

The Constitution Revision Commission
COMMITTEE MEETING EXPANDED AGENDA

EDUCATION
Commissioner Johnson, Chair
Commissioner Washington, Vice Chair

MEETING DATE: Friday, January 26, 2018

TIME: 1:00—6:00 p.m.

PLACE: 301 Senate Office Building, Tallahassee, Florida

MEMBERS: Commissioner Johnson, Chair; Commissioner Washington, Vice Chair; Commissioners Donalds, Grady, Jordan, Keiser, Levesque, Sprowls, and Stewart

TAB	PROPOSAL NO. and INTRODUCER	PROPOSAL DESCRIPTION and COMMITTEE ACTIONS	COMMITTEE ACTION
1	P 25 Plymale	EDUCATION, creates s. 8; Section 8 of Article IX of the State Constitution to establish a governance structure for the State College System. ED 01/19/2018 Temporarily Postponed ED 01/26/2018 Unfavorable	Unfavorable Yeas 0 Nays 8
2	P 83 Washington	EDUCATION, creates s. 8; Section 8 of Article IX of the State Constitution to specify the purposes of the State College System and to provide for the governance structure of the system. ED 01/19/2018 Temporarily Postponed ED 01/26/2018 Fav/CS	Fav/CS Yeas 5 Nays 3
3	P 44 Washington	EDUCATION, State University System; Section 7 of Article IX of the State Constitution to establish the minimum vote threshold required to be met by the board of trustees of a state university and the Board of Governors of the State University System in order to implement any tuition or fee increase. ED 01/19/2018 Temporarily Postponed ED 01/26/2018 Fav/CS	Fav/CS Yeas 8 Nays 0
4	P 89 Washington	EDUCATION, Public education; Section 1 of Article IX of the State Constitution to specify the purpose and intent of the state's public education system. ED 01/19/2018 Temporarily Postponed ED 01/26/2018 Temporarily Postponed	Temporarily Postponed
5	P 45 Donalds	EDUCATION, Public education; Section 1 of Article IX of the State Constitution to specify that no provision of the State Constitution may be construed to limit the Legislature from making provision for other educational services that are beneficial to the children and families of this state. ED 01/19/2018 Temporarily Postponed ED 01/26/2018 Favorable	Favorable Yeas 5 Nays 3

COMMITTEE MEETING EXPANDED AGENDA

Education

Friday, January 26, 2018, 1:00—6:00 p.m.

TAB	PROPOSAL NO. and INTRODUCER	PROPOSAL DESCRIPTION and COMMITTEE ACTIONS	COMMITTEE ACTION
6	P 71 Donalds	EDUCATION, School districts; school boards; Section 4 of Article IX of the State Constitution to specify that the Legislature is authorized to enact general laws providing alternative processes to authorize the establishment of charter schools in the state. ED 01/19/2018 Temporarily Postponed ED 01/26/2018 Fav/CS	Fav/CS Yeas 6 Nays 2
7	P 4 Martinez	DECLARATION OF RIGHTS, Religious freedom; Section 3 of Article I of the State Constitution to remove the prohibition against using public revenues in aid of any church, sect, or religious denomination or any sectarian institution. DR 11/29/2017 Favorable ED 01/19/2018 Temporarily Postponed ED 01/26/2018 Favorable	Favorable Yeas 8 Nays 0
8	P 93 Martinez	EDUCATION, School districts; school boards; charter districts; Section 4 of Article IX of the State Constitution to authorize high-performing school districts to become charter districts. ED 01/19/2018 Not Considered ED 01/26/2018 Favorable LO	Favorable Yeas 4 Nays 3
9	P 30 Martinez (If Received)	DECLARATION OF RIGHTS, Basic rights; Section 2 of Article I of the State Constitution to provide that a person may not be deprived of any right because of any disability. DR 11/29/2017 Temporarily Postponed DR 01/25/2018 Favorable ED 01/26/2018 Temporarily Postponed	Temporarily Postponed
10	P 15 Gamez (If Received)	DECLARATION OF RIGHTS, Basic rights; Section 2 of Article I of the State Constitution to remove a provision authorizing laws that regulate or prohibit the ownership, inheritance, disposition, and possession of real property by aliens ineligible for citizenship and to provide that a person may not be deprived of any right because of a cognitive disability. DR 11/29/2017 Temporarily Postponed DR 01/25/2018 Temporarily Postponed ED 01/26/2018 Not Received	Not Received

COMMITTEE MEETING EXPANDED AGENDA

Education

Friday, January 26, 2018, 1:00—6:00 p.m.

TAB	PROPOSAL NO. and INTRODUCER	PROPOSAL DESCRIPTION and COMMITTEE ACTIONS	COMMITTEE ACTION
11	P 82 Heuchan	EDUCATION, School districts; school boards; Section 4 of Article IX of the State Constitution to provide a limitation as to the opening date for schools set by a school board. ED 01/26/2018 Temporarily Postponed	Temporarily Postponed
12	P 10 Gaetz	EDUCATION, Civic literacy in public education; a new section in Article IX of the State Constitution to require the Legislature to provide for the promotion of civic literacy in public education. ED 01/26/2018 Temporarily Postponed	Temporarily Postponed
13	P 70 Keiser	MISCELLANEOUS, creates new section; a new section in Article X of the State Constitution to establish the right to a tuition and fee waiver for the survivors of specified military members. ED 01/26/2018 Temporarily Postponed FT	Temporarily Postponed
14	P 59 Johnson	DECLARATION OF RIGHTS, Religious freedom; EDUCATION, Public education; State school fund; Section 3 of Article I and Sections 1 and 6 of Article IX of the State Constitution to establish rights of public school students and to create an exception to the prohibition on the appropriation of public funds to certain private schools. ED 01/26/2018 Temporarily Postponed	Temporarily Postponed

**Constitution Revision Commission
Education Committee
Proposal Analysis**

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

Proposal #: P 25

Relating to: EDUCATION, creates s. 8

Introducer(s): Commissioner Plymale

Article/Section affected: Article IX, new section

Date: January 17, 2018

	REFERENCE	ACTION
1.	ED	Pre-meeting
2.		

I. SUMMARY:

The proposal amends Article IX to create a new section, Section 8, State College System. The new section:

- Sets forth purposes of the state college system;
- Provides that there shall be a single state college system with a board of trustees administering each individually governed college and the board of directors of the college system overseeing the system;
- Sets forth requirements for the local boards of trustees, including a residency requirement, and provides that each member shall be appointed by the governor and confirmed by the senate; and
- Creates a statewide board of directors to “operate, regulate, control, and be fully responsible for the management of the whole college system”; and
- Sets forth requirements for and responsibilities of the statewide board of directors.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Overview of Florida College System

The Florida College System (FCS) is comprised of the 28 FCS institutions.¹ These institutions have received numerous recognitions including:

- #1 State in the country for higher education;
- #1 producer of associate degrees and certifications among southern states;
- #4 community college system;

¹ FCS institutions are outlined in s. 1000.21(3), F.S. For a full list of FCS institutions see <http://www.fldoe.org/schools/higher-ed/fl-college-system/colleges/>

- 14 Florida colleges are in Aspen's top 150.²

The FCS serves 801,023 students with an average age of 25.³ Three out of 5 standard high school recipients in 2012-13 enrolled in Florida higher education in 2013-14. Of those students, 65.7 percent enrolled in a FCS institution.⁴ Fifty-seven percent of FCS students are between 18 and 24, 33 percent are 25 or over, and only 10 percent are under 18. Over half, 65 percent, of FCS student are enrolled full time.⁵ Nine out of 10 FCS graduates are continuing education or employed in Florida.⁶

History of the Florida College System

The history of the FCS highlights its local community roots. While the first college was founded in 1927 as a private two-year institution. At their inception universities were governed at the state level, colleges were distinct because they existed exclusively at the local level.⁷ In 1939, the Florida Legislature authorized the SBE to approve the establishment of junior colleges in communities with populations over 50,000. The administration and oversight of those institutions themselves were delegated to local boards.⁸ As a result of The Community Junior College in Florida's Future report, the Legislature adopted a master plan for Florida's community colleges that would provide 28 colleges located within a commuting distance of 30 miles for 99 percent of the state's population.⁹

Governance

In keeping with the community based roots of the FCS, and as outlined in current law, the Florida College System's (FCS) purpose is to maximize open access for students, respond to community needs for postsecondary academic education and career degree education, and provide associate and baccalaureate degrees that will meet the state's employment needs.¹⁰

² FCS presentation, Florida Senate Education Committee, 10-23-17, http://www.flsenate.gov/PublishedContent/Committees/2016-2018/ED/MeetingRecords/MeetingPacket_3977_2.pdf, slide 4

³ FCS presentation, Florida Senate Education Committee, 10-23-17, http://www.flsenate.gov/PublishedContent/Committees/2016-2018/ED/MeetingRecords/MeetingPacket_3977_2.pdf, slide 3

⁴ FCS presentation, Florida Senate Education Committee, 10-23-17, http://www.flsenate.gov/PublishedContent/Committees/2016-2018/ED/MeetingRecords/MeetingPacket_3977_2.pdf, slide 6

⁵ FCS presentation, Florida Senate Education Committee, 10-23-17, http://www.flsenate.gov/PublishedContent/Committees/2016-2018/ED/MeetingRecords/MeetingPacket_3977_2.pdf, slide 5

⁶ FCS presentation, Florida Senate Education Committee, 10-23-17, http://www.flsenate.gov/PublishedContent/Committees/2016-2018/ED/MeetingRecords/MeetingPacket_3977_2.pdf, slide 7

⁷ *Tough Choices Facing Florida's Government; Meeting the Needs of Florida: The Florida College System Past and Future*, LeRoy Collins Institute, September 2016.

http://collinsinstitute.fsu.edu/sites/default/files/Tough%20Choices%20Higher%20Ed%20Book_WEB%208-16_0.pdf, page 5

⁸ *Id.*

⁹ <http://www.myafchome.org/assets/site/the%20florida%20community%20college%20system%20history%20with%20update.pdf>, page 2 and http://collinsinstitute.fsu.edu/sites/default/files/Tough%20Choices%20Higher%20Ed%20Book_WEB%208-16_0.pdf, page 6

¹⁰ Section 1001.60(1), F.S.

FCS institutions are governed by a local board of trustees (BOT).¹¹ These local BOT are responsible for cost-effective policy decisions appropriate to the FCS institution's mission, the implementation and maintenance of high-quality education programs within law and rules of the State Board of Education, the measurement of performance, the reporting of information, and the provision of input regarding state policy, budgeting, and education standards.¹²

In 1979 the Florida Legislature established the State Community College Coordinating Board, and in 1983 replaced that board with the State Board of Community Colleges.¹³ In 2001, the statute that established the State Board of Community Colleges was repealed and the Florida college system was placed under the jurisdiction of the Florida Board of Education.¹⁴

To ensure collaboration and articulation between K-12 and the Florida College System institution, the state board of education provides an additional layer of oversight for the system. Currently, the Constitution provides that the state board of education (SBE) "shall be a body corporate and have supervision of the system of free public education".¹⁵ As such, the state board is authorized to adopt rules to implement the provisions of law conferring duties upon the SBE to improve the state system of K-20 Public education, except for the state university system.¹⁶

The SBE is responsible for all oversight of the FCS including:

- Adopting uniform associated with successful performance and progression through the baccalaureate level.¹⁷
- Addressing FCS future growth issues,¹⁸ including criteria for modifying district boundary lines for FCS institutions¹⁹ or establishing new centers or campuses²⁰.
- Adopting a strategic plan that specifies goals and objectives for the state's public schools and Florida College System institutions.²¹
- Providing FCS institutions with educational training and service programs designed to meet the needs of both students and communities served.²²
- Adopting rules used by the FCS intuition BOTS for annual evaluations of presidents and review the BOT evaluations of their president.²³
- Examining the annual administrative review of each Florida College System institution.²⁴

¹¹ Sections 1001.60(3), 1001.61(1), and 1004.65(1), F.S.

¹² Section 1001.64(1), F.S.

¹³ The Florida College System Fact Book, 2016 <http://www.fldoe.org/core/fileparse.php/15267/urlt/FactBook2016.pdf>

¹⁴ Ch. 2000-321, L.O.F. <http://laws.flrules.org/2000/321>

¹⁵ Article IX, Section 2 Fl. Const.

¹⁶ Section 1001.02(1), F.S.

¹⁷ Section 1001.02(2)(d), F.S.

¹⁸ Section 1001.02(2)(u), F.S.

¹⁹ Section 1001.02(4)(d), F.S.

²⁰ Section 1001.02(4)(e), F.S.

²¹ Section 1001.02(3)(a), F.S.

²² Section 1001.02(4)(a), F.S.

²³ Section 1001.02(4)(b), F.S.

²⁴ Section 1001.02(4)(f), F.S.

- Reviewing and administering the FCS funding formula²⁵
- Prescribing minimum standards, definitions, and guidelines for FCS institutions that will ensure the quality of education, coordination among the Florida College System institutions and state universities, and efficient progress toward accomplishing the FCS institution mission.²⁶ Additional specifics are outlined in law.²⁷
- Providing cyclic review of all academic programs in FCS institutions²⁸ and reviewing and approving proposals by FCS intuitions to offer baccalaureate degree programs.²⁹
- Identifying performance metrics for the FCS and developing a plan that specifies goals and objectives for each FCS institution.³⁰

B. EFFECT OF PROPOSED CHANGES:

The proposal revises Article IX to create a new section, Section 8, State College System.

The proposal establishes a new governance structure for the State College System. The new section:

- Sets forth purposes of the state college system;
- Establishes that there shall be a single state college system comprised of all public community and state colleges;
- Sets forth requirements for the local BOT
- Creates a statewide board of directors to “operate, regulate, control, and be fully responsible for the management of the whole college system”; and
- Sets forth requirements for and responsibilities of the statewide board of directors.

The proposal outlines the powers and duties of the local board of trustees at constituent colleges. A member of the BOT must be a resident of the service delivery area of the college and each member shall be appointed by the governor and confirmed by the senate.

The proposal details the powers and membership of the Board of Directors of the State College System. The proposed Board of Directors would be compromised of seventeen members. The governor shall appoint sixteen citizens to the board which shall include a state college faculty member and a student of the state college system. These appointed members shall be confirmed by the senate and serve staggered terms of five years, except for the faculty member and student. The faculty member shall serve a two-year term and the student member shall serve a one-year term as provided by law. The commissioner of education shall also be a member of the board.

²⁵ Section 1001.02(5), F.S.

²⁶ Section 1001.02(6)

²⁷ Section 1001.02(6)(a)-(i), F.S.

²⁸ Section 1001.03(13), F.S.

²⁹ Section 1001.03(15), F.S.

³⁰ Section 1001.03(16), F.S.

The proposed Board of Directors shall operate, regulate, control, and be fully responsible for the management of the whole college system. The proposal provides that the board's management shall be subject to the legislature's power to appropriate for the expenditure of funds and that the board shall account for such expenditures as provided by law.

If adopted, the proposal would transfer the oversight of the state colleges from the SBE to the newly created Board of Directors. This would mimic the current structure for the State University System in Florida. There is the potential for a decrease in coordination between the secondary educational system and colleges with the removal of colleges from the SBE. The FCS has been widely recognized as one of the best in the nation, which is due in part to its integration with the secondary educational system.

C. FISCAL IMPACT:

The fiscal impact is indeterminate. There will likely be new costs associated with the establishment of the State College System and creation of a new board of directors. Leading up to and after the effective date, staff time of the new State College System would be employed to support the process of onboarding new board members. There would be a large emphasis on legal and administrative expertise to articulate the powers and duties of the new board, how to employ them and logistical support.

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.

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CRC ACTION

Commissioner .
Comm: FAV .
01/26/2018 .
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The Committee on Education (Donalds) recommended the following:

CRC Amendment

Delete lines 31 - 38

and insert:

college system. Members of a board of trustees must be residents of the service delivery area of the college. The board of directors shall affirm the powers and duties of the boards of trustees as prescribed by law. Each citizen member shall be appointed by the governor and confirmed by the senate.

