

1 A proposal to revise
2 ARTICLE IV, ss. 3(b), 4, and 8, and ARTICLE
3 XII, s. 9(c), Fla. Const. and create s. 22,
4 ARTICLE XII, Fla. Const.; providing for
5 membership of the Florida Cabinet.
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7 It is proposed by the Florida Constitution Revision Commission
8 that:
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10 Section 1. Subsection (b) of section 3 of Article IV
11 of the Florida Constitution is revised by amending that
12 subsection to read:
13 ARTICLE IV
14 EXECUTIVE
15 SECTION 3. Succession to office of governor; acting
16 governor.--
17 (b) Upon impeachment of the governor and until
18 completion of trial thereof, or during his physical or mental
19 incapacity, the lieutenant governor shall act as governor.
20 Further succession as acting governor shall be prescribed by
21 law. Incapacity to serve as governor may be determined by the
22 supreme court upon due notice after docketing of a written
23 suggestion thereof by the two ~~four~~ cabinet members, and in
24 such case restoration of capacity shall be similarly
25 determined after docketing of written suggestion thereof by
26 the governor, the legislature or the two ~~four~~ cabinet members.
27 Incapacity to serve as governor may also be established by
28 certificate filed with the custodian of state records
29 ~~secretary of state~~ by the governor declaring his incapacity
30 for physical reasons to serve as governor, and in such case
31 restoration of capacity shall be similarly established.

1 Section 2. Section 4 of Article IV of the Florida
2 Constitution is revised by amending that section to read:

3 ARTICLE IV

4 EXECUTIVE

5 SECTION 4. Cabinet.--

6 (a) There shall be a cabinet composed of ~~a secretary~~
7 ~~of state, an attorney general, a comptroller, and a chief~~
8 ~~financial officer treasurer, a commissioner of agriculture and~~
9 ~~a commissioner of education.~~ In addition to the powers and
10 duties specified herein, they shall exercise such powers and
11 perform such duties as may be prescribed by law. Affirmative
12 action by the governor and cabinet, sitting in any of its
13 joint capacities, shall require the approval of the governor
14 and at least one member of the cabinet.

15 ~~(b) The secretary of state shall keep the records of~~
16 ~~the official acts of the legislative and executive~~
17 ~~departments.~~

18 ~~(b)(c)~~ The attorney general shall be the chief state
19 legal officer. There is created in the office of the attorney
20 general the position of statewide prosecutor. The statewide
21 prosecutor shall have concurrent jurisdiction with the state
22 attorneys to prosecute violations of criminal laws occurring
23 or having occurred, in two or more judicial circuits as part
24 of a related transaction, or when any such offense is
25 affecting or has affected two or more judicial circuits as
26 provided by general law. The statewide prosecutor shall be
27 appointed by the attorney general from not less than three
28 persons nominated by the judicial nominating commission for
29 the supreme court, or as otherwise provided by general law.

30 ~~(c)(d)~~ The chief financial officer ~~treasurer~~
31 ~~comptroller~~ shall serve as the chief fiscal officer of the

1 state, and shall settle and approve accounts against the state
2 and.

3 ~~(e) The treasurer shall keep all state funds and~~
4 ~~securities. He shall disburse state funds only upon the order~~
5 ~~of the comptroller. Such order may be in any form and may~~
6 ~~require the disbursement of state funds by electronic means or~~
7 ~~by means of a magnetic tape or any other transfer medium.~~

8 (d) The governor as chair, the chief financial
9 officer, and the attorney general shall constitute the state
10 board of administration, which shall succeed to all the power,
11 control, and authority of the state board of administration
12 established pursuant to Article IX, Section 16 of the
13 Constitution of 1885, and which shall continue as a body at
14 least for the life of Article XII, Section 9(c).

15 (e) The governor as chair, the chief financial
16 officer, and the attorney general shall constitute the
17 trustees of the internal improvement trust fund and the land
18 acquisition trust fund as provided by law.

19 (f) The governor as chair, the chief financial
20 officer, and the attorney general shall constitute the agency
21 head of the Department of Law Enforcement.

22 ~~(f) The commissioner of agriculture shall have~~
23 ~~supervision of matters pertaining to agriculture except as~~
24 ~~otherwise provided by law.~~

25 ~~(g) The commissioner of education shall supervise the~~
26 ~~public education system in the manner prescribed by law.~~

27 Section 3. Section 8 of Article IV of the Florida
28 Constitution is revised by amending that section to read:

29 ARTICLE IV

30 EXECUTIVE

31 SECTION 8. Clemency.--

1 (a) Except in cases of treason and in cases where
2 impeachment results in conviction, the governor may, by
3 executive order filed with the custodian ~~secretary~~ of state
4 records, suspend collection of fines and forfeitures, grant
5 reprieves not exceeding sixty days and, with the approval of a
6 member ~~three members~~ of the cabinet, grant full or conditional
7 pardons, restore civil rights, commute punishment, and remit
8 fines and forfeitures for offenses.

9 (b) In cases of treason the governor may grant
10 reprieves until adjournment of the regular session of the
11 legislature convening next after the conviction, at which
12 session the legislature may grant a pardon or further
13 reprieve; otherwise the sentence shall be executed.

14 (c) There may be created by law a parole and probation
15 commission with power to supervise persons on probation and to
16 grant paroles or conditional releases to persons under
17 sentences for crime. The qualifications, method of selection
18 and terms, not to exceed six years, of members of the
19 commission shall be prescribed by law.

20 Section 4. Section 2 of Article IX of the Florida
21 Constitution is revised by amending that section to read:

22 ARTICLE IX

23 EDUCATION

24 SECTION 2. State board of education.--~~The governor and~~
25 ~~the members of the cabinet shall constitute a~~ state board of
26 education, ~~which~~ shall be a body corporate and have such
27 supervision of the system of public education as is provided
28 by law. The state board of education shall consist of seven
29 members appointed by the governor to staggered 4-year terms,
30 subject to confirmation by the senate. The state board of
31 education shall appoint the commissioner of education.

