to each of the two elections.

Article and Section Being Created or Amended:

Article XI, Sections 5 and 7

Full Text of the Proposed Amendment:

SECTION 5. Amendment or revision election.—

(a) A proposed amendment to or revision of this constitution, or any part of it, shall be submitted to the electors at the next general election held more than ninety days after the joint resolution or report of revision commission, constitutional convention or taxation and budget reform commission proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing. If the proposed amendment or revision is approved as provided in subsection (e), it shall be submitted to the electors a second time at the next general election occurring at least ten weeks after the election in which the proposed amendment or revision is initially approved.

(b) A proposed amendment or revision of this constitution, or any part of it, by initiative shall be submitted to the electors at the general election provided the initiative petition is filed with the custodian of state records no later than February 1 of the year in which the general election is held. If the proposed amendment or revision is approved as provided in subsection (e), it shall be submitted to the electors a second time at the next general election.

(c) The legislature shall provide by general law, prior to the holding of an election pursuant to this section, for the provision of a statement to the public regarding the probable financial impact of any amendment proposed by initiative pursuant to section 3.

(d) Once in the tenth week, and once in the sixth week immediately preceding the week in which the an election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, shall be published in one newspaper of general circulation in each county in which a newspaper is published.

(e) Unless otherwise specifically provided for elsewhere in this constitution, if the proposed amendment or revision is approved by vote of at least sixty percent of the electors voting on the measure in each of two elections, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the second election in which the proposed amendment or revision is approved, or on such other date as may be specified in the amendment or revision.

SECTION 7. Tax or fee limitation.—Notwithstanding Article X, Section 12(d) of this constitution, no new State tax or fee shall be imposed on or after November 8, 1994 by any amendment to this constitution unless the proposed amendment is approved by not fewer than two-thirds of the voters voting in each of the two elections in which such proposed amendment is considered. For purposes of this section, the phrase “new State tax or fee” shall mean any tax or fee which would produce revenue subject to lump sum

or other appropriation by the Legislature, either for the State general revenue fund or any trust fund, which tax or fee is not in effect on November 7, 1994 including without limitation such taxes and fees as are the subject of proposed constitutional amendments appearing on the ballot on November 8, 1994. This section shall apply to proposed constitutional amendments relating to State taxes or fees which appear on the November 8, 1994 ballot, or later ballots, and any such proposed amendment which fails to gain the two-thirds vote required hereby shall be null, void and without effect.

B. Effective Date

Article XI, Section 5(e), Florida Constitution, states: "Unless otherwise specifically provided for elsewhere in this constitution, if the proposed amendment or revision is approved by vote of at least sixty percent of the electors voting on the measure, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision."

Assuming the initiative is on the ballot in 2020, its effective date would be January 5, 2021. These provisions will not apply to proposed constitutional amendments on the 2020 ballot. The first amendments to which the provisions will likely apply will appear on the 2022 ballot for the first time, and if approved, will appear for the second time on the 2024 ballot.

C. Formal Communications to and from the Sponsor, Proponents, and Opponents

The Sponsor, Keep Our Constitution Clean PC., appointed George Levesque and Jason Zimmerman of the Gray Robinson law firm as representatives authorized to present on its behalf at meetings held by the Financial Impact Estimating Conference (FIEC). The FIEC sought to identify any groups that were on record as supporting or opposing the petition initiative; however, none were identified.

D. Input Received from the Sponsor, Proponents, Opponents, and Interested Parties

The FIEC directly requested information from the Florida Department of State and the Florida Supervisors of Elections. In addition, the FIEC allows any proponent, opponent, or interested party to present or provide the FIEC with materials to consider. Documentation of any materials received by the FIEC can be found in the EDR Notebook on the website at: <http://edr.state.fl.us/Content/constitutional-amendments/2020Ballot/VoterApprovalAdditionalInformation.cfm>