(d) STATEWIDE BOARD OF DIRECTORS. The board of directors shall be a body corporate consisting of seventeen members. The board shall be fully responsible

By Commissioner Plymale

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A proposal to create

Section 8 of Article IX of the State Constitution to establish a governance structure for the State College System.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 8 of Article IX of the State Constitution is created to read:

ARTICLE IX

EDUCATION

SECTION 8. State College System.-

(a) PURPOSES. In order to achieve excellence and to provide open access to undergraduate education to the students of this state; to originate the 2+2 pathway to a baccalaureate degree; to ensure superior commitment to teaching and learning; and to respond quickly and efficiently to meet the demand of communities by aligning certificate and degree programs with local and regional workforce needs, the people hereby establish a system of governance for the state college system of Florida.

(b) STATE COLLEGE SYSTEM. There shall be a single college system comprised of all public community and state colleges. A board of trustees shall administer each individually governed public college and the board of directors of the college system shall oversee, coordinate, and provide statewide leadership for the state college system.

(c) LOCAL BOARDS OF TRUSTEES. Each local constituent college shall be administered by a local board of trustees, as prescribed by law, dedicated to the purposes of the state college system. A member of a board of trustees must be a resident of the service delivery area of the college. The board

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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of directors shall determine the powers and duties of the boards of trustees as prescribed by law. Each citizen member shall be appointed by the governor and confirmed by the senate.

(d) STATEWIDE BOARD OF DIRECTORS. The board of directors shall be a body corporate consisting of seventeen members. The board shall operate, regulate, control, and be fully responsible for the management of the whole college system. These responsibilities shall include, but not be limited to, affirming the distinctive mission of each constituent college, ensuring the well-planned coordination and operation of the system, reinforcing articulation and pathways with public schools and the state university system, and avoiding unnecessary duplication of facilities or programs while assuring open and geographic access. The board's management shall be subject to the powers of the legislature to appropriate for the expenditure of funds, and the board shall account for such expenditures as provided by law. The governor shall appoint to the board sixteen citizens dedicated to the purposes of the state college system, including a state college faculty member and a student of the state college system. The appointed members shall be confirmed by the senate and serve staggered terms of five years, except the faculty member shall serve a two-year term and a student member shall serve a one-year term, as provided by law. The commissioner of education shall also be a member of the board.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18

Meeting Date

P 25

Proposal Number (if applicable)

*Topic

Florida Colleges

Amendment Barcode (if applicable)

*Name

Michael Brawer

Address

1725 Mahan Dr

Phone

850 222 3222

Street

Tallahassee FL 32308

Email

mbrawer@myafkhome.org

City

State

Zip

*Speaking:

☐

For

☐

Against

☒

Information Only

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Are you representing someone other than yourself?

☐

Yes

☐

No

If yes, who?

FL College System Council of Presidents -

Assoc of Florida Colleges

Are you a registered lobbyist?

☒

Yes

☐

No

Are you an elected official or judge?

☐

Yes

☒

No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1-26-18
Meeting Date

23
Proposal Number (if applicable)

*Topic

Amendment Barcode (if applicable)

*Name

Address

Street

City

State

Zip

Phone

Email

*Speaking:

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For

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Against

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Information Only

Waive Speaking:

☐

In Support

☒

Against

(The Chair will read this information into the record.)

Are you representing someone other than yourself?

☐

Yes

☐

No

If yes, who?

Are you a registered lobbyist?

☒

Yes

☐

No

Are you an elected official or judge?

☐

Yes

☐

No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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*Required

**Constitution Revision Commission
Education Committee
Proposal Analysis**

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

Proposal #: P 83

Relating to: EDUCATION, creates s. 8

Introducer(s): Commissioner Washington

Article/Section affected: Article IX, new section

Date: January 17, 2018

	REFERENCE	ACTION
1.	ED	Pre-meeting

I. SUMMARY:

This proposal creates a new section 8 of article IX to specify the purposes of the State College System and provide for the governance structure.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Overview of the Florida College System

The Florida College System (FCS) is comprised of the 28 FCS institutions.¹ These institutions have received numerous recognitions including:

- #1 State in the country for higher education;
- #1 producer of associate degrees and certifications among southern states;
- #4 community college system;
- 14 Florida colleges are in Aspen's top 150.²

The FCS serves 801,023 students with an average age of 25.³ Three out of 5 standard high school recipients in 2012-13 enrolled in Florida higher education in 2013-14. Of

¹ FCS institutions are outlined in s. 1000.21(3), F.S. For a full list of FCS institutions see <http://www.fldoe.org/schools/higher-ed/fl-college-system/colleges/>

² FCS presentation, Florida Senate Education Committee, 10-23-17, http://www.flsenate.gov/PublishedContent/Committees/2016-2018/ED/MeetingRecords/MeetingPacket_3977_2.pdf, slide 4

³ FCS presentation, Florida Senate Education Committee, 10-23-17, http://www.flsenate.gov/PublishedContent/Committees/2016-2018/ED/MeetingRecords/MeetingPacket_3977_2.pdf, slide 3

those students, 65.7 percent enrolled in a FCS institution.⁴ Fifty-seven percent of FCS students are between 18 and 24, 33 percent are 25 or over, and only 10 percent are under 18. Over half, 65 percent, of FCS student are enrolled full time.⁵ Nine out of 10 FCS graduates are continuing education or employed in Florida.⁶

History of the Florida College System

The history of the FCS highlights its local community roots. While the first college was founded in 1927 as a private two-year institution. At their inception universities were governed at the state level, colleges were distinct because they existed exclusively at the local level.⁷ In 1939, the Florida Legislature authorized the SBE to approve the establishment of junior colleges in communities with populations over 50,000. The administration and oversight of those institutions themselves were delegated to local boards.⁸ As a result of The Community Junior College in Florida's Future report, the Legislature adopted a master plan for Florida's community colleges that would provide 28 colleges located within a commuting distance of 30 miles for 99 percent of the state's population.⁹

Governance

In keeping with the community based roots of the FCS, and as outlined in current law, the Florida College System's (FCS) purpose is to maximize open access for students, respond to community needs for postsecondary academic education and career degree education, and provide associate and baccalaureate degrees that will meet the state's employment needs.¹⁰

FCS institutions are governed by a local board of trustees (BOT).¹¹ These local BOT are responsible for cost-effective policy decisions appropriate to the FCS institution's mission, the implementation and maintenance of high-quality education programs within law and rules of the State Board of Education, the measurement of performance, the reporting of information, and the provision of input regarding state policy, budgeting, and education standards.¹²

⁴ FCS presentation, Florida Senate Education Committee, 10-23-17, http://www.flsenate.gov/PublishedContent/Committees/2016-2018/ED/MeetingRecords/MeetingPacket_3977_2.pdf, slide 6

⁵ FCS presentation, Florida Senate Education Committee, 10-23-17, http://www.flsenate.gov/PublishedContent/Committees/2016-2018/ED/MeetingRecords/MeetingPacket_3977_2.pdf, slide 5

⁶ FCS presentation, Florida Senate Education Committee, 10-23-17, http://www.flsenate.gov/PublishedContent/Committees/2016-2018/ED/MeetingRecords/MeetingPacket_3977_2.pdf, slide 7

⁷ *Tough Choices Facing Florida's Government; Meeting the Needs of Florida: The Florida College System Past and Future*, LeRoy Collins Institute, September 2016.

http://collinsinstitute.fsu.edu/sites/default/files/Tough%20Choices%20Higher%20Ed%20Book_WEB%208-16_0.pdf, page 5

⁸ *Id.*

⁹ <http://www.myafchome.org/assets/site/the%20florida%20community%20college%20system%20history%20with%20update.pdf>, page 2 and http://collinsinstitute.fsu.edu/sites/default/files/Tough%20Choices%20Higher%20Ed%20Book_WEB%208-16_0.pdf, page 6

¹⁰ Section 1001.60(1), F.S.

¹¹ Sections 1001.60(3), 1001.61(1), and 1004.65(1), F.S.

¹² Section 1001.64(1), F.S.

In 1979 the Florida Legislature established the State Community College Coordinating Board, and in 1983 replaced that board with the State Board of Community Colleges.¹³ In 2001, the statute that established the State Board of Community Colleges was repealed and the Florida college system was placed under the jurisdiction of the Florida Board of Education.¹⁴

To ensure collaboration and articulation between K-12 and the Florida College System institution, the state board of education provides an additional layer of oversight for the system. Currently, the Constitution provides that the state board of education (SBE) “shall be a body corporate and have supervision of the system of free public education”.¹⁵ As such, the state board is authorized to adopt rules to implement the provisions of law conferring duties upon the SBE to improve the state system of K-20 Public education, except for the state university system.¹⁶

The SBE is responsible for all oversight of the FCS including:

- Adopting uniform associated with successful performance and progression through the baccalaureate level.¹⁷
- Addressing FCS future growth issues,¹⁸ including criteria for modifying district boundary lines for FCS institutions¹⁹ or establishing new centers or campuses²⁰.
- Adopting a strategic plan that specifies goals and objectives for the state’s public schools and Florida College System institutions.²¹
- Providing FCS institutions with educational training and service programs designed to meet the needs of both students and communities served.²²
- Adopting rules used by the FCS intuition BOTS for annual evaluations of presidents and review the BOT evaluations of their president.²³
- Examining the annual administrative review of each Florida College System institution.²⁴
- Reviewing and administering the FCS funding formula.²⁵
- Prescribing minimum standards, definitions, and guidelines for FCS institutions that will ensure the quality of education, coordination among the Florida College System institutions and state universities, and efficient progress toward accomplishing the FCS institution mission.²⁶ Additional specifics are outlined in law.²⁷

¹³ The Florida College System Fact Book, 2016 <http://www.fldoe.org/core/fileparse.php/15267/urlt/FactBook2016.pdf>

¹⁴ Ch. 2000-321, L.O.F. <http://laws.flrules.org/2000/321>

¹⁵ Article IX, Section 2 Fl. Const.

¹⁶ Section 1001.02(1), F.S.

¹⁷ Section 1001.02(2)(d), F.S.

¹⁸ Section 1001.02(2)(u), F.S.

¹⁹ Section 1001.02(4)(d), F.S.

²⁰ Section 1001.02(4)(e), F.S.

²¹ Section 1001.02(3)(a), F.S.

²² Section 1001.02(4)(a), F.S.

²³ Section 1001.02(4)(b), F.S.

²⁴ Section 1001.02(4)(f), F.S.

²⁵ Section 1001.02(5), F.S.

²⁶ Section 1001.02(6)

²⁷ Section 1001.02(6)(a)-(i), F.S.

- Providing cyclic review of all academic programs in FCS institutions²⁸ and reviewing and approving proposals by FCS intuitions to offer baccalaureate degree programs.²⁹
- Identifying performance metrics for the FCS and developing a plan that specifies goals and objectives for each FCS institution.³⁰

B. EFFECT OF PROPOSED CHANGES:

This proposal creates a new section in the Florida Constitution outlining the specific purpose and governance structure for the Florida College System.

This proposal revises the purpose of the Florida College system to focus on the responsibility of Florida colleges to provide an affordable, primary access point for undergraduate education, as well as, to respond quickly and effectively to meet Florida's workforce demand by aligning certificates and degree programs with regional workforce needs.

The proposal codifies in the Florida Constitution that there is to be a single college system comprised of all public community and state colleges. Institutions shall be administered by a local board of trustees comprised of members residing in the service delivery area of the college. The SBE shall operate, regulate, control and be fully responsible for the management of the whole college system. They shall be responsible for:

- Affirming the distinctive mission of each constituent college;
- Ensuring the well-planned coordination and operation of the system,
- Reinforcing the articulation and pathways with public schools and the state university system; and
- Ensuring that academic programs align to community workforce needs.

The SBE's management of the college system will be subject to the powers of the legislature to appropriate for the expenditure of funds, and they shall account for such expenditures as provided by law.

C. FISCAL IMPACT:

None. This proposal codifies current practice into the Florida Constitution and will require no additional state resources.

III. Additional Information:

A. Statement of Changes:

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

None.

²⁸ Section 1001.03(13), F.S.

²⁹ Section 1001.03(15), F.S.

³⁰ Section 1001.03(16), F.S.

B. Amendments:

None.

C. Technical Deficiencies:

None.

D. Related Issues:

None.



490744

CRC ACTION

Commissioner .
Comm: FAV .
02/12/2018 .
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The Committee on Education (Washington) recommended the following:

CRC Amendment

Delete lines 14 - 50
and insert:

(a) PURPOSES. In order to achieve excellence and to provide access to undergraduate education to the students of this state; to originate articulated pathways to a baccalaureate degree; to ensure superior commitment to teaching and learning; and to respond quickly and efficiently to meet the demand of communities by aligning certificate and degree programs with



490744

11 local and regional workforce needs, the people hereby establish
12 a system of governance for the state college system of Florida.

13 (b) STATE COLLEGE SYSTEM. There shall be a single state
14 college system comprised of all public community and state
15 colleges. A local board of trustees shall govern each state
16 college system institution and the state board of education
17 shall supervise the state college system.

18 (c) LOCAL BOARDS OF TRUSTEES. Each state college system
19 institution shall be governed by a local board of trustees
20 dedicated to the purposes of the state college system. A member
21 of a board of trustees must be a resident of the service
22 delivery area of the college. The powers and duties of the
23 boards of trustees shall be provided by law. Each member shall
24 be appointed by the governor to staggered 4-year terms, subject
25 to confirmation by the senate.

26 (d) ROLE OF THE STATE BOARD OF EDUCATION. The state board
27 of education shall supervise the state college system as
28 provided by law.

By Commissioner Washington

washingtn-00094-17

201783__

A proposal to create

Section 8 of Article IX of the State Constitution to specify the purposes of the State College System and to provide for the governance structure of the system.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 8 of Article IX of the State Constitution is created to read:

ARTICLE IX

EDUCATION

SECTION 8. State College System.—

(a) PURPOSES. Increasingly, education and training beyond high school is necessary for individuals to meet Florida's workforce demands. In order to provide an affordable, primary access point to undergraduate education to Floridians, and to respond quickly and efficiently to meet the demand of employers by aligning certificate and degree programs with regional workforce needs, the people hereby establish the Florida College System. The mission of the college system is to provide open access to postsecondary education that will prepare students either to transfer into the university system or the workforce by obtaining a workforce-aligned credential.

(b) STATE COLLEGE SYSTEM. There shall be a single college system comprised of all public community and state colleges. A board of trustees shall administer each individually governed public college and the state board of education shall oversee, coordinate, and provide statewide leadership for the state college system.

(c) LOCAL BOARDS OF TRUSTEES. Each local constituent college shall be administered by a local board of trustees, as

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

washingtn-00094-17

201783__

prescribed by law, dedicated to the purposes of the state college system. A member of a board of trustees must be a resident of the service delivery area of the college. The powers and duties of the boards of trustees shall be prescribed by general law. Each citizen member shall be appointed by the governor and confirmed by the senate.

(d) ROLE OF THE STATE BOARD OF EDUCATION. The board shall operate, regulate, control, and be fully responsible for the management of the whole college system. These responsibilities include, but are not limited to, affirming the distinctive mission of each constituent college, ensuring the well-planned coordination and operation of the system, reinforcing articulation and pathways with public schools and the state university system, and ensuring that academic programs align to community workforce needs. The board's management of the college system shall be subject to the powers of the legislature to appropriate for the expenditure of funds, and the board shall account for such expenditures as provided by law.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



490744

CRC ACTION

Commissioner .
Comm: FAV .
02/12/2018 .
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The Committee on Education (Washington) recommended the following:

CRC Amendment

Delete lines 14 - 50
and insert:

(a) PURPOSES. In order to achieve excellence and to provide access to undergraduate education to the students of this state; to originate articulated pathways to a baccalaureate degree; to ensure superior commitment to teaching and learning; and to respond quickly and efficiently to meet the demand of communities by aligning certificate and degree programs with



490744

11 local and regional workforce needs, the people hereby establish
12 a system of governance for the state college system of Florida.

13 (b) STATE COLLEGE SYSTEM. There shall be a single state
14 college system comprised of all public community and state
15 colleges. A local board of trustees shall govern each state
16 college system institution and the state board of education
17 shall supervise the state college system.

