

**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 66

Relating to: EXECUTIVE, Lieutenant governor; SCHEDULE, creates new section

Introducer(s): Commissioner Lee

Article/Section affected: Article IV, Section 2; Article XII, creates new section

Date: January 15, 2018

	REFERENCE	ACTION
1.	<u>EX</u>	<u>Pre-meeting</u>
2.	<u>EE</u>	<u></u>
3.	<u>LE</u>	<u></u>

I. SUMMARY:

Proposal 66 provides that the Lieutenant Governor serves as the Secretary of State and keeps the records of the official acts of the legislative and executive departments. The proposal substitutes Secretary of State for custodian of state records throughout the Florida Constitution.

The proposal provides that the Lieutenant Governor may cast the tiebreaking vote on final passage of any measure on which the Senate is equally divided.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Lieutenant Governor

Article IV, section 2 of the Florida Constitution establishes Florida's Lieutenant Governor. The Lieutenant Governor is required to perform duties as assigned by the Governor and provided by law.¹ Article IV, section 3(a) of the Florida Constitution provides that the Lieutenant Governor becomes Governor upon a vacancy in the office of Governor and serves for the remainder of the term.²

¹ Article IV, s. 2, FLA. CONST.

² Further succession to the office of Governor is provided in s. 14.055, F.S.

Article IV, section 5 of the Florida Constitution provides that the Governor and Lieutenant Governor, along with members of the Cabinet, are elected each calendar year that is even but not a multiple of four. The four-year terms begin on the first Tuesday after the first Monday in January of the year succeeding the election.³ Candidates for Lieutenant Governor are not required in primary elections, however all candidates for Governor and Lieutenant Governor must form joint candidacies in the general election.⁴

Article IV, section 6 of the Florida Constitution provides that each executive 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. Section 20.05, F.S., provides that the Governor may assign the Lieutenant Governor, without Senate confirmation, the duty of serving as the head of any one department whose head is a Secretary appointed by the Governor.

History of the Lieutenant Governor

The 1865 Florida Constitution was the first to provide for a Lieutenant Governor.⁵ The 1865 Constitution provided that the Lieutenant Governor was ex-officio President of the Senate and could vote only in cases of a tie.⁶ The Lieutenant Governor exercised the powers of the Governor in cases of impeachment, death, resignation, or absence of the Governor from the state until the Governor's return.⁷ The Lieutenant Governor continued in a similar capacity in the 1868 Constitution, but was later abolished by the 1885 Constitution.⁸ The Lieutenant Governor was not reinstated in Florida until 1968.⁹

Secretary of State

“The Secretary of State is the state’s chief election officer,¹⁰ chief cultural officer,¹¹ custodian of state records,¹² and head of the Department of State (DOS).¹³ DOS consists of the Office of the Secretary and the Divisions of Administration, Corporations, Cultural Affairs, Elections, Historical Resources, and Library and Information Services.¹⁴ The Secretary of State is appointed by the Governor and serves at his or her pleasure, subject to confirmation by the Senate.^{15,16}

³ Article IV, s. 5, FLA. CONST.

⁴ *Id.*

⁵ Article III, s. 4, FLA. CONST. (1865). The 1865 Constitution was rejected by the United States Congress.

⁶ *Id.*

⁷ Article III, s. 19, FLA. CONST. (1865).

⁸ *See* Article V, ss. 14 and 15, FLA. CONST. (1868).

⁹ Article IV, s. 2, FLA. CONST. (1968).

¹⁰ Section 97.012, F.S.

¹¹ Section 265.284, F.S.

¹² Article XII, s. 24(b), FLA. CONST.; *see also* s. 20.10(1), F.S.

¹³ Section 20.10(1), F.S.

¹⁴ Section 20.10(2), F.S.

¹⁵ Section 20.10(1), F.S.

¹⁶ Florida House of Representatives Staff Analysis, HJR 811 (2017), March 13, 2017, p. 2,

<http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0811a.OTA.DOCX&DocumentType=Analysis&BillNumber=0811&Session=2017> (last visited 1/3/2018).

