

**Constitution Revision Commission
Executive Committee
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: P 9

Relating to: EXECUTIVE, Department of Veterans' Affairs

Introducer(s): Commissioner Timmann

Article/Section affected: Article IV, section 11

Date: November 24, 2017

REFERENCE	ACTION
1. <u>EX</u>	<u>Pre-meeting</u>

I. SUMMARY:

Proposal 9 revises Article IV, section 11 of the Florida Constitution to require, rather than authorize, the Legislature to provide for the Department of Veterans' Affairs and prescribe its duties by general law. The proposal provides that the Florida Department of Veterans' Affairs (FDVA) is within the executive branch and the head of FDVA is the Governor and Cabinet. Additionally, Proposal 9 provides that the Governor and Cabinet appoint the executive director of FDVA.

II. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION:

Executive Departments

Article IV, section 6 of the Florida Constitution establishes a limitation of no more than 25 executive departments, exclusive of those provided for or authorized in the Constitution. Each department must be placed under the supervision of the Governor, the Lieutenant Governor, the Governor and Cabinet, a Cabinet member, or an officer or board appointed by the Governor. Six executive departments are specifically authorized by or provided in the Florida Constitution:

- Department of Veterans Affairs;¹
- Department of Elderly Affairs;²
- Department of Military Affairs;³

¹ Article IV, s. 11, FLA. CONST.

² Article IV, s. 12, FLA. CONST.

³ Article I, s. 18, FLA. CONST.

- Department of Law Enforcement;⁴
- Department of Revenue;⁵ and
- Department of Health.⁶

Florida Department of Veterans' Affairs

In 1988, state services for veterans were provided by three state agencies: the Division of Veterans Affairs within the Department of Administration, the Veterans' Education and Training Section of the Department of Education; and the Commission on Veterans Affairs assigned to the Executive Office of the Governor. The Florida Legislature sought to consolidate veterans' services within a single department. There were then 25 executive departments, and, in accordance with the limitation provided in Article IV, section 6, the Legislature determined it could not create any additional departments through general law.⁷

Subsequently, the Florida Legislature placed a constitutional amendment on the ballot proposing the creation of Article IV, section 11 of the Florida Constitution.⁸ This section provided the Legislature with the authority to create by general law a Department of Veterans Affairs, to which the 25 department limitation would not apply.⁹ The constitutional amendment appeared on the General Election ballot on November 8, 1988, and was approved by Florida voters with 69% of the vote.¹⁰

Section 20.37, F.S., establishes FDVA and designates the Governor and Cabinet as the head of FDVA. Section 20.37, F.S., also provides that the executive director shall be appointed by the Governor with the approval of three members of the Cabinet and subject to confirmation by the Senate. Responsibilities and duties of FDVA are provided in ch. 292, F.S.¹¹

FDVA provides advocacy and assistance to former, present, and future members of the Armed Forces of the United States and their dependents in preparing claims for securing compensation, hospitalization, career training, and other benefits available in connection with their service.¹² Additionally, FDVA operates the Robert H. Jenkins, Jr. State Veterans' Domiciliary Home, which assists eligible veterans who are not in need of hospitalization

⁴ Article IV, s. 4, FLA. CONST.

⁵ Article X, s. 28, FLA. CONST.

⁶ Article X, s. 29, FLA. CONST.

⁷ The Florida House of Representatives Final Staff Analysis & Economic Impact Statement, CS/HJR 290, House Committee on Judiciary, August 15, 1988. *See also Agency for Health Care Administration v. Associated Industries*, 678 So. 2d 1239 (Fla. 1996).

⁸ CS/HJR 290 (1988).

⁹ The Florida House of Representatives Final Staff Analysis & Economic Impact Statement, CS/HJR 290, House Committee on Judiciary, August 15, 1988.

¹⁰ Florida Department of State, Division of Elections, <http://dos.elections.myflorida.com/initiatives/initdetail.asp?account=10&seqnum=54> (last visited 10/3/2017).

¹¹ *See also* chs. 295 and 296, F.S.

¹² Section 292.05(1), F.S.

or nursing home care,¹³ and six state veterans' nursing homes, which provide skilled nursing home care to eligible veterans.¹⁴

B. EFFECT OF PROPOSED CHANGES:

Proposal 9 revises Article IV, section 11 of the Florida Constitution to require, rather than authorize, the Legislature to provide for FDVA and prescribe its duties by general law. The proposal provides that FDVA is within the executive branch and the head of FDVA is the Governor and Cabinet, consistent with s. 20.37, F.S. Additionally, Proposal 9 provides that the Governor and Cabinet appoint the executive director of FDVA.

Proposal 9 also includes a technical revision to the name of FDVA, consistent with s. 20.37, F.S. and ch. 292, F.S.

C. FISCAL IMPACT:

None.

III. Additional Information:

A. Statement of Changes:

(Summarizing differences between the current version and the prior version of the proposal.)

None.

B. Amendments:

None.

C. Technical Deficiencies:

None.

D. Related Issues:

Proposal 9 provides that the Governor and Cabinet appoint the executive director of FDVA. Section 20.37, F.S., provides that the Governor appoints the executive director with the approval of three members of the Cabinet and subject to confirmation by the Senate. In cases of potential conflict between constitutional and statutory provisions, the Constitution prevails.

¹³ Part I, ch. 296, F.S.

¹⁴ Part II, ch. 296, F.S.