E. Background

Article XI of the Florida Constitution provides instruction for the various methods by which proposals to amend the Florida Constitution may originate. There are three basic methods: via a legislative joint resolution, via citizen initiative, and via proposal by a commission. Section 1 enables an amendment to be proposed by a joint resolution agreed to by three-fifths of the membership of each house of the Legislature. Section 3 allows for constitutional amendments to be proposed via citizen initiative. For such a proposal, the amendment is restricted to one subject matter except for those that limit the power of government to raise revenue. Sections 2, 4, and 6 all provide methods for a commission to be convened to review certain aspects of the constitution or state government and make proposals for revision. Section 2 establishes a Constitution Revision Commission to meet thirty days prior to the convening of the 2017 regular session and each twentieth year thereafter; such a commission must convene, examine the constitution, and may file proposals for revision of the constitution. Section 4 allows citizens to call for a constitutional convention provided that a petition declaring that a convention is desired is signed by the specified number of electors; such a commission may file proposals for revision of the constitution. Section 6 establishes the Taxation and Budget Reform Commission to meet beginning 2007 and each twentieth year thereafter to

consider the revenue needs and expenditure processes of the state, appropriateness of the state's tax structure, government efficiency, and the ability of state and local government to fund government operations required to meet the state's needs; such a commission may file proposals for revision of the constitution.¹

All proposed amendments are subject to the requirements of Article XI, Section 5, which requires that all revisions to the Florida Constitution be submitted to the electors at the next general election with some exceptions. Once in the tenth week and once in the sixth week preceding the general election, the proposed amendment must be published in one newspaper in every county in which a newspaper is published. Unless noted otherwise, if the proposed amendment is approved by a vote of at least sixty percent of the electors voting on the measure, it shall be effective on the first Tuesday after the first Monday in January following the election or such other date as may be specified by the amendment.²

F. Discussion of Impact of Proposed Amendment

Section 100.371, F.S., requires the FIEC to review, analyze, and estimate the financial impact of amendments to or revisions of the State Constitution proposed by initiative. In this regard, the FIEC considers whether the proposed amendment increases or decreases any revenues or costs to state and local governments, the estimated economic impact on the economy, and the overall impact to the state budget.

The proposed amendment, *Voter Approval of Constitutional Amendments*, would require that all amendments to the Florida Constitution be approved by the electors of the state in two consecutive elections instead of one. The amendment revises Section 5 and Section 7 of Article XI so that if an amendment is approved, it must be submitted a second time at the next general election. The amendment shall only be effective after it is approved at the second election by the required vote. This requirement would apply to all amendments to the Florida Constitution regardless of whether they originate via joint resolution of the Legislature, citizen's initiative, or a commission.

Two-Election Requirement in Other States

Nevada is the only state which currently contemplates that constitutional amendments must pass two consecutive elections. The state has different requirements depending upon whether an amendment originates via legislative referral, initiative, or convention. The two-election requirement only applies to amendments arising through citizen initiative.³ The revision to the Nevada constitution which created the two-election requirement originated via legislative referral during the 1960 and 1961 Legislative Assemblies and was approved by the voters during the 1962 General Election by a vote of 38,188 approving to 29,352 disapproving. Prior to this change, amendments originating via initiative were required to be ratified by the Nevada Legislature.⁴

In addition to Florida, another state has proposed a two-vote requirement for constitutional amendments. The North Dakota Legislature passed SCR 4001 during the 2019 Legislative Assembly. If approved by the voters, the amendment would require future revisions to the North Dakota Constitution to be approved at two consecutive elections, or be ratified by the North Dakota Legislative Assembly after being approved in one election. This amendment will be decided by the North Dakota electors during the 2020 General

¹ Florida Constitution retrieved from <http://www.leg.state.fl.us>, accessed September 2019.

² Ibid.

³ Nevada Constitution retrieved from <https://www.leg.state.nv.us/Const/NvConst.html#Art19>, accessed October 2019.

⁴ Constitutional Amendments to be Voted Upon in State of Nevada at General Election, November 6, 1962.

Election.⁵ At this time, neither the North Dakota Legislative Council nor the North Dakota Secretary of State's Office has performed a fiscal or budget analysis for the measure.