Secretaries of State in Other States

Thirty-five states have an elected Secretary of State.¹⁷ The Secretary of State is appointed by the Governor in eight states and selected by the Legislature in three states.¹⁸ Four states have an elected Lieutenant Governor whose role may include similar duties.¹⁹

Twenty-four states have an elected Secretary of State who serves as the chief election official.²⁰ The chief election official is appointed by the Governor in five states and selected by the Legislature in three states.²¹ Two states have an elected Lieutenant Governor as the chief election official.²² The remaining 16 states have a board or commission, or a combination of chief election official and a board or commission, with authority over elections in the state.²³

The Florida Senate

Article III, section 1 of the Florida Constitution designates the legislative power of the state to a Senate and House of Representatives. The presiding officer of the Florida Senate is the President of the Senate, selected from the Senate's membership at its biennial organization session.²⁴ The Florida Senate, as with the Florida House of Representatives, is the sole judge of the qualifications, elections and returns of its members, and establishes, interprets, and enforces its own rules of procedure.²⁵ At each biennial organization session, the Florida Senate adopts rules governing its process for conducting its business during the following two-year term. The current rules of the Florida Senate provide that "When the Senate is equally divided, the question shall be lost."²⁶

Lieutenant Governors and the Senate in Other States

The Lieutenant Governor presides over the Senate in 25 states.²⁷ In 23 of those states, the Lieutenant Governor is able to cast tiebreaking votes.²⁸ Two states restrict the Lieutenant

¹⁷ See National Association of Secretaries of State, *Roster of Secretaries of State/Lieutenant Governors*, <http://www.nass.org/index.php/membership> (last visited 1/5/2018).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ National Conference of State Legislatures, *Election Administration at State and Local Levels*, June 15, 2016, <http://www.ncsl.org/research/elections-and-campaigns/election-administration-at-state-and-local-levels.aspx> (last visited 1/5/2018).

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ Article III, ss. 2 and 3, FLA. CONST.

²⁵ Article III, ss. 2 and 4, FLA. CONST.

²⁶ The Florida Senate, *Rules and Manual: 2016-2018*, Rule 5.1(1), <http://www.flsenate.gov/PublishedContent/ADMINISTRATIVEPUBLICATIONS/2016-2018SenateRules.pdf> (last visited 1/15/2018).

²⁷ The Council of State Governments, *Book of the States*, Table 4.14 Lieutenant Governors: Powers and Duties, <http://knowledgecenter.csg.org/kc/system/files/4.14.2017.pdf> (last visited 1/15/2018). Data includes Nebraska's Lieutenant Governor, who presides over a unicameral Legislature.

²⁸ *Id.*

Governor's tiebreaking votes to limited matters. In Nevada, the Lieutenant Governor may not cast a tiebreaking vote on final passage of bills and joint resolutions.²⁹ In New York, the Lieutenant Governor may only cast a tiebreaking vote on procedural matters.³⁰

B. EFFECT OF PROPOSED CHANGES:

Proposal 66 provides that the Lieutenant Governor serves as the Secretary of State and keeps the records of the official acts of the legislative and executive departments. The proposal substitutes Secretary of State for custodian of state records throughout the Florida Constitution, except for Article XII.

The proposal provides that the Lieutenant Governor may cast the tiebreaking vote on final passage of any measure on which the Senate is equally divided.

The proposal takes effect on January 8, 2019, and applies to the Lieutenant Governor elected in the 2018 general election.

C. FISCAL IMPACT:

There may be a minimal reduction in state expenditures as a result of the consolidation of the Secretary of State and Lieutenant Governor positions through a reduction in associated salary and benefits.³¹

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:

None.

²⁹ *Id.*

³⁰ *Id.*

³¹ The Lieutenant Governor currently receives a salary of \$124,851 (Chapter 2017-70, L.O.F.). The Secretary of State currently receives a salary of \$141,999.96 (Florida Has a Right to Know, *State of Florida Employee Salaries*, http://salaries.myflorida.com/?utf8=%E2%9C%93&by_name=detzner&by_agency=&greater_than_salary=&less_than_salary=&by_class_code=&button= (last visited 1/15/2018).