18 (c) LOCAL BOARDS OF TRUSTEES. Each state college system
19 institution shall be governed by a local board of trustees
20 dedicated to the purposes of the state college system. A member
21 of a board of trustees must be a resident of the service
22 delivery area of the college. The powers and duties of the
23 boards of trustees shall be provided by law. Each member shall
24 be appointed by the governor to staggered 4-year terms, subject
25 to confirmation by the senate.

26 (d) ROLE OF THE STATE BOARD OF EDUCATION. The state board
27 of education shall supervise the state college system as
28 provided by law.

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1-26-18
Meeting Date

83
P 25
Proposal Number (if applicable)

*Topic Colleges

Amendment Barcode (if applicable)

*Name Michael Brewer

Address 1725 Main Dr

Phone 850 222 3222

Street

TCH

City

State

Zip

Email _____

*Speaking: ☐ For ☐ Against ☒ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☐ Yes ☐ No

If yes, who? Council of Presidents & Assoc. of FL Colleges

Are you a registered lobbyist? ☒ Yes ☐ No

Are you an elected official or judge? ☐ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

January 26, 2017

Meeting Date

83

Proposal Number (if applicable)

***Topic** Florida College System Governance

Amendment Barcode (if applicable)

***Name** Malou C. Harrison

Address 11380 N.W. 27th Avenue

Phone 305 237-1152

Street

Miami

FL

33167

City

State

Zip

Email malou.harrison@mdc.edu

***Speaking:** ☒ For ☐ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? Miami Dade College

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

**Constitution Revision Commission
Education Committee
Proposal Analysis**

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

Proposal #: P 44

Relating to: EDUCATION, State University System

Introducer(s): Commissioner Washington

Article/Section affected: Article IX, section 7

Date: January 18, 2018

	REFERENCE	ACTION
1.	ED	Pre-meeting

I. SUMMARY:

The proposal amends Article IX, section 7 of the Florida Constitution to add a new subsection requiring any tuition or fee increase for a state university to be approved by an affirmative vote of at least nine members of the university board of trustees and an affirmative vote of at least twelve members of the Board of Governors before the increase in tuition and fees could become effective.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Tuition setting authority

The 2010 State University System Governance Agreement¹ established a collaborative model of governance for the state university system between the Board of Governors and the Legislature. The agreement required that the responsibilities of each body, including tuition setting authority, be established in law² and responsibility for the State University System under section 7, Art. IX of the State Constitution.

The legislature has exclusive authority to establish undergraduate tuition for state universities. Effective July 1, 2014, the resident undergraduate tuition for lower-level and upper-level coursework was set at \$105.07 per credit hour³. There are also certain fees, including the Capital

¹ s. 1001.7065, Florida Statutes

² s. 1001.705, Florida Statutes

³ s. 1009.24(4)(a), Florida Statutes

Improvement Trust Fund fee⁴ established in law, but subject to modification upon approval by the university Board of Trustees and Board of Governors.

State University System Fees

The Board of Governors, as the body authorized to “operate, regulate, control, and be fully responsible for the management of the whole university system”⁵ has been legislatively delegated authority to establish tuition for graduate and professional programs and out of state fees for all programs.⁶ There are also a number of fees that, upon approval by the university Board of Trustees, are brought before the BOG for consideration and approval, including Flexible tuition policies.⁷ These policies may include undergraduate or graduate block tuition, block tuition differential, or market tuition rates for graduate-level online courses or graduate-level courses offered through a university’s continuing education program. However, such policies must align with the requesting university’s mission and cannot increase the state’s fiscal liability or obligations including, but not limited to, programs authorized under sections 1009.53-1009.538, F.S., (Bright Futures Scholarships) and sections 1009.97-1009.984, F.S., (Florida Prepaid programs). Upon a majority favorable vote by the seventeen-member Board of Governors, the university is then authorized to impose the fee.

The University Board of Trustees have been delegated authority to establish or increase a number of fees, subject to law, including:

- Activity and service⁸ and health
- Financial aid⁹
- Technology¹⁰
- Capital Improvement Trust Fund¹¹
- Tuition Differential¹²
- Distance Learning Course¹³
- Fees for applications, orientation, ID cards, transcripts, equipment, traffic violations, transient students, childcare services, etc.¹⁴

Universities are prohibited from charging any fee that is not specifically authorized.¹⁵ Florida statute outlines the process that a university BOT must follow to publicly notice and notify all enrolled students of any proposal to increase tuition or fees, which includes providing students with the rationale for the proposed increase and how the funds resulting from the increase will be

⁴ Section 1009.24(8)(a), FS

⁵ Section 7, Article VI. Florida Constitution

⁶ Section 1009.24(4)(b), FS

⁷ Section 1009.24(4)(c), FS

⁸ Section 1009.24(4)(d), FS and Section 1009.24(10)(a), FS

⁹ Section 1009.24(7), FS

¹⁰ Section 1009.24(13), FS

¹¹ Section 1009.24(8), FS

¹² Section 1009.24(5), FS and Section 1009.24(16), FS

¹³ Section 1009.24(17), FS

¹⁴ Section 1009.24(14), FS

¹⁵ Section 1009.24(18), FS

used.¹⁶ Currently, the fee would be imposed subsequent to the favorable vote of a majority of the thirteen member board. Fees that are subject to BOG approval would be required to receive a majority favorable vote by the BOG as well.

Each year, the BOG is required to submit to the legislature a report summarizing the fee proposals received by the board during the preceding year and the actions taken by the board in response to such proposals.¹⁷ In 2011, eight proposals were submitted to the BOG for new fees and three were approved with the remainder withdrawn from the universities.¹⁸ In 2012, six proposals for new fees were submitted to the BOG and two new fees were approved and the other new fee proposals withdrawn by their respective university.¹⁹ For the most recent report from 2013, two new fees were proposed but neither were approved by the BOG.²⁰ Current fees for each university is published on the BOG website.²¹

B. EFFECT OF PROPOSED CHANGES:

The proposal requires a favorable vote of 9 of the 13 members of a BOT to propose a new fee or fee increase. If the fee is also subject to BOG approval, 12 of the 17 BOG members would also have to approve the fee increase in order for it to be imposed. The proposal requires that any proposed increase in tuition or a student fee is supported by more than a majority of the university board of trustee and Board of Governors' members.

C. FISCAL IMPACT:

Indeterminate.

III. Additional Information:

A. Statement of Changes:

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

None.

B. Amendments:

None.

¹⁶ Section 1009.24(20), FS

¹⁷ Section 1009.24(15)(f), FS

¹⁸ State University System of Florida, 2011 New Fee Report

¹⁹ State University System of Florida, New Fees Authorized by the Florida Board of Governors for Fall 2012

²⁰ State University System of Florida, New Fees Authorized by the Florida Board of Governors for Fall 2013

²¹ <http://www.flbog.edu/board/office/budget/doc/tuition/2017-18-SUS-Tuition-and-Fee-for-New-Students-at-Main-Campus-by-level.pdf>

C. Technical Deficiencies:

None.

D. Related Issues:

None.



733666

CRC ACTION

Commissioner .
Comm: FAV .
02/12/2018 .
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The Committee on Education (Washington) recommended the following:

CRC Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

ARTICLE IX

EDUCATION

SECTION 7. State University System.—

(a) PURPOSES. In order to achieve excellence through
teaching students, advancing research and providing public
service for the benefit of Florida's citizens, their communities



733666

11 and economies, the people hereby establish a system of
12 governance for the state university system of Florida.

13 (b) STATE UNIVERSITY SYSTEM. There shall be a single state
14 university system comprised of all public universities. A board
15 of trustees shall administer each public university and a board
16 of governors shall govern the state university system.

17 (c) LOCAL BOARDS OF TRUSTEES. Each local constituent
18 university shall be administered by a board of trustees
19 consisting of thirteen members dedicated to the purposes of the
20 state university system. The board of governors shall establish
21 the powers and duties of the boards of trustees. Each board of
22 trustees shall consist of six citizen members appointed by the
23 governor and five citizen members appointed by the board of
24 governors. The appointed members shall be confirmed by the
25 senate and serve staggered terms of five years as provided by
26 law. The chair of the faculty senate, or the equivalent, and the
27 president of the student body of the university shall also be
28 members.

29 (d) STATEWIDE BOARD OF GOVERNORS. The board of governors
30 shall be a body corporate consisting of seventeen members. The
31 board shall operate, regulate, control, and be fully responsible
32 for the management of the whole university system. These
33 responsibilities shall include, but not be limited to, defining
34 the distinctive mission of each constituent university and its
35 articulation with free public schools and community colleges,
36 ensuring the well-planned coordination and operation of the
37 system, and avoiding wasteful duplication of facilities or
38 programs. The board's management shall be subject to the powers
39 of the legislature to appropriate for the expenditure of funds,



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and the board shall account for such expenditures as provided by law. The governor shall appoint to the board fourteen citizens dedicated to the purposes of the state university system. The appointed members shall be confirmed by the senate and serve staggered terms of seven years as provided by law. The commissioner of education, the chair of the advisory council of faculty senates, or the equivalent, and the president of the Florida student association, or the equivalent, shall also be members of the board.

(e) TUITION. Tuition shall be established exclusively by law. The legislature may not raise tuition except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval. Any increase to tuition authorized under this section must be contained in a separate bill that contains no other subject.

(f) FEES. Any proposal or action of a constituent university to raise, impose, or authorize any fee, as authorized by law, must be approved by at least nine affirmative votes of the members of the board of trustees of the constituent university and at least twelve affirmative votes of the members of the board of governors in order to take effect.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A proposal to amend
Section 7 of Article IX of the State Constitution to



733666

69 provide that the legislature shall not raise tuition except
70 through legislation approved by two-thirds of the membership of
71 each house of the legislature and presented to the Governor for
72 approval; require that any legislation that raises tuition be
73 contained in a separate bill that contains no other subject;
74 establish minimum vote thresholds for university boards of
75 trustees and the board of governors to impose or authorize a new
76 fee or increase an existing fee, as authorized by law.

By Commissioner Washington

washingtn-00049C-17

201744__

A proposal to amend

Section 7 of Article IX of the State Constitution to establish the minimum vote threshold required to be met by the board of trustees of a state university and the Board of Governors of the State University System in order to implement any tuition or fee increase.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 7 of Article IX of the State Constitution is amended to read:

ARTICLE IX

EDUCATION

SECTION 7. State University System.—

(a) PURPOSES. In order to achieve excellence through teaching students, advancing research and providing public service for the benefit of Florida's citizens, their communities and economies, the people hereby establish a system of governance for the state university system of Florida.

(b) STATE UNIVERSITY SYSTEM. There shall be a single state university system comprised of all public universities. A board of trustees shall administer each public university and a board of governors shall govern the state university system.

(c) LOCAL BOARDS OF TRUSTEES. Each local constituent university shall be administered by a board of trustees consisting of thirteen members dedicated to the purposes of the state university system. The board of governors shall establish the powers and duties of the boards of trustees. Each board of trustees shall consist of six citizen members appointed by the governor and five citizen members appointed by the board of governors. The appointed members shall be confirmed by the

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

washingtn-00049C-17

201744__

senate and serve staggered terms of five years as provided by law. The chair of the faculty senate, or the equivalent, and the president of the student body of the university shall also be members.

(d) STATEWIDE BOARD OF GOVERNORS. The board of governors shall be a body corporate consisting of seventeen members. The board shall operate, regulate, control, and be fully responsible for the management of the whole university system. These responsibilities shall include, but not be limited to, defining the distinctive mission of each constituent university and its articulation with free public schools and community colleges, ensuring the well-planned coordination and operation of the system, and avoiding wasteful duplication of facilities or programs. The board's management shall be subject to the powers of the legislature to appropriate for the expenditure of funds, and the board shall account for such expenditures as provided by law. The governor shall appoint to the board fourteen citizens dedicated to the purposes of the state university system. The appointed members shall be confirmed by the senate and serve staggered terms of seven years as provided by law. The commissioner of education, the chair of the advisory council of faculty senates, or the equivalent, and the president of the Florida student association, or the equivalent, shall also be members of the board.

(e) TUITION OR FEE INCREASES. Any proposal or action that increases tuition or fees of a constituent university must be approved by at least nine affirmative votes of the members of the board of trustees of the constituent university and at least twelve affirmative votes of the members of the board of

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

washingtn-00049C-17

201744__

62 | governors in order to take effect.



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CRC ACTION

Commissioner .
Comm: FAV .
02/12/2018 .
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The Committee on Education (Washington) recommended the following:

CRC Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

ARTICLE IX

EDUCATION

SECTION 7. State University System.—

(a) PURPOSES. In order to achieve excellence through
teaching students, advancing research and providing public
service for the benefit of Florida's citizens, their communities



733666

11 and economies, the people hereby establish a system of
12 governance for the state university system of Florida.

13 (b) STATE UNIVERSITY SYSTEM. There shall be a single state
14 university system comprised of all public universities. A board
15 of trustees shall administer each public university and a board
16 of governors shall govern the state university system.

17 (c) LOCAL BOARDS OF TRUSTEES. Each local constituent
18 university shall be administered by a board of trustees
19 consisting of thirteen members dedicated to the purposes of the
20 state university system. The board of governors shall establish
21 the powers and duties of the boards of trustees. Each board of
22 trustees shall consist of six citizen members appointed by the
23 governor and five citizen members appointed by the board of
24 governors. The appointed members shall be confirmed by the
25 senate and serve staggered terms of five years as provided by
26 law. The chair of the faculty senate, or the equivalent, and the
27 president of the student body of the university shall also be
28 members.

29 (d) STATEWIDE BOARD OF GOVERNORS. The board of governors
30 shall be a body corporate consisting of seventeen members. The
31 board shall operate, regulate, control, and be fully responsible
32 for the management of the whole university system. These
33 responsibilities shall include, but not be limited to, defining
34 the distinctive mission of each constituent university and its
35 articulation with free public schools and community colleges,
36 ensuring the well-planned coordination and operation of the
37 system, and avoiding wasteful duplication of facilities or
38 programs. The board's management shall be subject to the powers
39 of the legislature to appropriate for the expenditure of funds,



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and the board shall account for such expenditures as provided by law. The governor shall appoint to the board fourteen citizens dedicated to the purposes of the state university system. The appointed members shall be confirmed by the senate and serve staggered terms of seven years as provided by law. The commissioner of education, the chair of the advisory council of faculty senates, or the equivalent, and the president of the Florida student association, or the equivalent, shall also be members of the board.

(e) TUITION. Tuition shall be established exclusively by law. The legislature may not raise tuition except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval. Any increase to tuition authorized under this section must be contained in a separate bill that contains no other subject.

(f) FEES. Any proposal or action of a constituent university to raise, impose, or authorize any fee, as authorized by law, must be approved by at least nine affirmative votes of the members of the board of trustees of the constituent university and at least twelve affirmative votes of the members of the board of governors in order to take effect.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A proposal to amend
Section 7 of Article IX of the State Constitution to



733666

69 provide that the legislature shall not raise tuition except
70 through legislation approved by two-thirds of the membership of
71 each house of the legislature and presented to the Governor for
72 approval; require that any legislation that raises tuition be
73 contained in a separate bill that contains no other subject;
74 establish minimum vote thresholds for university boards of
75 trustees and the board of governors to impose or authorize a new
76 fee or increase an existing fee, as authorized by law.

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1-26-18
Meeting Date

44
Proposal Number (if applicable)

*Topic _____

Amendment Barcode (if applicable)

*Name Marshall Ogletree

Address 213 S. Adams St
Street

Phone 850-201-2800

Tallahassee FL 32301
City State Zip

Email _____

*Speaking: ☐ For ☐ Against ☐ Information Only

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☐ Yes ☐ No

If yes, who? United Faculty of Florida

Are you a registered lobbyist? ☒ Yes ☐ No

Are you an elected official or judge? ☐ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

**Constitution Revision Commission
Education Committee
Proposal Analysis**

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

Proposal #: P 89

Relating to: EDUCATION, Public education

Introducer(s): Commissioner Washington

Article/Section affected: Article IX, section 1

Date: January 18, 2018

	REFERENCE	ACTION
1.	ED	Pre-meeting
2.		