Costs and Revenues

The proposed amendment would have no impact on state or local revenues because there is no relationship between the proposed changes and any state or local revenue stream. In its presentation to the FIEC, the Florida Department of State identified areas of possible additional costs to the state. In addition, the Supervisors of Elections identified additional costs for local governments. While these state and local costs are probable and nontrivial, they will vary from election to election.

The Florida Department of State identified three costs associated with constitutional amendments during the 2018 election cycle totaling \$1,096,617. Article XI, Section 5(d) of the Florida Constitution requires that "*once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, shall be published in one newspaper of general circulation in each county in which a newspaper is published.*"⁶ The cost for advertising was \$1,036,234, representing 94.5% of the total cost in 2018. The Department of State is also required to provide each county Supervisor of Elections with a sufficient number of English and Spanish booklets containing the full text of the proposed amendments for each polling room or early voting area. The cost of providing these booklets in 2018 was \$58,118, representing 5.3% of the total. All constitutional amendments are also required to be translated into Spanish per federal and state laws, which cost \$2,266 in 2018 or 0.2% of the total. Altogether, these costs equated to \$92.93 per English word of the originating document for the 2018 election cycle.⁷

If the amendment *Voter Approval of Constitutional Amendments* were to pass, it is probable that Florida state government would experience increased costs for amendments that appear on the ballot for the second time. The increased costs associated with the second general election after this amendment's effective date would not be realized until the 2024 general election cycle. Of the three types of costs noted above, the cost to advertise and provide booklets would be increased for the amendments being considered for a second time. The cost to translate would not be incurred a second time because an amendment would only need to be translated from English to Spanish once.

In an effort to identify the potential additional cost to the state, FIEC staff prepared a word count analysis of constitutional amendments from the previous five election cycles. These counts were multiplied by the 2018 Department of State adjusted cost per word.⁸ The total number of amendments filed varied greatly by year, ranging from 12 during the 2018 election to 3 during the 2014 election cycle. In addition, for any given election cycle, the number or percentage of amendments that passed also fluctuated. For example, at the 2018 election, 11 of 12 amendments were approved, while only 3 of 11 amendments were approved as a result of the 2012 election.

There was also great variability in the word count, whether analyzed by individual amendment, the average for each election cycle, or the total for each cycle. Excluding ballot summary and any other introductory language, individual amendments ranged from a high of 3,346 words to a low of 102 words. The cycle average ranged from 1,225 words in 2016 to 333 words in 2010. The total word count per cycle had a high of 12,075 words in 2012 to a low of 1,997 words in 2010. When the adjusted cost per word of \$92.74 was applied to individual amendments, the costs fluctuated from a high of \$310,301 to a low of \$9,459. The

⁵ North Dakota Legislative Assembly website accessed October 2019 on <https://www.legis.nd.gov/assembly/66-2019/bill-actions/ba4001.html>.

⁶ Florida Constitution retrieved from <http://www.leg.state.fl.us>, accessed September 2019.

⁷ Correspondence from Division of Elections, Florida Department of State on November 21, 2019.

⁸ The 2018 Department of State cost per word was adjusted downward by 0.2% to remove the translation cost.

average per cycle ranged from \$113,586 to \$30,886 while the annual total cost ranged from \$1,119,811 to \$185,198. A display of the calculations is shown below:

Constitutional Amendments, 2010 through 2018 Estimated Costs

2018 Election Costs		
Department of State (DOS)*		
Advertising	\$ 1,036,234	94.5%
Booklets	\$ 58,118	5.3%
Translation	\$ 2,266	0.2%
Total	\$ 1,096,617	

DOS Cost per Word*	
Cost per Word	\$ 92.93
Adjusted	\$ 92.74

Note: The adjusted cost per word excludes translation.