1 Section 5. Subsection (c) of section 9 of Article XII
2 of the Florida Constitution is revised by amending that
3 subsection to read:

4 ARTICLE XII

5 SCHEDULE

6 SECTION 9. Bonds.--

7 (c) MOTOR VEHICLE FUEL TAXES.

8 (1) A state tax, designated "second gas tax," of two
9 cents per gallon upon gasoline and other like products of
10 petroleum and an equivalent tax upon other sources of energy
11 used to propel motor vehicles as levied by Article IX, Section
12 16, of the Constitution of 1885, as amended, is hereby
13 continued. The proceeds of said tax shall be placed monthly in
14 the state roads distribution fund in the state treasury.

15 (2) Article IX, Section 16, of the Constitution of
16 1885, as amended, is adopted by this reference as a part of
17 this revision as completely as though incorporated herein
18 verbatim for the purpose of providing that after the effective
19 date of this revision the proceeds of the "second gas tax" as
20 referred to therein shall be allocated among the several
21 counties in accordance with the formula stated therein to the
22 extent necessary to comply with all obligations to or for the
23 benefit of holders of bonds, revenue certificates and tax
24 anticipation certificates or any refundings thereof secured by
25 any portion of the "second gas tax."

26 (3) No funds anticipated to be allocated under the
27 formula stated in Article IX, Section 16, of the Constitution
28 of 1885, as amended, shall be pledged as security for any
29 obligation hereafter issued or entered into, except that any
30 outstanding obligations previously issued pledging revenues
31 allocated under said Article IX, Section 16, may be refunded

1 at a lower average net interest cost rate by the issuance of
2 refunding bonds, maturing not later than the obligations
3 refunded, secured by the same revenues and any other security
4 authorized in paragraph (5) of this subsection.

5 (4) Subject to the requirements of paragraph (2) of
6 this subsection and after payment of administrative expenses,
7 the "second gas tax" shall be allocated to the account of each
8 of the several counties in the amounts to be determined as
9 follows: There shall be an initial allocation of one-fourth in
10 the ratio of county area to state area, one-fourth in the
11 ratio of the total county population to the total population
12 of the state in accordance with the latest available federal
13 census, and one-half in the ratio of the total "second gas
14 tax" collected on retail sales or use in each county to the
15 total collected in all counties of the state during the
16 previous fiscal year. If the annual debt service requirements
17 of any obligations issued for any county, including any
18 deficiencies for prior years, secured under paragraph (2) of
19 this subsection, exceeds the amount which would be allocated
20 to that county under the formula set out in this paragraph,
21 the amounts allocated to other counties shall be reduced
22 proportionately.

23 (5) Funds allocated under paragraphs (2) and (4) of
24 this subsection shall be administered by the state board of
25 administration created under Article IV, Section 4 ~~said~~
26 ~~Article IX, Section 16, of the Constitution of 1885, as~~
27 ~~amended, and which is continued as a body corporate for the~~
28 ~~life of this subsection 9(c).~~ The board shall remit the
29 proceeds of the "second gas tax" in each county account for
30 use in said county as follows: eighty per cent to the state
31 agency supervising the state road system and twenty per cent

1 to the governing body of the county. The percentage allocated
2 to the county may be increased by general law. The proceeds of
3 the "second gas tax" subject to allocation to the several
4 counties under this paragraph (5) shall be used first, for the
5 payment of obligations pledging revenues allocated pursuant to
6 Article IX, Section 16, of the Constitution of 1885, as
7 amended, and any refundings thereof; second, for the payment
8 of debt service on bonds issued as provided by this paragraph
9 (5) to finance the acquisition and construction of roads as
10 defined by law; and third, for the acquisition and
11 construction of roads and for road maintenance as authorized
12 by law. When authorized by law, state bonds pledging the full
13 faith and credit of the state may be issued without any
14 election: (i) to refund obligations secured by any portion of
15 the "second gas tax" allocated to a county under Article IX,
16 Section 16, of the Constitution of 1885, as amended; (ii) to
17 finance the acquisition and construction of roads in a county
18 when approved by the governing body of the county and the
19 state agency supervising the state road system; and (iii) to
20 refund obligations secured by any portion of the "second gas
21 tax" allocated under paragraph 9(c)(4). No such bonds shall
22 be issued unless a state fiscal agency created by law has made
23 a determination that in no state fiscal year will the debt
24 service requirements of the bonds and all other bonds secured
25 by the pledged portion of the "second gas tax" allocated to
26 the county exceed seventy-five per cent of the pledged portion
27 of the "second gas tax" allocated to that county for the
28 preceding state fiscal year, of the pledged net tolls from
29 existing facilities collected in the preceding state fiscal
30 year, and of the annual average net tolls anticipated during
31 the first five state fiscal years of operation of new projects

1 to be financed, and of any other legally available pledged
2 revenues collected in the preceding state fiscal year. Bonds
3 issued pursuant to this subsection shall be payable primarily
4 from the pledged tolls, the pledged portions of the "second
5 gas tax" allocated to that county, and any other pledged
6 revenue, and shall mature not later than forty years from the
7 date of issuance.

8 Section 6. Section 22 of Article XII of the Florida
9 Constitution is created to read:

10 SECTION 22. Executive branch reform.--The amendments
11 contained in this revision shall take effect January 7, 2003,
12 but shall govern with respect to the qualifying for and the
13 holding of the primary elections in 2002. The offices of chief
14 financial officer and attorney general shall be new offices as
15 a result of this revision.