I. SUMMARY:

The proposal amends Section 1, Article IX of the Florida Constitution to outline the purpose of the public education system of Florida. The proposal adds language to declare that the purpose of the public education system is to develop citizens' intellect, economic gains, creation of a workforce comprised of graduates who have been prepared by their education for a job. The proposal also adds a new subparagraph (d) expressing it is the intent of the people to provide "high quality and affordable postsecondary education opportunities" with those purposes.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The 1998 Constitution Revision Commission presented amendment 6 on the ballot which modified Section 1, Article IX of the Florida Constitution. The amendment declared it "a paramount duty of the state" to provide for education of children and passed with 71% of the vote¹.

The present constitution identifies objectives and principles for the operation of the statewide system of education² however, it does not identify the overarching objective of

¹ See Florida Department of State website for more information:
<http://dos.elections.myflorida.com/initiatives/initdetail.asp?account=11&seqnum=2> (last visited 1/17/18).

² Section 1, Article IX Florida Constitution

the statewide system of education. Florida's statutes, however, frequently identify the objectives of the various levels of education in terms of economic development and career preparedness³.

The quality and costs associated with postsecondary education is not explicitly addressed in the constitution. although provision for a "uniform, efficient, safe, secure, and high quality system of free public schools" is included⁴. Currently the affordability and quality of public postsecondary education in Florida is outlined in legislation⁵. For the State University System, this language would be read to supplement Section 7, Article IX, of the Florida Constitution which establishes a system of constitutional governance for the State University System.

Additionally, 2016 legislation⁶ has outlined a system of performance based funding for the Florida College System. The law awards a performance-based incentive to Florida College System institutions using performance-based measures adopted by the State Board of Education⁷. The law requires the model include four measures: (1) Retention Rates, (2) Completion Rates, (3) Job Placement/Continuing Education rates, and (4) Entry-Level Wages.

For the 2017-2018 academic year, all 28 colleges in the Florida College System performed well enough to have institutional funds restored with 22 of 28 colleges receiving awards of additional state funds. Specifically, the Completer Entry-Level Wage measure indicates all colleges are exceeding the threshold wage benchmark by an average of 109 percent.

State universities already provide high quality and affordable postsecondary education opportunities. In the 2017-2018 year, Florida is ranked 49th in the nation for undergraduate tuition and fees charged to resident students⁸. At the same time, the quality of a student's educational experience has been enhanced through strides made by the universities in response to greater accountability measures established and monitored by the Board of Governors which include, but are not limited to, the Annual Accountability Report⁹, annual university work plans, the implementation of performance funding, and tracking the System's progress on the goals set forth in the Board's 2025 Strategic Plan¹⁰.

³ Sections 1000.031, 1004.15, 1008.31, Florida Statutes and Part IV, Chapter 1004, Florida Statutes.

⁴ Section 1, Article IX Florida Constitution

⁵ Section 1004.84, 1004.85, Florida Statutes

⁶ HB 7029 (2016), enacted as Ch. 2016-237, L.O.F.

⁷ Rule 6A-14.07621, F.A.C.

⁸ See Florida Board of Governors website for more information: <https://trends.collegeboard.org/college-pricing/figures-tables/2017-18-state-tuition-and-fees-public-four-year-institutions-state-and-five-year-percentage> (last visited 1/18/2018)

⁹ See Florida Board of Governors website for more information: http://www.flbog.edu/board/accountability/2015-16_accountability.php (last visited 1/18/2018)

¹⁰ See Florida Board of Governors website for more information: <http://www.flbog.edu/pressroom/strategicplan.php> (last visited 1/18/2018)

B. EFFECT OF PROPOSED CHANGES:

The proposal provides a purpose for the public education system of Florida, which is “to develop the intellect of the state’s citizens, to contribute to the economy, to create an effective workforce, and to prepare students for a job.”

The existing statutes addressing the subjects addressed by this proposal do not appear to conflict with the proposal and largely implement its objectives. No additional legislation would be required to implement the requirements although the language could be cited in support of any number of initiatives. The impact on the education system is, therefore, indeterminate.

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:

None.

By Commissioner Washington

washingtn-00093A-17

201789__

A proposal to amend

Section 1 of Article IX of the State Constitution to specify the purpose and intent of the state's public education system.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 1 of Article IX of the State Constitution is amended to read:

ARTICLE IX

EDUCATION

SECTION 1. Public education.-

(a) The purpose of the public education system of Florida is to develop the intellect of the state's citizens, to contribute to the economy, to create an effective workforce, and to prepare students for a job. The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require. To assure that children attending public schools obtain a high quality education, the legislature shall make adequate provision to ensure that, by the beginning of the 2010 school year, there are a sufficient number of classrooms so that:

(1) The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

washingtn-00093A-17

201789__

prekindergarten through grade 3 does not exceed 18 students;

(2) The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for grades 4 through 8 does not exceed 22 students; and

(3) The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for grades 9 through 12 does not exceed 25 students.

The class size requirements of this subsection do not apply to extracurricular classes. Payment of the costs associated with reducing class size to meet these requirements is the responsibility of the state and not of local schools districts. Beginning with the 2003-2004 fiscal year, the legislature shall provide sufficient funds to reduce the average number of students in each classroom by at least two students per year until the maximum number of students per classroom does not exceed the requirements of this subsection.

(b) Every four-year old child in Florida shall be provided by the State a high quality pre-kindergarten learning opportunity in the form of an early childhood development and education program which shall be voluntary, high quality, free, and delivered according to professionally accepted standards. An early childhood development and education program means an organized program designed to address and enhance each child's ability to make age appropriate progress in an appropriate range of settings in the development of language and cognitive capabilities and emotional, social, regulatory and moral capacities through education in basic skills and such other skills as the Legislature may determine to be appropriate.

Page 2 of 3

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washington-00093A-17

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62 (c) The early childhood education and development programs
63 provided by reason of subsection ~~subparagraph~~ (b) shall be
64 implemented no later than the beginning of the 2005 school year
65 through funds generated in addition to those used for existing
66 education, health, and development programs. Existing education,
67 health, and development programs are those funded by the State
68 as of January 1, 2002 that provided for child or adult
69 education, health care, or development.

70 (d) In order to build Florida's talent pipeline for the
71 careers of today and tomorrow and align the state's education,
72 workforce, and economic development efforts, it is the intent of
73 the people to provide high quality and affordable postsecondary
74 education opportunities.

**Constitution Revision Commission
Education Committee
Proposal Analysis**

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

Proposal #: P 45

Relating to:

Introducer(s): Commissioner Donalds

Article/Section affected: Article IX, section 1

Date:

	REFERENCE	ACTION
1.	ED	Pre-meeting
2.		

I. SUMMARY:

This proposal amends Section 1, Article IX of the Florida Constitution to allow the Legislature to make provision for other educational services that benefit children and families of this state that are in addition to the system of free public schools.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Currently the Florida Constitution provides that the legislature shall make adequate provision by law for a uniform, efficient, safe, secure and high quality system of free public schools.¹ These terms act as direction to the legislature when making laws for the educational system. Over the past years courts have ruled on several significant cases to limit the Legislature's authority to enact education laws.

In the case of *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006), the Supreme Court determined that a statutory provision providing school vouchers to private school for students from failing public schools was unconstitutional under Article IX, Section 1 of the Florida Constitution. By using state funds to develop separate private systems parallel to and in competition with the state's free public schools, when the schools did not use the same curriculum, assessments, or teacher qualifications as public schools, and thus, violated the uniformity requirement.

¹ Section 1, Article IX Florida Constitution

In the case of *Duval County School Board v. State Board of Education*, 998 So. 2d 641 (Fla. 1st DCA 2008), the First DCA ruled that a provision granting authority to the Department of Education to establish charter schools was facially unconstitutional in that it impinged upon authority constitutionally granted to the districts to operate, control and supervise all free public schools within a district. The law was found to create a system of a parallel system of free public education escaping the operation and control of local school boards.

B. EFFECT OF PROPOSED CHANGES:

The proposal provides for potential future legislation to allow for additional educational services in addition to the current system of free public schools. The effect of any potential future legislation is indeterminate.

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:

None.

By Commissioner Donalds

donaldse-00074-17

201745__

A proposal to amend

Section 1 of Article IX of the State Constitution to specify that no provision of the State Constitution may be construed to limit the Legislature from making provision for other educational services that are beneficial to the children and families of this state.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 1 of Article IX of the State Constitution is amended to read:

ARTICLE IX

EDUCATION

SECTION 1. Public education.—

(a) The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools allowing the opportunity for each student ~~that allows students~~ to obtain a high quality education. Provision shall be made ~~and~~ for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require. Nothing herein may be construed to limit the legislature from making provision for other educational services that benefit the children and families of this state that are in addition to the system of free public schools. To assure that children attending public schools obtain a high quality education, the legislature shall make adequate provision to ensure that, by the beginning of the 2010 school

Page 1 of 3

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donaldse-00074-17

201745__

year, there are a sufficient number of classrooms so that:

(1) The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for prekindergarten through grade 3 does not exceed 18 students;

(2) The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for grades 4 through 8 does not exceed 22 students; and

(3) The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for grades 9 through 12 does not exceed 25 students.

The class size requirements of this subsection do not apply to extracurricular classes. Payment of the costs associated with reducing class size to meet these requirements is the responsibility of the state and not of local schools districts. Beginning with the 2003-2004 fiscal year, the legislature shall provide sufficient funds to reduce the average number of students in each classroom by at least two students per year until the maximum number of students per classroom does not exceed the requirements of this subsection.

(b) Every four-year old child in Florida shall be provided by the State a high quality pre-kindergarten learning opportunity in the form of an early childhood development and education program which shall be voluntary, high quality, free, and delivered according to professionally accepted standards. An early childhood development and education program means an organized program designed to address and enhance each child's ability to make age appropriate progress in an appropriate range of settings in the development of language and cognitive

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

donaldse-00074-17

201745__

62 capabilities and emotional, social, regulatory and moral
63 capacities through education in basic skills and such other
64 skills as the Legislature may determine to be appropriate.

65 (c) The early childhood education and development programs
66 provided by reason of subparagraph (b) shall be implemented no
67 later than the beginning of the 2005 school year through funds
68 generated in addition to those used for existing education,
69 health, and development programs. Existing education, health,
70 and development programs are those funded by the State as of
71 January 1, 2002 that provided for child or adult education,
72 health care, or development.

MEMORANDUM

TO: Cali Stringer, Staff Director
Education Committee, Florida Constitution Revision Commission

FROM: Ben Gibson, Esq.
BENJAMIN J. GIBSON, P.A.

RE: CRC Proposal 45 amending Article IX, section 1, Florida Constitution

Proposal 45 Summary:

Proposal 45 amends Article IX, section 1(a), of the Florida Constitution by 1) replacing the language in the third sentence that states “that allows students to obtain a high quality education” with “allowing the opportunity for each student to obtain a high quality education”; (2) Making a conforming change based on the new language; and 3) Adding the sentence: “Nothing herein may be construed to limit the legislature from making provision for other educational services that benefit the children and families of this state that are in addition to the system of free public schools.”

Article IX, Section 1(a) Background:

For thirty years, Article IX, section 1 contained identical language until the 1998 Constitution Revision Commission put forth and voters approved an amendment to Article IX, section 1 in response to the 1996 Supreme Court case *Coalition for Adequacy and Fairness in School Funding, Inc. v. Chiles*, 680 So. 2d 400 (Fla. 1996). *Coalition* found that there were not judicially manageable standards in the constitution by which the Court could measure the “adequacy” of Florida’s education system. The Court stated that such a question was one for the legislature, not the courts absent specific definable standards. *See id.* at 408. The Court contrasted “adequacy” with the constitutional standard of “uniform” a word that had manageable standards on its face meaning a lack of variation. *Id.*

In response to the *Coalition* decision, the 1998 CRC passed Revision 6, amending Article IX, section 1 by 1) making education a “fundamental value”; 2) making it a paramount duty of the state to make adequate provision for the education of all children; and 3) defining “adequate provision” with the standards of “efficient, safe, secure, and high quality.” According to the commentary from the Executive Director at the time: “The addition of “efficient, safe, secure, and high quality” was an attempt by the CRC to provide” constitutional standards to measure the “adequacy provision” that the Florida Supreme Court in 1996 said the constitution was lacking.” *See Commentary to 1998 Amend. by William Buzzett and Deborah K. Kearney*, art. IX § 1.

Opportunity Scholarship Program

Following the passage of the amendment to Article IX, section 1 and the election of Governor Jeb Bush in 1998, the Florida Legislature in 1999 passed a statewide system of school vouchers known as the Opportunity Scholarship Program (OSP). The OSP enabled students at failing schools to transfer to a higher performing public or private school of their choice using state-

funded vouchers. The Legislature stated that their purpose for establishing the OSP was in part to provide the opportunity to obtain a high-quality education (echoing the newly adopted constitutional amendment) and that a student should not be compelled, against the wishes of the student's parent or guardian, to remain in a school found by the state to be failing for 2 years in a 4-year period. See § 229.0537(1), Fla. Stat. (1999); recodified at § 1002.38(1), Fla. Stat. (2005).

The OSP was challenged immediately after becoming law as violating the Establishment Clause of the U.S. Constitution, Article I, section 3 (“no aid” provision); Article IX, section 1 (adequate provision for a uniform system of free public schools) and Article IX, section 6 which limits expenditures from the state school fund for the support and maintenance of free public schools. The First District Court of Appeal found that the OSP was unconstitutional under Florida’s “no-aid” provision in Article I, section 3, because vouchers could be used at religiously affiliated private schools. *Bush v. Holmes*, 886 So. 2d 340 (Fla. 1st DCA 2004).

The First DCA’s decision was appealed to The Florida Supreme Court, which also struck down the OSP as unconstitutional, but under a different constitutional provision- Article IX, section 1(a). *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006). Specifically the Supreme Court held 1) the OSP violated the requirement of Article IX, section 1(a), that free education be provided through a system of free public schools; 2) the OSP violated the requirement of Article IX, section 1(a) that education be provided through a “uniform” system of public schools; and 3) the OSP did not fall within the exception to constitutional mandates for “other public education programs.” *Id.*

The Court’s majority found that Article IX, section 1(a) is a limitation on the Legislature’s power because it provides “both a mandate to provide for children’s education and a restriction on the execution of that mandate.” *Id.* at 407. The Court stated, “[t]he second and third sentences of Article IX, section 1(a) must be read *in pari materia*, rather than as distinct and unrelated obligations. The second sentence of article IX, section 1(a) provides that it is the ‘paramount duty of the state to make adequate provision for the education of all children residing within its borders.’ The third sentence of article IX, section 1(a) provides a restriction on the exercise of this mandate by specifying that the adequate provision required in the second sentence ‘shall be made by law for a uniform, efficient, safe, secure and high quality system of *free public schools.*’” (Emphasis supplied.) *Id.*

The OSP was held to be unconstitutional because it uses state funds to provide for the education of children through different means than a system of free public schools, which is the exclusive method by which the legislature can provide for education in Florida. *See id.* The majority found that “free public schools” are the “sole means set out in the Constitution for the state to provide for the education of Florida’s children.” *Id.* at 398. And by diverting money from public schools to private ones, the state is funding “private schools that are not ‘uniform’ when compared with each other or the public system.” *Id., id.* at 410.

Despite the claim being earlier dropped by the plaintiffs, the Supreme Court majority also stated in dicta that by providing state funds to private schools, the OSP diverted from Art. IX, section 6, the state school fund, which provides that “The income derived from the state school fund shall, and the principal of the fund may, be appropriated, but only to the support and maintenance of free public schools.” Further, because the Court did not base its decision to strike down the OSP on Article I, section 3, it did not address the First DCA’s holding that the OSP violated the state’s “no-aid” provision.