* Memorandum to FIEC from Department of State, Division of Elections, November 21, 2019

Constitutional Amendment Word Counts Ranked High to Low					
Election Year	2010	2012	2014	2016	2018
	698	3,346	1,196	2,524	2,036
	625	2,573	1,046	1,293	1,861
	245	1,758	303	1,004	1,220
	164	888		958	1,155
	163	806		345	1,060
	102	763			1,032
		719			468
		572			302
		404			301
		125			293
		121			229
					170

Word Count					
Election Year	2010	2012	2014	2016	2018
Maximum	698	3,346	1,196	2,524	2,036
Minimum	102	121	303	345	170
Average	333	1,098	848	1,225	844
Total	1,997	12,075	2,545	6,124	10,127

Department of State Estimated Costs					
Election Year	2010	2012	2014	2016	2018
Maximum	\$ 64,731	\$ 310,301	\$ 110,915	\$ 234,071	\$ 188,815
Minimum	\$ 9,459	\$ 11,221	\$ 28,100	\$ 31,995	\$ 15,765
Average	\$ 30,866	\$ 101,801	\$ 78,673	\$ 113,586	\$ 78,263
Total	\$ 185,198	\$ 1,119,811	\$ 236,018	\$ 567,928	\$ 939,158

Note:

Word counts include only the constitutional text and not ballot summaries or any other introductory or reference language.

The degree of variability in the number of amendments, the length of the amendments, and the passage rate of amendments, led the FIEC to conclude that while additional cost to the state is probable, it is not quantifiable.

In addition to the added cost to state government, local governments would also experience increased costs to conduct elections. The type and scope of this increase would vary by county depending on factors unique to each election. The Supervisors of Elections provided a list of likely cost increases (see Appendix B). These include printing and mailing costs that are anticipated to be greater in areas which print in multiple languages. Increased ballot length could also cause additional pages to be printed. Further, there may be one-time costs for new programming, voter education, and the potential purchase of additional equipment. The additional equipment would be required to accommodate the longer ballots, as well as statutory timeframes for recording results. In some cases, the purchase of additional equipment would be coupled with additional staff to operate it. Other costs could include the addition or expansion of voting locations and conceivably the time or resources needed for recounts. The total increase in local costs cannot be determined at this time.

During one of the FIEC workshops, the Sponsor's representative offered the opinion that any additional state and local costs resulting from amendments appearing on the ballot a second time may be offset by fewer amendments appearing on the ballot. The premise is that the passage of the amendment could have a chilling effect on entities attempting to revise the Florida Constitution. While such an effect may occur, no evidence has been found to support this premise.

Economic Analysis

Section 100.371, F.S., requires the Financial Impact Estimating Conference to estimate the proposed amendment's impact on the economy. As such, the Conference has agreed upon the following guidelines to determine whether a proposed constitutional amendment needs an economic analysis. In this regard, no economic analysis is needed when all of the following are projected to occur:

- No, unknown, or minimal changes to any state or local expenditures.
- No, unknown, or minimal changes to any state or local revenues.
- No, unknown, or minimal changes to the level of federal receipts.
- Based on economic theory, academic research, or the nature of the initiative, no, unknown, or minimal changes are expected to any economic metrics. These include—but are not limited to—personal income, jobs, capital investment, costs of production, industry mix, or level of imports from or exports to other states or countries.

For these purposes, minimal means that the amount or effect is not large enough to be significant or affect a situation to a noticeable degree.

As stated previously, the proposed amendment will result in an increase in state and local expenditures; however, this change is indeterminate and expected to be below the threshold that would produce an economic impact. The proposed amendment will not result in any changes to state or local revenues. In addition, the proposed amendment will not change the level of federal funding via penalties, grants, level of apportionment, or any other federal funding mechanism. Lastly, there is no reasonable argument that this amendment impacts any of the economic metrics listed in the guideline above. Therefore, *Voter Approval of Constitutional Amendments* would have no discernable impact on the economy in Florida.

Budget Analysis

Based upon information provided by the Department of State, there would be an impact to the state budget resulting from passage of this amendment. This impact cannot be quantified due to the range of uncertainty discussed in *Costs and Revenues*.

