



July 15, 2004

2004 November Election

Florida Supreme Court Opines the Fate of Proposed Constitutional Amendments. Some Stay, Some Go



The Florida Supreme Court has today released opinions on numerous proposed constitutional amendments. Five amendments cleared the High Court and four are rejected.

Approved for the Ballot

✓ Repeal of Bullet Train

Proposes an amendment to the State Constitution to repeal the provision that mandates the development and operation of a high-speed ground transportation system in the state, leaving decisions concerning state transportation systems to the Legislature.

✓ Physician Shall Charge the Same Fee for the Same Health Care Service

Proposes that a physician shall charge the lowest fee for health care which the physician has agreed to accept as full payment for the same health care, when the same health care is being paid for in whole or part through any agreement between the physician and any other purchaser.

✓ **Medical Liability**

Claimant's Compensation

Proposes to amend the State Constitution to provide that an injured victim who enters into a contingency fee agreement with an attorney in a personal injury lawsuit is entitled to no less than 70% of the first \$250,000.00 in all damages received by the victim, and 100% of damages in excess of \$250,000.00, exclusive of reasonable and customary costs and regardless of the number of defendants. This amendment is intended to be self-executing.

✓ **Patients' Right to Know**

About Adverse Medical Incidents

Current Florida law restricts information available to patients related to investigations of adverse medical incidents, such as medical malpractice. This amendment would give patients the right to review, upon request, records of health care facilities' or providers' adverse medical incidents, including those which could cause injury or death. Provides that patients' identities should not be disclosed

✓ **Florida Minimum Wage Amendment**

Proposes to create a Florida minimum wage covering all employees in the state covered by the federal minimum wage. The state minimum wage shall start at \$6.15 per hour six months after enactment, and would thereafter be indexed to inflation.

Rejected for the Ballot

X Additional Homestead Tax Exemption

Proposal sought to increase the homestead exemption on property owners by an additional \$25,000. Rejected for a misleading ballot summary although the Court stated that the petition complies with the single-subject requirement.

X Determination that Sales Tax Exemptions and Exclusions Serve a Public Purpose

Also known as the "Fairness Initiative," the proposal sought to force a legislative review then reenactment of most all of Florida's current sales tax exemptions on an individual basis. Rejected for a deficient ballot summary.

X Public Protection from Repeated Medical Malpractice

Current law allows medical doctors who have committed repeated malpractice to be licensed to practice medicine in Florida. This amendment prohibits medical doctors who have been found to have committed three or more incidents of medical malpractice from being licensed to practice medicine in Florida. *The Court stated that the petition initiative met the single-subject and ballot language test, but the Court then separately rejected the issue, perhaps temporarily, for non-compliance with the financial impact statement provision in the Florida Statutes and remanded the issue back to Financial Impact Estimating Conference.*

X Authorization of Miami-Dade and Broward County Voters to Approve Slot Machines in Parimutuel Facilities

Authorizes Miami-Dade and Broward Counties to hold referenda on whether to authorize slot machines in existing, licensed

pari-mutuel facilities (thoroughbred and harness racing, greyhound racing, and jai alai) that have conducted live racing or games during each of the last two calendar years before effective date of this amendment. The material issue was effectively rejected, perhaps temporarily, for non-compliance with financial impact statement provision in the Florida Statutes.

The Court remanded the issue back to Financial Impact Estimating Conference.

i Read these Florida Supreme Court opinions by hitting www.flcourts.org on the Internet.

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