Recent litigation involving Article IX, section 1(a)

Last month, the First DCA affirmed a trial court ruling dismissing a case challenging the adequacy of Florida's K-12 education system as a whole and finding that those claims under Article IX, section 1 raised political questions of which the court was without jurisdiction to decide. *See Citizens for Strong Sch., Inc. v. Florida State Bd. of Educ.*, 42 Fla. L. Weekly D2640 (Fla. 1st DCA Dec. 13, 2017). Plaintiffs in the case sought declaratory and supplemental relief finding that the State had violated its "paramount duty" to provide "a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education."

Despite the 1998 constitutional revision adding language to Article IX, section 1 in hopes of providing "adequacy" standards, the court found that there still were not "judicially discoverable standards" in the constitution to determine if the state had complied with the "adequacy" requirement, instead stating that this was a policy determination to be made by the legislature. It was the court's determination that "the terms 'efficient' and 'high quality' are no more susceptible to judicial determination than 'adequate' was under the prior version [pre-1998 revision] of education provision. For the judicial branch to evaluate whether the other two branches were complying with the 'adequacy' provision would constitute a violation of Florida's strict requirement of the separation of powers." *Id.* The court stated:

There is no language or authority in Article IX, section 1(a) that would empower judges to order the enactment of educational policies regarding teaching methods and accountability, the appropriate funding of public schools, the proper allowance of charter schools and school choice, the best methods of student accountability and school accountability, and related funding priorities. *Id.*

The Plaintiffs also challenge the John M. McKay Scholarship Program for Students with Disabilities and the Florida Tax Credit Scholarship Program as violating the "uniformity" requirement in Article IX, section 1 by diverting public funds to private schools, not subject to the same requirements as public schools, relying on the Supreme Court's decision in *Bush v. Holmes*. In 2016, the First DCA upheld the Florida Tax Credit Scholarship Program in *McCall v. Scott*, 199 So. 3d 359 (Fla. 1st DCA 2016). With respect to the McKay Scholarship Program the First DCA found that it was a specialized program only affecting 30,000 students, and therefore, does not materially affect the entirety of the K-12 education system. "It is difficult to perceive how a modestly sized program designed to provide parents of disabled children with more educational opportunities to ensure access to a high quality education could possibly violate the text or spirit of a constitutional requirement of a uniform system of free public schools." *Id.*

Analysis

Proposal 45 amends Article IX, section 1(a), of the Florida Constitution in relative part as follows:

ARTICLE IX
EDUCATION

SECTION 1. Public education.—

(a) The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools allowing the opportunity for each student ~~that allows students~~ to obtain a high quality education. Provision shall be made ~~and~~ for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require. Nothing herein may be construed to limit the legislature from making provision for other educational services that benefit the children and families of this state that are in addition to the system of free public schools. . . .

It is unclear from the text the drafter's intent in replacing the term "that allows students" with "allowing the opportunity for each student." It is presumed that the intent is a policy one, to which it should be cautioned that adding terms to Article IX, section 1, which are not intended to be self-executing or judicially determinable might be interpreted by a future court as creating new rights capable of judicial review. Courts such as the First DCA in *Citizens* may exercise judicial restraint in leaving the interpretation of such a phrase to the legislature, however there is danger that courts such as the Supreme Court in *Bush v. Holmes* may interpret such language in a manner contrary to the intent of the drafter and create unintended consequences. If the intent of the drafter is not to create a new judicially determinable standard, but instead a policy goal for the legislature, such language may be omitted.

The last sentence in the proposal appears to be squarely aimed at the Supreme Court's opinion in *Bush v. Holmes*, which struck down the OSP by stating that the public school system is "the exclusive means set out in the constitution for the Legislature to make adequate provision for the education of children." *Holmes* at 409. To date, both the Florida Tax Credit Scholarship Program, in *McCall v. Scott*, and the McKay Scholarship Program, in *Citizens for Strong Schools v. State Board of Education*, have been upheld under the current constitutional language. It is presumed, therefore, that the language is intended to benefit a program the same or similar to the OSP struck down in *Holmes*, and any future school choice programs developed by the legislature. It is, of course, possible that a future court may uphold a program similar to the OSP under the current language in the constitution. After all, the dissent in *Holmes* found no language of exclusion in the current text of Article IX, section 1 and that a system of free public schools is not the only method by which the

legislature may choose to fulfill its duty of providing education to the state's children. *See Holmes* at 415. However, to the extent that a court such as the majority in *Holmes* does interpret the current language as exclusive, the proposal would clearly undercut that argument. The text of the proposal indicates by its plain language that the system of free public schools is not the exclusive method by which the legislature may choose to provide educational services to children.

It is unclear whether the term "Nothing herein" refers to Article IX, section 1(a), Article IX, or the Florida Constitution as a whole. It should be specified, and if the intent is to refer to the state constitution as a whole, the language should be clarified to state "this Constitution." To the extent that the drafter intends to amend Article IX, section 1 to allow a program similar to the OSP pass constitutional muster, it is unclear whether Proposal 45, by itself, is sufficient to do so.

It is clear that the "other educational services" provided by the legislature are in addition to the "system of free public schools," but it is unclear whether the "other educational services" provided by the legislature are subject to the "uniform, efficient, safe, secure, and high quality" standards. In particular, it should be specified whether the "other educational services" must be "uniform" with the current system of free public schools. The Supreme Court struck down the OSP in part because it found the program violated the "uniform" provision.

Courts such as the First DCA in *Citizens* may read the language in the Proposal as adequate in overcoming *Bush v. Holmes* (or may read the existing constitutional language in the same way as the *Holmes* dissent), however, other courts may not. The *Holmes* majority also cited Article IX, section 6 (State school fund) as reinforcing its determination that the OSP is unconstitutional. This should be considered. Also, Article I, section 3, the state's "no-aid provision," was the basis by which the First DCA struck down the OSP, and remains good law. Florida's "Blaine Amendment" may be used by future courts to prohibit school choice programs involving private religious schools. Currently, both the Florida Tax Credit Scholarship Program and the McKay Scholarship Program may be used at religiously-affiliated private schools, however, courts have seem to distinguish between broad-based voucher systems and specialized voucher programs effecting a small number of students overall.

If this proposal is passed by the CRC and approved by voters, it is difficult to predict how a future court may interpret the language as applied to a specific legislative enactment. Drafting issues to consider include: 1) removing unnecessary language to avoid unintended consequences; 2) clarifying whether "nothing herein" applies to the entire state constitution; 3) consider other constitutional provisions and whether it would impact this language; and 4) clarify whether "other educational services" must be "uniform" with the system of free public schools.

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1-26
Meeting Date

45
Proposal Number (if applicable)

*Topic Public Education

*Name Jeff Wright

Address 213 S. Adams St.
Street

Tallahassee FL 32301
City State Zip

Phone 850-224-2078

Email jeff.wright@florbea
-over

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? Florida Education Assoc

Are you a registered lobbyist? ☒ Yes ☐ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18

Meeting Date

45

Proposal Number (if applicable)

*Topic Education

Amendment Barcode (if applicable)

*Name Angie Gallo

Address 1747 Orlando Central Pkwy

Phone _____

Street

Orlando, FL

City

State

32826

Zip

Email _____

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☒ No

If yes, who? Florida PTA

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD
(Deliver completed form to Commission staff)

1-26-2018
Meeting Date

45
Proposal Number (if applicable)

*Topic Article IX, Section 1

Amendment Barcode (if applicable)

*Name Andrea Messina

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Phone 850 414 2578

Tallahassee FL 32301
City State Zip

Email messina@fsba.org

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? Florida School Boards Assn.

Are you a registered lobbyist? ☒ Yes ☐ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18
Meeting Date

45
Proposal Number (if applicable)

*Topic Article 9 section 1

Amendment Barcode (if applicable)

*Name April M. Griffin

Address 12310 SW 9th Ave

Phone 352-262-3113

Newberry FL 32669
City State Zip

Email griffin@gnsharade

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? Fla School Bds Assoc.

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☒ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18

Meeting Date

45

Proposal Number (if applicable)

*Topic Article IX Section 1

Amendment Barcode (if applicable)

*Name Jerry Taylor

Address 14512 48th Street

Phone 386-590-0972

Street

Live Oak

FL

32060

City

State

Zip

Email taylorj@sunrunner.k12.fl.us

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? Florida School Boards Association

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☒ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/2018
Meeting Date

P45
Proposal Number (if applicable)

*Topic Article IX; Section I

Amendment Barcode (if applicable)

*Name Betsy Condon

Address 6880 Crystal Lake Rd
Street

Phone 352 672-0828

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Email betsycondon@yahoo.com

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☐ Yes ☒ No

If yes, who? _____

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☒ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD
(Deliver completed form to Commission staff)

1-26-2018

Meeting Date

45

Proposal Number (if applicable)

*Topic PROPOSAL # 45 PUBLIC EDUCATION

Amendment Barcode (if applicable)

*Name ISAAC SIMMONS

Address 24 Angle Street

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Street

Chattahoochee

City

State

FL 32324

Zip

Email simmons@dcpsmail.com

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☐ Yes ☒ No

If yes, who? _____

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☒ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18
Meeting Date

48
Proposal Number (if applicable)

*Topic Add'l Educ. Services

Amendment Barcode (if applicable)

*Name Bill Huston

Address 1311 Balboa Ave.
Street

Phone 850 767 4101

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City State Zip

Email huston@bay.law

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☐ Yes ☒ No

If yes, who? _____

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☒ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

Jan 26 2018

Meeting Date

45

Proposal Number (if applicable)

*Topic Education

Amendment Barcode (if applicable)

*Name Marie-Claire Leman

Address 1911 Wahalaw Court

Phone 850-728-7514

Street
Tallahassee

FL

32301

City

State

Zip

Email marieclaireleman@gmail.com

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? Common Ground

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1-26-18

Meeting Date

45

Proposal Number (if applicable)

*Topic

No Aid Provision

Amendment Barcode (if applicable)

*Name

STEPHANIE OWENS

Address

Street

Phone

727 639 1243

City

State

Zip

Email

*Speaking:

☐

For

☒

Against

☐

Information Only

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Are you representing someone other than yourself?

☐

Yes

☐

No

If yes, who?

LEAGUE OF WOMEN VOTERS

Are you a registered lobbyist?

☒

Yes

☐

No

Are you an elected official or judge?

☐

Yes

☐

No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/14
Meeting Date

75
Proposal Number (if applicable)

*Topic Educator

Amendment Barcode (if applicable)

*Name by Paul

Address 208 S Monroe

Phone 850-577-5784

Tallah. FL 32301
City State Zip

Email jfbankjfboss.org

*Speaking: ☐ For ☐ Against ☐ Information Only

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? FAOSS

Are you a registered lobbyist? ☒ Yes ☐ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/2018

Meeting Date

45

Proposal Number (if applicable)

*Topic

Additional Educational Services

Amendment Barcode (if applicable)

*Name

Joseph Taylor

Address

652 Third Street

Phone

850-638-6222

Street

Chaplin

FL

State

32428

Zip

Email

joseph.taylor@cwsschools.com

*Speaking:

☐

For

☐

Against

☐

Information Only

Waive Speaking:

☐

In Support

☒

Against

(The Chair will read this information into the record.)

Are you representing someone other than yourself?

☐

Yes

☐

No

If yes, who?

Are you a registered lobbyist?

☐

Yes

☒

No

Are you an elected official or judge?

☒

Yes

☐

No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

**Constitution Revision Commission
Education Committee
Proposal Analysis**

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

Proposal #: P 71

Relating to: EDUCATION, School districts; school boards

Introducer(s): Commissioner Donalds

Article/Section affected: Article IX, section 4

Date: January 17, 2018

	REFERENCE	ACTION
1.	ED	Pre-meeting
2.		

I. SUMMARY:

Amends Article IX, §4(b) by adding language to:

Provide that nothing in the constitution may be construed to limit the legislature from creating alternative processes to authorize the establishment of charter schools within the state by general law.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Presently, the creation of charter schools in Florida is governed by the provisions of Chapter 1002, Part III, Florida Statutes. The vast majority of charter schools must apply to and be approved by local school boards.¹ Other types of charter schools can be authorized such as state universities to sponsor charter lab schools² and “schools of hope” can be authorized near or within the vicinity of persistently low performing schools.³

Presently, the Florida Constitution does not directly address the processes to authorize the establishment of charter schools in Florida. However, Article IX, Section 4(b) of the Florida Constitution provides that “the school board shall operate, control and supervise

¹ Section 1002.33, FS

² Section 1002.32, FS

³ Section 1002.333, FS

all free public schools within the school district and determine the rate of school district taxes within the limits prescribed herein.”

In 2008, courts ruled that the statute creating the “Florida Schools of Excellence Commission”⁴ with the power to authorize charter schools throughout Florida violated Article IX, Section 4(b) of the Florida Constitution.⁵ The court held that the statute prevented the school boards from operating, controlling, and supervising the charter schools approved by the commission and was facially unconstitutional.⁶

B. EFFECT OF PROPOSED CHANGES:

The proposal allows future legislation relating to the processes used to authorize the establishment of charter schools without being subject to the kind of constitutional challenge described in Duval.⁷ This will give the legislature more flexibility in determining the permissible ways for charter schools to be established in Florida.

The effect on the educational system is indeterminate. The provision does not change the current system or statutes, it simply provides that some future changes to the charter school system would not be in conflict with Article IX, Section 4(b) of the Florida Constitution. While it is foreseeable that the legislature could create new methods for the establishment of charter schools such as the state-wide “Florida Schools of Excellence Commission,” the ultimate impact of these new processes is unknown at this time.

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.

⁴ Section 1002.335, FS (2006)

⁵ Duval County School Board v. State Board of Education, 998 So. 2d 641 (1st DCA 2008)

⁶ Id.

⁷ Id.

D. Related Issues:

None.



748000

CRC ACTION

Commissioner .
Comm: WD .
02/12/2018 .
.
.
.

The Committee on Education (Donalds) recommended the following:

CRC Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

ARTICLE IX

EDUCATION

SECTION 4. School districts; school boards.—

(a) Each county shall constitute a school district;
provided, two or more contiguous counties, upon vote of the
electors of each county pursuant to law, may be combined into
one school district. In each school district there shall be a



748000

school board composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately staggered terms of four years, as provided by law.

(b) The school board shall operate, control, and supervise all free public schools within the school district except for free public schools authorized by the state charter school authorizing board, municipalities, charter counties, Florida college system institutions, and state universities as provided by law. The school board shall ~~and~~ determine the rate of school district taxes within the limits prescribed herein. Two or more school districts may operate and finance joint educational programs.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A proposal to amend

Section 4 of Article IX of the State Constitution to allow free public schools to be authorized by the state charter school authorizing board, municipalities, charter counties, Florida college system institutions, and state universities as provided by law.



527228

CRC ACTION

Commissioner .
Comm: FAV .
02/12/2018 .
.
.
.

The Committee on Education (Levesque) recommended the following:

CRC Amendment (with title amendment)

Delete line 29
and insert:
authorize the establishment of public schools within the state

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 5
and insert:
authorize the establishment of public schools in the

By Commissioner Donalds

donaldse-00088A-17

201771__

A proposal to amend

Section 4 of Article IX of the State Constitution to specify that the Legislature is authorized to enact general laws providing alternative processes to authorize the establishment of charter schools in the state.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 4 of Article IX of the State Constitution is amended to read:

ARTICLE IX

EDUCATION

SECTION 4. School districts; school boards.—

(a) Each county shall constitute a school district; provided, two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district. In each school district there shall be a school board composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately staggered terms of four years, as provided by law.

(b) The school board shall operate, control, and supervise all free public schools within the school district and determine the rate of school district taxes within the limits prescribed herein. Two or more school districts may operate and finance joint educational programs. Nothing herein may be construed to limit the legislature from creating alternative processes to authorize the establishment of charter schools within the state by general law.



527228

CRC ACTION

Commissioner .
Comm: FAV .
02/12/2018 .
.
.
.

The Committee on Education (Levesque) recommended the following:

CRC Amendment (with title amendment)

Delete line 29
and insert:
authorize the establishment of public schools within the state

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 5
and insert:
authorize the establishment of public schools in the

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD
(Deliver completed form to Commission staff)

Meeting Date _____

71
Proposal Number (if applicable)

*Topic Proposal 71

Amendment Barcode (if applicable)

*Name Paula D. Wright

Address 1701 Prudential Dr.