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Appendix A

Constitutional Amendments, 2010 through 2018
Word Counts

2010 General Election			2016 General Election and Primary		
Amendment Number	Word Count	Type	Amendment Number	Word Count	Type
No. 1	102	Joint Resolution	No. 1	345	Initiative
No. 2	698	Joint Resolution	No. 2	1,293	Initiative
No. 4	245	Initiative	No. 3	1,004	Joint Resolution
No. 5	163	Initiative	No. 4*	2,524	Joint Resolution
No. 6	164	Initiative	No. 5	958	Joint Resolution
No. 8	625	Joint Resolution	*Considered during Primary Election		
Source: Ballotpedia			Source: Florida Department of State, Proposed Constitutional Amendments to be voted on November 8, 2016 and www.leg.state.fl.us		
2012 General Election			2018 General Election		
Amendment Number	Word Count	Type	Amendment Number	Word Count	Type
No. 1	572	Joint Resolution	No. 1	1,032	Joint Resolution
No. 2	719	Joint Resolution	No. 2	301	Joint Resolution
No. 3	1,758	Joint Resolution	No. 3	468	Initiative
No. 4	3,346	Joint Resolution	No. 4	170	Initiative
No. 5	2,573	Joint Resolution	No. 5	293	Joint Resolution
No. 6	125	Joint Resolution	No. 6	1,861	CRC*
No. 8	121	Joint Resolution	No. 7	1,060	CRC
No. 9	888	Joint Resolution	No. 9	1,155	CRC
No. 10	806	Joint Resolution	No. 10	2,036	CRC
No. 11	763	Joint Resolution	No. 11	302	CRC
No. 12	404	Joint Resolution	No. 12	1,220	CRC
Source: Ballotpedia and www.leg.state.fl.us			No. 13	229	CRC
			*CRC = Constitution Revision Commission		
			Source: Florida Department of State, Proposed Constitutional Amendments and Revisions for the 2018 General Election		
2014 General Election					
Amendment Number	Word Count	Type			
No. 1	303	Initiative			
No. 2	1,196	Initiative			
No. 3	1,046	Joint Resolution			
Source: Ballotpedia					

Notes:

Word counts include only the constitutional text and not ballot summaries or any other introductory or reference language.

Shading signifies that the amendment passed.

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Appendix B
List of Likely Local Government Cost Increases

	One time cost based upon worst case scenario planning	Recurring but variable cost based upon individual election parameters
Ballot Length	<ul style="list-style-type: none"> • One of biggest impacts to election process • Longer ballots in General Elections - at least double length in smaller counties (1 page increase to 2 pages per voter). Additional 3 to 4 pages per voter very possible for larger counties 	<ul style="list-style-type: none"> • Hardware - more voting machines • More Ballot-on-Demand (BOD) printers <ul style="list-style-type: none"> • Ballot printing costs • Consumables for Early Voting (EV) ballot printers • Networking component costs
Time to Vote	<ul style="list-style-type: none"> • Early Voting & Election Day • Longer lines 	<ul style="list-style-type: none"> • Larger polling places • Equipment storage space • Maintenance costs due to additional equipment and heavier usage • Voting privacy stations <ul style="list-style-type: none"> • More poll workers
Testing	<ul style="list-style-type: none"> • Longer and more complicated 	<ul style="list-style-type: none"> • More people on staff to conduct tests • Larger test decks
Vote-by-Mail		<ul style="list-style-type: none"> • Vote-by-Mail (VBM) postage increase due to weight of additional ballot pages • Ballot printing costs • Ballot design/testing/proofing • Larger VBM envelopes
Voter Education / Confusion	<ul style="list-style-type: none"> • Anticipation is that voters will be very confused 	<ul style="list-style-type: none"> • Sample ballot length • Sample ballot delivery costs • Newspaper and other media costs for education efforts
Recounts	<ul style="list-style-type: none"> • Will take much longer and involve more people 	<ul style="list-style-type: none"> • Purchase new and more expensive central tabulators
Audits	<ul style="list-style-type: none"> • Will take much longer and involve more people 	<ul style="list-style-type: none"> • Purchase new and more expensive central tabulators

Submitted by Leon County Supervisor of Elections, Mark Earley, on behalf of the Florida Supervisors of Elections on 12/12/2019 as a follow-up to a presentation to the FIEC on 12/6/2019.