

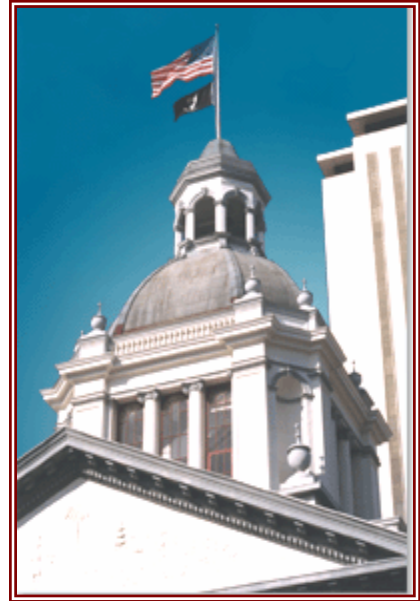
CARLTON FIELDS CAPITOL REPORT

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Proposals Would Toughen Standards

Political Will Emerging to Curtail Citizen-Driven Constitutional Amendments

Florida's Constitution has been amended 95 times since 1970. In contrast, the US Constitution has been amended 27 times in more than 215 years.



Pregnant pigs and bullet trains are two examples of citizen-initiated amendments funded by special interests that have worked their way into Florida's Constitution.

Florida is currently experiencing a 76 percent passage rate of constitutional amendments, which far outpaces a 41 percent national average. In 2002, Florida was third in the nation in the amount of money raised in support or opposition for proposed amendments, with \$11,955,922 in expenditures.

Fearing a California-like situation with a worse result, Governor Jeb Bush and the leadership of the Florida Legislature now appear willing to ratchet down the criteria by which citizen-initiated proposed

amendments get to the ballot. The stakes are high for Florida since the current State Constitution mandates a balanced budget each year. California does not have such a mandate and may carry a budget deficit from year-to-year.

Now Comes "Vote Smart Florida"

On the table is a proposal brought forward by an alliance of individuals, associations and businesses coordinated by The Florida Chamber under a newly formed organization called "Vote Smart Florida" (www.votesmartflorida.org).

The group says recent statewide research suggests that Florida voters strongly support changes to the constitutional amendment process.

“Contrary to popular belief, Florida voters are willing to change their petition process to stop runaway amendments from taking over their Constitution and threatening Florida’s economic stability,” said Marian Johnson, executive director of the Florida Chamber Political Institute. “Voters overwhelmingly agree this is a problem and said they would vote to increase the threshold for changing our Florida Constitution,” she added.

- 79 percent of respondents agree that every proposed constitutional amendment that would significantly increase state spending must identify a revenue source for implementation.
- 50 percent said they just sign petitions because they want the person who is gathering the signatures to leave them alone, not because the person signing the petition believes in the cause.
- 81 percent agreed that the current 50 active citizen initiative petitions for state constitutional amendments is a problem.
- 60 percent agreed or strongly agreed that changing the State Constitution should require a true consensus 67 percent majority rather than 50 percent, plus one.

Urging Legislative Action

The alliance is pursuing a variety of legislative and constitutional changes that, if enacted, could affect the vast majority of citizen-driven proposed constitutional amendments.

One protection deemed essential is having the 2004 Florida Legislature pass a joint resolution toughening standards, then have the measure considered by voters at the August 31 Primary Election, as opposed to

the November General Election. (A joint resolution is a constitutional amendment placed directly on the ballot by the Florida Legislature.) If enacted at the Primary, the joint resolution would circumvent the vast majority of amendments scheduled to appear on the November ballot by:

- Increasing the number of ballot votes required for an initiative to pass from 50 percent plus one, to a two-thirds vote.
- Moving the deadline for signature submission from 91 days prior to the election to January 1 of the election year.
- Requiring full disclosure of the entity advocating for passage of the amendment.
- Requiring that the entity advocating passage identify a revenue source for implementation.

Current Legislative Action

Florida’s current budget is slightly over \$50 billion. So, it’s no wonder that Governor Jeb Bush, Lieutenant Governor Toni Jennings, Senate President Jim King and Speaker of the House Johnnie Byrd are still smarting from the estimated \$30-plus billion in new constitutional funding mandates passed by voters in 2000 and 2002.

The House has formed the Select Committee on Constitutional Amendments and the Senate has created the Select Committee on Constitutional Amendment Reform.

Senate Select Committee on Constitutional Amendment Reform

Chair: Rod Smith (D-Gainesville)

Vice Chair: Jeff Atwater (R-Palm Bch Grdns)

Dave Aronberg (D-Greenacres)

Skip Campbell (D-Taramac)

Lisa Carlton (R-Osprey)
 Lee Constantine (R-Altamonte Springs)
 Paula Dockery (R-Lakeland)
 Les Miller (D-Tampa)
 Dan Webster (R-Winter Garden)

**House Select Committee on
 Constitutional Amendments**

Chair: Joe Pickens (R-Palatka)
Vice Chair: Jim Kallinger (R-Winter Park)
Vice Chair: Jeff Kottkamp (R-Cape Coral)

Donald Brown (R-DeFuniak Springs)
 Gaston Cantens (R-Miami)
 Frank Farkas (R-St. Petersburg)
 Dudley Goodlette (R-Naples)
 Carole Green (R-Ft. Myers)
 Sandra Murman (R-Tampa)
 Stacy Ritter (D-Coral Springs)
 Chris Smith (D-Ft. Lauderdale)
 Dwight Stansel (D-Live Oak)
 John Stargel (R-Lakeland)



Florida’s Current Citizen Initiative Process

Florida implemented the citizen initiative process in 1968 and is one of only 16 states that allow citizens the use of direct initiatives to amend the State Constitution.

In order to place an amendment on Florida's ballot, the following steps must be followed and met.

1. The sponsor of an initiative must register as a political committee with the Florida Division of Elections.
2. The person or group circulating the initiative petition must submit a format of the petition to the Division of Elections before the amendment may be circulated for signatures. The Division reviews the proposed petition for formatting. By law, the ballot title may be no longer than 15 words and the summary no more than 75 words.
3. Proponents may begin circulating the petition once the format is approved. This can be done by volunteers, by firms that

are paid to obtain signatures or by a combination of the two. The minimum number of signatures needed for an initiative to be placed on the ballot must equal 8 percent of the number of the ballots cast in the last presidential election. For 2004, this number is 488,722. In addition, the signatures must come from at least half of the state's congressional districts (12).

4. When the petition receives 10 percent of the required amount of signatures in at least one-fourth of half the state's congressional districts, the petition is submitted to the Supervisors of Elections in the appropriate counties for signature verification.
5. The Secretary of State, in turn, must automatically submit the petition to the Attorney General if: 1) the sponsor has complied with registration and submittal requirements and 2) the sponsor has obtained a letter from the Division of

Elections confirming that the petition signatures have been verified by the appropriate Supervisors of Elections.

6. Within 30 days of receiving the proposed amendment, the Attorney General must petition the Supreme Court and request an advisory opinion regarding compliance with the proposed ballot and format requirements. The Supreme Court has no deadline for issuing an opinion.

If the Court approves the petition, the proponents must gather the rest of the signatures needed to place the initiative on the ballot. The Court may not rule on the content of the petition. They can disallow an initiative for two reasons. One reason is if the ballot summary does not accurately reflect what the amendment is proposing. The second is if it violates Florida's strict single subject requirement. **CF**

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Political Analysis – We analyze political players and issues for client planning and provide likely scenarios based on current political winds.

Crisis Management and Damage Control – We help mend fences with government officials and staff to get a client back on the right track.

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Timely Information – We provide custom-designed information based on particular industry or business needs.

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