Phone 904-390-2293

Street

JAX FL 32207

City State Zip

Email wrightp@dualschools.org

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? Constituents

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☒ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

Jan 26 2018

Meeting Date

71

Proposal Number (if applicable)

*Topic Education

Amendment Barcode (if applicable)

*Name Marie-Claire Leman

Address 1911 Wahalaw Court

Phone 850-728-7514

Street
Tallahassee

FL

32301

City

State

Zip

Email marieclaireleman@gmail.com

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? Common Ground

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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***Required**

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18

Meeting Date

71

Proposal Number (if applicable)

*Topic Education

Amendment Barcode (if applicable)

*Name Angie Gallo

Address 1747 Orlando Central Pkwy

Phone _____

Street

Orlando, FL 32826

City

State

Zip

Email _____

*Speaking: ☐ For ☐ Against ☐ Information Only

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☒ No

If yes, who? Florida PTA

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18
Meeting Date

71
Proposal Number (if applicable)

*Topic Section 4 Article IX

Amendment Barcode (if applicable)

*Name April M. Griffin

Address 12310 SW 9th Ave
Street

Phone _____

Newberry FL 32669
City State Zip

Email griffin@gmsbarcde

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☐ Yes ☒ No

If yes, who? _____

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☒ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/2018
Meeting Date

P71
Proposal Number (if applicable)

*Topic Charter Authorizer

Amendment Barcode (if applicable)

*Name Betsy Condon

Address 6880 Crystal Lake Rd
Street

Phone 352 672-0828

Keystone Heights FL 32656
City State Zip

Email betsycondon@yahoo.com

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☐ Yes ☒ No

If yes, who? _____

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☒ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18
Meeting Date

71
Proposal Number (if applicable)

*Topic Charter School Authorizer

Amendment Barcode (if applicable)

*Name Jerry Taylor

Address 14512 48th Street

Phone 386-590-0972

Live Oak FL 32060
City State Zip

Email taylorj@Sunamee.K12.Fl.us

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☐ Yes ☒ No

If yes, who? _____

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☒ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1-26-2018

Meeting Date

71

Proposal Number (if applicable)

*Topic PROPOSAL 71 Charter Authorization

Amendment Barcode (if applicable)

*Name Isaac Simmons

Address 24 Angle Street

Phone (850) 510-8038

Street

Chattahoochee, Florida 32324

Email simmonsia29c@gmail.com

City

State

Zip

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☐ Yes ☒ No

If yes, who? _____

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☒ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18
Meeting Date

71
Proposal Number (if applicable)

*Topic

Local Control

Amendment Barcode (if applicable)

*Name

Rocky Hanna

Address

4049 Kilmarlin Dr

Phone

950 487-7147

Street

Tallahassee

Fla

32309

Email

hanna6@leonschools.net

City

State

Zip

*Speaking:

☐

For

☒

Against

☐

Information Only

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Are you representing someone other than yourself?

☐

Yes

☐

No

If yes, who?

Are you a registered lobbyist?

☐

Yes

☒

No

Are you an elected official or judge?

☒

Yes

☐

No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1-26-18
Meeting Date

71
Proposal Number (if applicable)

*Topic _____

Amendment Barcode (if applicable)

*Name Lynda Russell

Address 513 S. Adams St.

Phone 201-2800

Street

Tallahassee FL 32301

Email _____

City

State

Zip

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☐ Yes ☐ No

If yes, who? Florida Educational Assoc.

Are you a registered lobbyist? ☒ Yes ☐ No

Are you an elected official or judge? ☐ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1-26-18

Meeting Date

71

Proposal Number (if applicable)

*Topic

Alternatives to Local Authority

Amendment Barcode (if applicable)

*Name

Dr. Sarah Butzin

Address

Street

Phone

850-728-1097

Email

City

State

Zip

*Speaking:

☐

For

☐

Against

☐

Information Only

Waive Speaking:

☐

In Support

☒

Against

(The Chair will read this information into the record.)

Are you representing someone other than yourself?

☒

Yes

☐

No

If yes, who?

League of Women Voters

Are you a registered lobbyist?

☐

Yes

☒

No

Are you an elected official or judge?

☐

Yes

☒

No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18

Meeting Date

21

Proposal Number (if applicable)

*Topic

Ed. School Dist, Bds

Amendment Barcode (if applicable)

*Name

Bill Huston

Address

Street

1311 Balboa Ave

Phone

850.267.4101

City

P.C.

State

FL

Zip

33401

Email

huston@fl.us

*Speaking:

☐

For

☐

Against

☐

Information Only

Waive Speaking:

☐

In Support

☒

Against

(The Chair will read this information into the record.)

Are you representing someone other than yourself?

☐

Yes

☒

No

If yes, who?

Are you a registered lobbyist?

☐

Yes

☒

No

Are you an elected official or judge?

☒

Yes

☐

No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/28/18

Meeting Date

P71-(As Amended)

Proposal Number (if applicable)

*Topic

Education - Districts - School Boards

Amendment Barcode (if applicable)

*Name

Joseph Taylor

Address

652 3rd Street

Phone

(850) 638-6222

Street

Chapman FL 32128

City

State

Zip

Email

joseph.taylor@cwsschools.com

*Speaking:

☐

For

☐

Against

☐

Information Only

Waive Speaking:

☐

In Support

☒

Against

(The Chair will read this information into the record.)

Are you representing someone other than yourself?

☐

Yes

☒

No

If yes, who?

Are you a registered lobbyist?

☐

Yes

☒

No

Are you an elected official or judge?

☒

Yes

☐

No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

**Constitution Revision Commission
Education Committee
Proposal Analysis**

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

Proposal #: P 4

Relating to: DECLARATION OF RIGHTS, Religious freedom

Introducer(s): Commissioner Martinez and others

Article/Section affected: Article I, Section 3 – Religious freedom

Date: January 18, 2018

	REFERENCE	ACTION
1.	<u>DR</u>	<u>Favorable</u>
2.	<u>ED</u>	<u>Pre-meeting</u>

I. SUMMARY:

The Proposal amends Article I, Section 3 of the Florida Constitution, relating to religious freedom, to repeal the prohibition on the use of public revenue in aid of a church, sect, religious denomination, or sectarian institution. The prohibition is commonly known as the “No Aid Provision” or “Blaine Amendment.”

If approved by the Constitution Revision Commission, the proposal will be placed on the ballot at the November 6, 2018, General Election. Sixty percent voter approval is required for adoption. If approved by the voters, the proposal will take effect on January 8, 2019.

A similar proposal was submitted to voters in the 2012 General Election. The proposal received 44.5% of the vote and was not adopted.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Religion and Government

The relationship between Religion and Government in Florida is governed by both the U.S. Constitution and the Florida Constitution. Specifically, the First Amendment to the U.S. Constitution provides:

Congress shall make no law respecting an establishment of religion,
or prohibiting the free exercise thereof; or abridging the freedom of

speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Similarly, Article I, Section 3 of the Florida Constitution provides:

There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with public morals, peace or safety. No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.

These provisions comprise the elements of the religious freedoms that are a central tenet of the American system of government. The Establishment Clause “prevents a State from enacting laws that have the ‘purpose’ or ‘effect’ of advancing or inhibiting religion.”¹ The Free Exercise Clause directs that no law may discriminate against some or all religious beliefs, or regulate or prohibit conduct undertaken for religious reasons.² Florida courts have generally interpreted Florida’s Free Exercise Clause as coequal to the federal clause.³

However, while the U.S. Constitution and Florida Constitution both contain a prohibition respecting the establishment of religion, the Florida Constitution imposes an additional restriction on the state not explicitly present under the U.S. Constitution. Commonly referred to as a “Blaine Amendment” or “No-Aid Provision,” the last sentence of Article I, Section 3 of the Florida Constitution prohibits the direct or indirect use of public revenue in aid of a church, sect, religious denomination or sectarian institution.

“Blaine Amendments” or “No-Aid Provisions”

Florida is one of thirty-seven states to adopt a “No-Aid provision” within the state constitution.⁴ The first iteration of Florida’s constitutional “no aid provision” was adopted during the Constitutional Convention of 1885. Enacted as Article I, Section 6 of the 1885 Florida Constitution, the “no aid provision” originally provided that:

No preference shall be given by law to any church, sect or mode of worship, and no money shall ever be taken from the public treasury directly or indirectly in aid of any church, sect or religious denomination, or in aid of any sectarian institution.

This provision was re-adopted in the 1968 revision of the Florida Constitution as Article I, Section 3 and specifically delineated that the “no aid” prohibition also applied to local governments.

¹ *Zelman v. Simmons-Harris*, 536 US 639, 648-649 (Fla. 2002).

² *Church of the Lukimi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 532 (1993).

³ *Warner v. City of Boca Raton*, 887 So. 2d 1023, 1030 (Fla. 2004).

⁴ Richard D. Komer and Olivia Grady, *School Choice and State Constitutions: A Guide to Designing School Choice Programs*, THE INSTITUTE FOR JUSTICE AND THE AMERICAN LEGISLATIVE EXCHANGE COUNCIL (2d. ed.), available at <http://ij.org/wp-content/uploads/2016/09/50-state-SC-report-2016-web.pdf>.

Legal scholars and historians disagree regarding the impetus and intended effect of “no-aid provisions.” Some historians trace the origin of “no-aid provisions” to 1875 and the administration of President Ulysses S. Grant. President Grant recommended an amendment to the U.S. Constitution denying all direct or indirect public support to “sectarian” institutions, commonly understood to mean “Catholic” institutions.⁵ Then-Speaker of the U.S. House of Representatives James G. Blaine proposed an amendment to effectuate President Grant’s wishes. The measure passed overwhelmingly in the House (180-7), but failed to satisfy the supermajority needed in the Senate by four votes. When the amendment failed at the federal level, supporters turned their attention to the states. Provisions were voluntarily adopted in several existing states and were required as part of gaining statehood in others.

However, a number of states had adopted no-aid provisions prior to the proposal of such an amendment by Representative Blaine.⁶ Some have argued those states were likely motivated by a Madisonian concern about liberty of conscience and a pragmatic desire to ensure the financial success of newly formed school systems rather than anti-catholic sentiment.⁷ Others have argued that the purpose of the contemporaneous adoption of the “separate but equal doctrine” and the no-aid provision by the framers of the 1885 Florida Constitution was to prevent freedmen⁸ from receiving an equal education.⁹

No record exists from the constitutional convention that incorporated the no-aid provision into the 1885 Florida Constitution regarding the intent of the framers.¹⁰ The Florida First District Court of Appeal, in acknowledging the dispute over the origins of the Florida “Blaine Amendment” or “no aid provision,” found no evidence of religious bigotry specific to Florida, pointing out that:

Significantly, nothing in the proceedings of the CRC or the Florida Legislature indicates any bigoted purpose in retaining the no-aid provision in the 1968 General Revision of the Florida Constitution.¹¹

Nevertheless, the court held, “even if the no-aid provisions were “born of bigotry,” such a history does not render the final sentence of Article I, Section 3 superfluous.”¹²

⁵ America’s public schools, or “common schools” were essentially Protestant. Due to this Protestant influence, Catholics established a parallel school system and sought public funding. See Nathan A. Adams, *Florida’s Blaine Amendment: Goldilocks and the Separate but Equal Doctrine*, 24 St. Thomas L. Rev. 1, 3 (2011).

⁶ In 1792, New Hampshire became the first state in the newly formed Union to prohibit the use of state and local school funds by religious institutions; Connecticut followed suit in 1818. Michigan placed a no-funding provision in its constitution in 1835, which served as the prototype for several other states in the region, including Wisconsin in 1848, Ohio and Indiana in 1851, Oregon in 1857, and Kansas in 1858. See *Exposing the Myth of Anti-Catholic Bias*, AMERICAN CIVIL LIBERTIES UNION (July 2011), available at <https://www.aclu.org/files/assets/aclu-exposingthemythofanticatholicbias.pdf>.

⁷ *Id.*

⁸ A person freed from slavery. See *Freedman*. (n.d.). Retrieved December 27, 2017, from <https://www.merriam-webster.com/dictionary/freedman>.

⁹ The schools that freedman attended after the Civil War were chiefly sponsored by religious abolitionist societies, such as the American Missionary Association and National Freedman’s Relief Organization, and by the Catholic Church. See Nathan A. Adams, *Florida’s Blaine Amendment: Goldilocks and the Separate but Equal Doctrine*, 24 St. Thomas L. Rev. 1, 13 (2011).

¹⁰ *Bush v. Holmes*, 886 So. 2d 340, 348 (Fla. 1st DCA 2004).

¹¹ *Bush v. Holmes*, 866 So.2d 340 FN 9 (Fla. 1st DCA 2004).

¹² *Id.*

Litigation under Florida “Blaine Amendment” or “No-Aid Provision”

Prior to 2004, there was not a substantial body of case law interpreting the no-aid provision in Article I, Section 3. The earliest cases which interpreted the no-aid provision did not involve the use of state revenue, but rather the grant of tax exemptions and the use of public facilities by religious institutions.¹³ In upholding the benefit obtained by religious groups in such cases, the Florida Supreme Court took the position that an incidental benefit to a religious group resulting from an appropriate use of public property, or from state action to promote the general welfare of society, is not violative” of the no-aid provision.¹⁴ The court generally focused on the neutrality of such laws.

However, in a series of cases beginning in 2004 which did involve the use of state revenue, the Florida First District Court of Appeal more clearly defined the contours of Article I, Section 3. The court held that Article I, Section 3 of the Florida Constitution is not “substantively synonymous” with the Establishment Clause of the First Amendment to the United States Constitution.¹⁵ The court explained:¹⁶

While the first sentence of Article I, section 3 is consistent with the Federal Establishment Clause by “generally prohibiting laws respecting the establishment of religion,” the no-aid provision of Article I, section 3 imposes “further restrictions on the state’s involvement with religious institutions than [imposed by] the Establishment Clause.

The court articulated a four-part test to assess compliance with Article I, Section 3. The test combines the elements of the *Lemon*¹⁷ test utilized under the Federal Establishment Clause with the additional restriction on the use of state revenue in Florida’s Constitution:¹⁸

- The statute must have a secular legislative purpose (religion-neutral program);
- Its principal or primary effect must be one that neither advances nor inhibits religion;
- The statute must not foster “an excessive government entanglement with religion; and
- The statute must not authorize the use of public monies, directly or indirectly, in aid of a sectarian institution.

This standard as applied in the areas of education and government contracting, has resulted in the invalidation of the Florida Opportunity Scholarship Program and application of the no-aid prohibition to government contracts with faith based service providers. Under the Federal Establishment Clause, similar programs and laws have been held to be constitutional.

¹³ See e.g., *Koerner v. Borck*, 100 So. 2d 398 (Fla. 1958); *Southside Estates Baptist Church v. Board of Trustees*, 115 So. 2d 697 (1959).

¹⁴ See *Southside Estates Baptist Church v. Board of Trustees*, 115 So. 2d 697, 700 (Fla. 1959); *Johnson v. Presbyterian Homes of Synod of Fla., Inc.*, 239 So. 2d 256, 261 (Fla. 1970).

¹⁵ *Council for Secular Humanism v. McNeil*, 44 So. 3d 112, 119 (Fla. 1st DCA 2010).

¹⁶ *Id.*

¹⁷ *Lemon v. Kurtzman*, 403 U.S. 602, 612-613 (1971).

¹⁸ *Bush v. Holmes*, 886 So. 2d 340, 358 (Fla. 1st DCA 2004).

Education

Beginning in 1999, the Legislature passed several laws to expand educational opportunities. Among the education reforms adopted by the Legislature were two “school choice” programs: The Opportunity Scholarship Program (OSP) and the Florida Tax Credit Scholarship Program (FTCSP). The OSP was designed to provide parents of students in “failing schools” the opportunity to send their children to a satisfactorily performing public school or to an eligible private school, including sectarian private schools, through the use of a scholarship.¹⁹ Of the private schools participating in the OSP, 71.7 percent were sectarian, and 55.3 percent of the OSP students utilizing scholarships were attending those sectarian schools.²⁰

The FTCSP was designed to further expand school choice opportunities beyond those available under the OSP. Scholarships offered under the FTCSP are not limited to “failing” schools. Rather students receiving certain government assistance or students whose families have an annual income below 185% of the federal poverty level are eligible to receive scholarships.²¹ During the 2016-2017 school year, scholarships in the amount of \$536 million were awarded to a total of 98,936 students enrolled in 1,733 participating Florida private schools.²²

In *Bush v. Holmes*, 886 So. 2d 340 (Fla. 1st DCA 2004), the First District Court of Appeal invalidated the scholarship element of the OSP on the grounds that it violated Article I, Section 3 because it used state revenues to aid sectarian schools.²³ The court distinguished *Zelman v. Simmons-Harris*, 536 U.S. 669, in which the U.S. Supreme Court upheld a similar Ohio school choice program under the Federal Establishment Clause.²⁴

If article I, section 3 of the Florida Constitution was coterminous with the First Amendment to the United States Constitution, our inquiry in this case would be decidedly different, and a reversal would be mandated under *Zelman*. If we were resolving this case purely on Establishment Clause principles, the fact that the OSP program on its face has a religiously neutral purpose — to aid children in failing public schools — and the fact that the OSP gives parents or guardians the freedom of

¹⁹ A voucher utilized by an opportunity scholar is a warrant made payable to the parents of the student attending a private school. Upon receiving notification of the number of students utilizing vouchers, the DOE transfers funds from the respective districts’ appropriated budgets to an account for the OSP. Then, the Chief Financial Officer sends the warrants to the respective private schools, and parents must endorse them for the schools to receive OSP funds. See *Legal Issues and Policy Considerations Raised by the Challenge to the Opportunity Scholarship Program: Interim Project Report 2006-139*, The Florida Senate Committee on Judiciary (February 2006), available at http://archive.flsenate.gov/data/Publications/2006/Senate/reports/interim_reports/pdf/2006-139ju.pdf.

²⁰ *Id.*

²¹ The law provides for state tax credits for contributions to nonprofit scholarship funding organizations, (SFOs). The SFOs then award scholarships to eligible children of low-income families. Scholarships may be used to pay tuition and fees at an eligible private school or to pay for transportation to a Florida public school that is outside of the student’s district or to a lab school. An eligible private school may be religiously affiliated. SFOs pay the scholarship funds directly to the participating private schools. *McCall v. Scott*, 199 So. 3d 359 (Fla. 1st DCA 2016).

²² *Facts & Figures*, FLORIDA DEPARTMENT OF EDUCATION, available at http://www.fldoe.org/core/fileparse.php/15230/urlt/FTC_Sept_2017_1.pdf. (last visited Nov. 28, 2017).

²³ The court held that because an OSP voucher is used to pay the cost of tuition, any disbursement made under the OSP and paid to a sectarian or religious school is made in aid of a “sectarian institution,” the school itself, even if it can be shown that no voucher funds benefit or support a church or religious denomination. *Bush v. Holmes* 886 So. 2d 340, 366 (Fla. 1st DCA 2014).

²⁴ *Bush v. Holmes*, 886 So. 2d 340 (Fla 1st DCA 2014).

choice in selecting an alternative to a failing public school, would be dispositive factors, without regard to whether a disbursement was made directly to a parent or guardian rather than the school....However, article I, section 3 of Florida's Constitution is plainly not identical to the First Amendment [Citations omitted].

On appeal of the decision in *Bush v. Holmes*, the Supreme Court found the OSP scholarships violated Article IX, Section 1 (a) of the Florida Constitution which requires a "uniform, efficient, safe, secure, and high quality system of free public schools." By diverting public dollars into separate private systems parallel to and in competition with free public schools the OSP violated this provision.²⁵ Thus, the Court found "it unnecessary to address whether the OSP is a violation of the "no aid" provision in article I, section 3 of the Constitution, as held by the First District."²⁶

The FTCSP has also been subject to constitutional challenge based upon the no-aid provision. The most recent constitutional challenge to the FTCSP was dismissed because the court determined the plaintiff's lacked standing.²⁷ No courts have yet reached the merits of the constitutional arguments against the FTCSP.

Social Services

In *Council for Secular Humanism v. McNeil*, 44 So. 3d 112 (Fla. 1st DCA 2010), the court concluded that Article I, Section 3, does not create a per se bar to state or local government contracts with religious entities for the provision of goods and services.²⁸ The case involved the constitutionality of a statute which authorized the Department of Corrections to consider faith-based services groups when selecting providers to administer substance abuse treatment programs. The court found that such contracts could violate Article I, Section 3, if in addition to providing social services, the government-funded program also advances religion.²⁹ The court explained that:

In determining whether such programs violate the no-aid provision, the inquiry necessarily will be case-by-case and will consider such matters as whether the government-funded program is used to promote the religion of the provider, is significantly sectarian in nature, involves religious indoctrination, requires participation in religious ritual, or encourages the preference of one religion over another.³⁰

B. EFFECT OF PROPOSED CHANGES:

The proposal repeals the "No Aid Provision" or "Blaine Amendment" in Article I, Section 3 of the Florida Constitution. The repeal removes the prohibition on the direct or indirect use of public revenue in aid of a church, sect, religious denomination, or sectarian institution.

²⁵ *Bush v. Holmes*, 919 So. 2d 392, 398 (Fla. 2006).

²⁶ *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

²⁷ *McCall v. Scott*, 199 So. 3d 359 (Fla. 1st DCA 2016).

²⁸ *Council for Secular Humanism v. McNeil*, 44 So. 3d 112, 121 (Fla. 1st DCA 2010).

²⁹ *Id.* at 120.

³⁰ *Id.*

The repeal does not affect the limitation on government spending in aid of religious activities under the Establishment Clause of the U.S. Constitution.

If approved by the voters, the proposal will take effect on January 8, 2019.³¹

C. FISCAL IMPACT:

The fiscal impact on state and local government is indeterminate.

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:

Recently, in *Trinity Lutheran Church v. Comer*, 137 S. Ct. 2012 (2017), the U.S. Supreme Court held that the denial of a grant to a church affiliated daycare center for playground equipment pursuant to Missouri's Blaine Amendment violated the Free Exercise Clause of the U.S. Constitution.³²

The Trinity Lutheran Church Child Learning Center applied for a grant under a Missouri state program which offered reimbursement grants to qualifying nonprofit organizations that install playground surfaces made from recycled tires. The department had a strict and express policy of denying grants to any applicant owned or controlled by a church, sect, or other religious entity. Pursuant to that policy, the department denied the Center's application. In a letter rejecting that application, the department explained that under Article I, Section 7 of the Missouri Constitution, the State's Blaine Amendment, the department could not provide financial assistance directly to a church.

³¹ See Article XI, Sec. 5(e) of the Florida Constitution ("Unless otherwise specifically provided for elsewhere in this constitution, if the proposed amendment or revision is approved by vote of at least sixty percent of the electors voting on the measure, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.")

³² *Trinity Lutheran Church v. Comer*, 137 S. Ct. 2012, 2015 (2017).

The court held that denying a generally available benefit solely on account of religious identity imposes a penalty on the free exercise of religion.³³ The court found that the express discrimination against religious exercise at issue in the case was not the denial of a grant, but rather the refusal to allow the Church-solely because it is a church-to compete with secular organizations for a grant.³⁴ The Court held Missouri's preference for "skating as far as possible from religious establishment concerns," in the face of the clear infringement on free exercise, is not a compelling interest that would justify the department's policy.³⁵

³³ *Id.* at 2015.

³⁴ *Id.* at 2021-2022.

³⁵ *Id.* at 2024-2025.

By Commissioner Martinez

martinezr-00002-17

20174__

A proposal to amend

Section 3 of Article I of the State Constitution to
remove the prohibition against using public revenues
in aid of any church, sect, or religious denomination
or any sectarian institution.

Be It Proposed by the Constitution Revision Commission of
Florida:

Section 3 of Article I of the State Constitution is amended
to read:

ARTICLE I

DECLARATION OF RIGHTS

SECTION 3. Religious freedom.—There shall be no law
respecting the establishment of religion or prohibiting or
penalizing the free exercise thereof. Religious freedom shall
not justify practices inconsistent with public morals, peace or
safety. ~~No revenue of the state or any political subdivision or
agency thereof shall ever be taken from the public treasury
directly or indirectly in aid of any church, sect, or religious
denomination or in aid of any sectarian institution.~~

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1-26-18

Meeting Date

4
Proposal Number (if applicable)

*Topic

Amendment Barcode (if applicable)

*Name

Lynda Russell

Address

513 S. Adams St

Phone

301-2800

Street

Tallahassee, FL

State

32301

Zip

Email

*Speaking:

☐

For

☒

Against

☐

Information Only

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Are you representing someone other than yourself?

☐

Yes

☐

No

If yes, who?

Florida Education Association

Are you a registered lobbyist?

☒

Yes

☐

No

Are you an elected official or judge?

☐

Yes

☐

No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

Jan 26 2018

Meeting Date

4

Proposal Number (if applicable)

*Topic Education

Amendment Barcode (if applicable)

*Name Marie-Claire Leman

Address 1911 Wahalaw Court

Phone 850-728-7514

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Tallahassee

FL

32301

Email marieclaireleman@gmail.com

City

State

Zip

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? Common Ground

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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*Required

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18

Meeting Date

4

Proposal Number (if applicable)

*Topic

Blane Amendment

Amendment Barcode (if applicable)

*Name

Jerry Taylor

Address

14512 48th Street

Phone

386-590-0972

Street

Live Oak

FL

32060

City

State

Zip

Email

taylorj@Suwannee.k12.fl.us

*Speaking:

☐

For

☒

Against

☐

Information Only

Waive Speaking:

☐

In Support

☒

Against

(The Chair will read this information into the record.)

Are you representing someone other than yourself?

☒

Yes

☐

No

If yes, who?

Florida School Boards Association

Are you a registered lobbyist?

☐

Yes

☒

No

Are you an elected official or judge?

☒

Yes

☐

No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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*Required

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18
Meeting Date

4
Proposal Number (if applicable)

*Topic Section 3 Article IX

Amendment Barcode (if applicable)

*Name April M. Griffin

Address 12310 SW 9th Ave
Street

Phone 352-262-3113

Newberry FL 32669
City State Zip

Email griffin@gnsbac.edu

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? Florida School Boards Assoc.

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☒ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD
(Deliver completed form to Commission staff)

1/26/18

Meeting Date

4

Proposal Number (if applicable)

*Topic Declaration of Rights

Amendment Barcode (if applicable)

*Name Angie Gail D

Address 1747 Orlando Central Pkwy

Phone _____

Street

Orlando, FL 32826

Email _____

City

State

Zip

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? Florida PTA

Are you a registered lobbyist? ☐ Yes ☐ No

Are you an elected official or judge? ☐ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1-26-2018

Meeting Date

4

Proposal Number (if applicable)

*Topic Religious Freedom

Amendment Barcode (if applicable)

*Name Andrea Messina

Address 203 S. Monroe St

Phone 850-566-1860

Street

Tallahassee FL 32301

City

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Zip

Email messina@fsba.org

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? Florida School Boards Association

Are you a registered lobbyist? ☒ Yes ☐ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18

Meeting Date

P 4

Proposal Number (if applicable)

*Topic Deleting No Aid provision

Amendment Barcode (if applicable)

*Name Kara Gross

Address PO Box 10788

Phone 850-347-6994

Street

Tallahassee

FL

32302

City

State

Zip

Email kgross@aclufl.org

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? American Civil Liberties Union of Florida

Are you a registered lobbyist? ☒ Yes ☐ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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*Required

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18
Meeting Date

4
Proposal Number (if applicable)

*Topic Vouchers

Amendment Barcode (if applicable)

*Name Rocky Hanna

Address 4049 Kilmarlin Dr

Phone 850 487-7147

Tallahassee Fla 32314
City State Zip

Email hanna06@conschools.net

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☐ Yes ☒ No

If yes, who? _____

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☒ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

Meeting Date _____

#4
Proposal Number (if applicable) _____

*Topic BLAINE AMENDMENT

Amendment Barcode (if applicable) _____

*Name RANDAL AGOSTINI

Address 132 SE FIRST ST.

Phone 321-216-3390

Street

SATEENITE BEACH FL 32937

City

State

Zip

Email RANDAL.AGOSTINI@YAHOO.COM

*Speaking: ☒ For ☐ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☐ Yes ☒ No

If yes, who? _____

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1-26-18

Meeting Date

4

Proposal Number (if applicable)

*Topic

No Aid Provision

*Name

Dr. Sarah Butzin

Amendment Barcode (if applicable)

Address

Street

Phone

850-128-1097

City

State

Zip

Email

*Speaking:

☐

For

☐

Against

☐

Information Only

Waive Speaking:

☐

In Support

☒

Against

(The Chair will read this information into the record.)

Are you representing someone other than yourself?

☒

Yes

☐

No

If yes, who?

League of Women Voters

Are you a registered lobbyist?

☐

Yes

☒

No

Are you an elected official or judge?

☐

Yes

☒

No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18
Meeting Date

7
Proposal Number (if applicable)

*Topic Educator - noel

Amendment Barcode (if applicable)

*Name Jon Frank

Address 208 S. Monroe

Phone 850-577-5787

Street

Tall. FL

City

32301

State

Zip

Email JFRANK@FADSS.org

*Speaking: ☐ For ☐ Against ☐ Information Only

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? FADSS

Are you a registered lobbyist? ☐ Yes ☐ No

Are you an elected official or judge? ☐ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

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CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD
(Deliver completed form to Commission staff)

11/26/18
Meeting Date

-4-
Proposal Number (if applicable)

*Topic Repeal of "No Ad" Provision

Amendment Barcode (if applicable)

*Name Joseph Taylor

Address ~~2557~~ 652 Third Street
Street

Phone 638-6222

Chaplin
City

FL
State

32425
Zip

Email joseph.taylor@wasa schools.com

*Speaking: ☐ For ☐ Against ☐ Information Only

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☐ Yes ☒ No

If yes, who? _____

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☒ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/15
Meeting Date

#4
Proposal Number (if applicable)

*Topic

NO AID

Amendment Barcode (if applicable)

*Name

Bill Huffer

Address

1311 Balboa Ave,
Street

Phone

550 767 416

City

P.C.

State

FL

Zip

33401

Email

huffer@

bay.k12.fl.us

*Speaking:

☐

For

☒

Against

☐

Information Only

Waive Speaking:

☐

In Support

☒

Against

(The Chair will read this information into the record.)

Are you representing someone other than yourself?

☐

Yes

☒

No

If yes, who?

Are you a registered lobbyist?

☐

Yes

☒

No

Are you an elected official or judge?

☒

Yes

☐

No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18
Meeting Date

P.4
Proposal Number (if applicable)

*Topic Religious Freedom

Amendment Barcode (if applicable)

*Name Marco Paredes

Address 200 West Park Ave.

Phone 205-7207

Tallahassee FL 32301
City State Zip

Email mparedes@flaccb.org

*Speaking: ☒ For ☐ Against ☐ Information Only

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? FL Conference of Catholic Bishops

Are you a registered lobbyist? ☒ Yes ☐ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

**Constitution Revision Commission
Education Committee
Proposal Analysis**

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

Proposal #: P 93

Relating to:

Introducer(s): Commissioner Martinez

Article/Section affected: Article IX, section 4

Date: January 18, 2018

	REFERENCE	ACTION
1.	<u>ED</u>	<u>Pre-meeting</u>
2.	<u>LO</u>	<u></u>

I. SUMMARY:

The proposal amends Section 4, Article IX of the Florida Constitution to authorize high-performing school districts to become charter districts. As outlined in the proposal, a charter district remains under the governance of the school board, but the charter district is exempt from all provisions of the Florida K-20 Education Code in the same manner, and is subject to the same exemptions, as a charter school designated by Florida law.

To qualify, a school district must receive a grade of “B” or better for the last three years and not have had financial resources fall below the state required minimum.

To maintain its status as high performing after the initial designation, a school district must maintain a grade of “B” or better for at least two years within a three year period; not fall below a “C” grade and its financial reserves must not fall below the state required minimum.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

As defined by the proposal, charter districts are not currently permitted by the Florida Constitution or in Florida Statutes. However, there are some similarly titled programs in current law and in state history. For example, Jefferson County School District is currently referred to as a charter district because all of its schools are being operated by a charter school management company. In some federal reporting, charter schools are separated from district schools for certain purposes and referred to as charter districts.

Additionally, there are some university development research schools that are charter schools and their own school district. These similarly titled programs should not be confused with the charter district concept in this proposal.

History of Charter Districts

The concept of charter districts is not new in Florida. In 1999, the state had a similar program called the Charter School Districts Pilot Program, which allowed the State Board of Education (SBE) to enter into a performance contract with up to six school districts for the purpose of establishing them as charter school districts, with priority given to Hillsborough and Volusia Counties.¹ The charter proposal exchanged statutory and rule exemption for agreement to meet certain performance goals in the proposal. Charter school districts were exempt from state statutes and state board rules as provided by statute.²

After the K-20 Education Code was rewritten in 2002, the program continued as Academic performance-based charter school districts,³ which again allowed the SBE to enter into a performance contract with school districts that satisfied eligibility criteria (high performing with a minimum of 50 percent of the schools earning “A” or “B” and no school earning a “D” or “F” for two consecutive years). The Academic performance based charter school districts program is no longer found in statute after 2009. Those districts that were part of the Pilot Program were grandfathered in and evaluated under the criteria approved in the initial charter applications. The Pilot Program was limited to Volusia, Hillsborough, Orange, and Palm Beach Counties, with a termination date of July 1, 2010.⁴

Current Charter Exemptions

In statute, charter schools are exempt from certain statutes⁵ found in the educational code with the exception of the following statutes:

1. Statutes specifically applying to charter schools
2. Statutes applying to student assessment and school grades
3. Statutes pertaining to services to students with disabilities
4. Statutes pertaining to civil rights, including s. 1000.05, F.S.
5. Statutes pertaining to student health, safety and welfare

In addition, charter schools must comply with the following requirements in statutes:

1. Section 286.011, relating to public meetings and public records
2. Chapter 119, relating to public records
3. Section 1003.03, relating to class size

¹ Section 228.058, F.S. (2000)

² Section 228.056, F.S. (2000)

³ Section 1003.62, F.S.

⁴ Section 1003.62, F.S. (2010)

⁵ Section 1002.33(16), F.S.

4. Section 1012.22(1)(c) relating to compensation and salary schedules
5. Section 1012.33(5) relating to workforce reductions
6. Section 1012.335, relating to contracts with instructional personnel hired on or after July 1, 2011
7. Section 1012.34, relating to performance evaluations.

School District Financial Reserves

Section 1011.051, F.S., addresses the required school district financial reserves. If at any time the portion of the district's general fund's ending balance not classified as restricted, committed, or non-spendable in the approved operating budget is projected to fall below 3 percent of the projected general fund revenues, the superintendent is required to provide notice to the district school board and the commissioner of education. When that portion of the projected ending balance falls below 2 percent, the commissioner must appoint a financial emergency board if the district does not have a plan to avoid a financial emergency. It is presumed that the reference in the proposal regarding the district's financial reserves refers to this provision of the statute.

Current Education Autonomy Programs

This proposal is similar to the academically high-performing school districts program, in statute since 2007,⁶ which allows school districts that are academically high performing (grade of "A" for two consecutive years, no school with an "F," complies with class size requirements, and has no material weaknesses or instances of noncompliance in the annual financial audit) to be exempt from the provisions in chs. 1000-1013, F.S., pertaining to school districts, and SBE rules that implement those provisions, with certain exceptions. Seven districts are currently designated, but none are exercising any exemptions. No exemptions have been exercised other than school start date since 2012-13. Since school start date was moved to August 10 in 2015,⁷ no exemptions have been exercised.

Currently there is also the Principal Autonomy Pilot Program Initiative (PAPPI), in statute since 2016,⁸ which allows principals of participating schools in participating school districts with increased autonomy regarding allocation of resources and staffing. School boards potentially eligible for participation in PAPPI (seven listed in statute) are exempt from the K-20 Education Code and State Board of Education rules, with exceptions. Broward, Palm Beach, Pinellas are the only districts participating (three schools each in a three-year pilot).

The Schools of Excellence program was created in statute in 2017⁹ to provide specified administrative flexibilities for high-performing schools. Eligible schools must receive a

⁶ Section 1003.621, F.S.

⁷ Section 1003.621, F.S.

⁸ Section 1011.6202, F.S.

⁹ Section 1003.631, F.S.

grade of “A” or “B” in each of the most recent three school years and rank at the 80th percentile or higher for their school type for at least two of the last three years. There are 643 schools in 47 districts: 347 elementary, 116 middle, 96 high and 84 combination schools.

The District Innovation Schools of Technology program was created in statute in 2013,¹⁰ but no district has ever applied. These schools would be exempt from the provisions in chs. 1000-1013, F.S., pertaining to school districts, and SBE rules that implement those provisions, with certain exceptions.

B. EFFECT OF PROPOSED CHANGES:

This proposal allows any high-performing school district to choose, by resolution of a majority of the school board or a vote of the electors of the county, to become a charter district. The district would then be exempt from the K-20 Education Code in the same manner, and be subject to the same exemptions, as a charter school designated by Florida law. After the school district’s initial designation as a charter district, the district must maintain its status as a high-performing school district so long as the district maintains a performance grade of “B” or better for at least two years within a three-year period, the district does not fall below a performance grade of “C,” and the district’s financial reserves do not fall below the state-required minimum.

An estimated thirty-eight districts meet district grade requirements in proposal.

Current statute outlines exemption programs for schools and districts. Tying a semi-permanent constitutional provision to a mutable statute is problematic. The exemptions for charters are found in statute and can be changed with each legislative session. Therefore, while voters would have notice that a charter district would have the same exemptions as a charter school, the extent and nature of the exemptions are subject to change.

C. FISCAL IMPACT:

The fiscal impact is indeterminate because it would be contingent upon the choice of districts to identify as a charter district and upon the flexibilities chose to be implemented. There may be risk the diversion of resources for a district were it to qualify as a charter districts in one three year period and not the next, could have a negative impact on the district’s educational system.

¹⁰ Section 1002.451, F.S.

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.

By Commissioner Martinez

martinezr-00095A-17

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A proposal to amend

Section 4 of Article IX of the State Constitution to authorize high-performing school districts to become charter districts.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 4 of Article IX of the State Constitution is amended to read:

ARTICLE IX

EDUCATION

SECTION 4. School districts; school boards; charter districts.-

(a) Each county shall constitute a school district; provided, two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district. In each school district there shall be a school board composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately staggered terms of four years, as provided by law.

(b) The school board shall operate, control and supervise all free public schools within the school district and determine the rate of school district taxes within the limits prescribed herein. Two or more school districts may operate and finance joint educational programs.

(c) Any high-performing school district may choose, by resolution of a majority of the school board or a vote of the electors of the county, to become a charter district. The school board shall remain the governing board of the charter district and the charter district is exempt from all provisions of the Florida K-20 Education Code in the same manner, and is subject

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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201793__

to the same exemptions, as a charter school designated by Florida law. After the school district's initial designation as a charter district, the district must maintain its status as a high-performing school district so long as the district maintains a performance grade of "B" or better for at least two years within a three-year period; the district does not fall below a performance grade of "C"; and the district's financial reserves do not fall below the state-required minimum. For purposes of this subsection, the term "high-performing school district" means a school district that has received a performance grade of "B" or better for each of the last three years before the district's initial designation as a charter district and has not had its financial reserves fall below the state-required minimum for the previous three years before the district's initial designation as a charter district.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD
(Deliver completed form to Commission staff)

1-26-2018

Meeting Date

93

Proposal Number (if applicable)

*Topic High Performing School Districts Amendment Barcode (if applicable)

*Name Andrea Messina

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*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? Florida School Boards Association

Are you a registered lobbyist? ☐ Yes ☐ No

Are you an elected official or judge? ☐ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/2018
Meeting Date

P93
Proposal Number (if applicable)

*Topic High Performing School Districts

Amendment Barcode (if applicable)

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Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☐ Yes ☒ No

If yes, who? _____

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☒ Yes ☐ No

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CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18

Meeting Date

p93

Proposal Number (if applicable)

*Topic p93

Amendment Barcode (if applicable)

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State

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*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☐ Yes ☒ No

If yes, who? Common Ground

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

Jan 26 2018

Meeting Date

93

Proposal Number (if applicable)

*Topic Education

Amendment Barcode (if applicable)

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City

State

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*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? Common Ground

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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***Required**

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1-26-18

Meeting Date

93

Proposal Number (if applicable)

*Topic

Charter Districts

*Name

Stephanie Owens

Amendment Barcode (if applicable)

Address

Street

Phone 727 639 1243

City

State

Zip

Email

*Speaking:

☐

For

☐

Against

☐

Information Only

Waive Speaking:

☐

In Support

☒

Against

(The Chair will read this information into the record.)

Are you representing someone other than yourself?

☐

Yes

☐

No

If yes, who?

League of Women Voters FL

Are you a registered lobbyist?

☒

Yes

☐

No

Are you an elected official or judge?

☐

Yes

☒

No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18
Meeting Date

93
Proposal Number (if applicable)

*Topic Section 4 Article IX

Amendment Barcode (if applicable)

*Name April M. Griffin

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*Speaking: ☐ For ☐ Against ☐ Information Only

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? Florida School Bds Assoc.

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☒ Yes ☐ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

**Constitution Revision Commission
Declaration Of Rights Committee
Proposal Analysis**

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

Proposal #: P 30

Relating to: DECLARATION OF RIGHTS, Basic rights

Introducer(s): Commissioner Martinez

Article/Section affected: Article I, Section 2 – Basic rights.

Date: January 25, 2018

	REFERENCE	ACTION
1.	<u>DR</u>	<u>Favorable</u>
2.	<u>ED</u>	<u>Pre-Meeting</u>

I. SUMMARY:

Article I, Section 2 of the Florida Constitution, Florida’s “Equal Protection” Provision, expressly forbids discrimination by the government on the basis of race, religion, national origin, or physical disability. This proposal expands the prohibited bases of discrimination to include “any disability,” rather than only physical disabilities.

If passed by the Constitution Revision Commission, the proposal will be placed on the ballot at the November 6, 2018, General Election. Sixty percent voter approval is required for adoption. If approved by the voters, the proposal will take effect on January 8, 2019.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Equal Protection Clause of the U.S. Constitution and the Basic Rights Provision of the Florida Constitution entitle everyone to stand before the law on equal terms with others. In addition to this principle of equal treatment, the Florida Constitution also expressly prohibits discrimination by the government on the basis of an individual’s race, religion, natural origin, or physical disability. Specifically, Article I, Section 2 of the Florida Constitution provides:

Basic rights.—All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property;

except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law. No person shall be deprived of any right because of race, religion, national origin, or **physical disability**.

Florida is one of only three states with an express constitutional prohibition regarding discrimination on the basis of a disability.¹ The Florida Supreme Court has found that this explicit prohibition is a more stringent constitutional requirement than the right to be treated equally before the law.²

Development of Constitutional Protection for Persons with Disabilities

State constitutional protection for persons with disabilities is woven from developments during the 1970s in three parallel areas: educational rights, residential rights, and civil rights.³ Some developments began in 1971 in federal and state courts, others in proposed legislative amendments, and still others in administrative regulations.⁴

It was within this social context that the Florida Legislature proposed a disability amendment to the Florida Constitution. In 1974, the Florida Senate introduced a Joint Resolution proposing to amend Article I, Section 2 of the Florida Constitution (the Basic Rights provision) to add “mental or physical handicap” as an additional ground of prohibited discrimination.⁵ The companion House Joint Resolution,⁶ proposed the following amendment to the Basic Rights provision delineating even broader and more specific rights for disabled persons than the Senate version:

No person shall be subjected to discriminatory treatment which results in the deprivation of any right, benefit, or opportunity on account of a physical or mental handicap; this guarantee shall include, among other areas: housing, access to services and facilities available to the public, education, employment, and any governmental action.

Senate staff explained that the Senate amendment “[spoke] to the rights that have been denied to physically and mentally handicapped because of the stigma attached to being handicapped.”⁷ However, the Senate Health & Rehabilitative Services Committee amended the proposal to remove mental disabilities from the Senate Joint Resolution.⁸ The Senate Joint Resolution, encompassing only “physical handicaps” as a basis of prohibited discrimination, unanimously passed both the Florida Senate and House of Representatives on May 31, 1974.⁹ Electors voted overwhelming to adopt the amendment during the 1974 General Election, garnering 76.43% of votes for approval.

¹ Louisiana constitutionally prohibits discrimination based upon “physical condition.” See LA. CONST. art. I, § 3 (1974). Rhode Island constitutionally prohibits discrimination on the basis of a “handicap.” See R. I. CONST. art. I, § 2 (1986).

² *Scavella v. School Bd. of Dade County*, 363 So. 2d 1095, 1097 (Fla. 1978).

³ The Florida Bar Committee on the Mentally Disabled, MENTAL DISABILITY LAW: EDUCATION RIGHTS OF THE HANDICAPPED, 1 (1979)

⁴ *Id.*

⁵ SJR 917 (1974).

⁶ HJR 3621 (1974).

⁷ Fla. S. Comm. on HRS, SJR 917 (1974) Staff Evaluation 1 (April 22, 1974).

⁸ Senate Bill Action Report 211 (July 17, 1974).

⁹ *Id.*

In 1998, as the result of a proposal submitted to electors by the 1997-1998 Florida Constitution Revision Commission, the Basic Rights provision was again amended to revise the term “physical handicap” to “physical disability.” The purpose of the amendment was to replace the term “handicap” which has come to be regarded as derogatory, and to offer a body of federal law that Florida courts could use when defining a “disability” under Article I, Section 2.¹⁰

Disability Discrimination

The standard of review that a court applies in evaluating a claim of discrimination mandates the level of protection guaranteed. Under both the U.S. Constitution and the Florida Constitution, the lowest level of judicial review, the rational basis test,¹¹ will apply to evaluate a claim of discrimination unless a suspect class, quasi-suspect class, or fundamental right is implicated by the challenged law.¹² In applying the rational basis test, courts begin with a strong presumption that the law or policy under review is valid and the challenging party bears the burden of demonstrating the law or policy does not have a rational basis. Classifications based upon race, national origin, and alienage, are considered “suspect classifications” which trigger a review of claimed discrimination under the highest standard, strict scrutiny.¹³ In applying strict scrutiny, it is presumed that the law or policy is unconstitutional and the government bears the burden of proof to overcome the presumption.¹⁴ The constitutional treatment of disabilities varies, however, under the U.S. Constitution and the Florida Constitution.

In *City of Cleburne v. Cleburne Living Center*,¹⁵ the U.S. Supreme Court held that intellectual disabilities were not a “quasi-suspect class” for purposes of the Federal Equal Protection Clause, and that claims of discrimination based upon such classifications were subject to only rational basis review.¹⁶ With regard to intellectual disabilities, the Court explained that:

If the large and amorphous class of the mentally retarded were deemed quasi-suspect for the reasons given by the Court of Appeals, it would be difficult to find a principled way to distinguish a variety of other groups who have perhaps immutable disabilities setting them off from others, who cannot themselves mandate the desired legislative responses, and who can claim some degree of prejudice from at least part of the public at large. One need mention in this respect only the aging, the disabled, the mentally ill, and the infirm. We are reluctant to set out on that course, and we decline to do so.¹⁷

¹⁰ Ann C. McGinley and Ellen Catsman Freiden, *Protecting Basic Rights of Florida Citizens*, THE FLORIDA BAR JOURNAL, October 1998.

¹¹ To satisfy the rational basis test, a statute must bear a rational and reasonable relationship to a legitimate state objective, and it cannot be arbitrary or capriciously imposed. *Dep't of Corr. v. Fla. Nurses Ass'n*, 508 So. 2d 317, 319 (Fla. 1987).

¹² *Amerisure Ins. Co. v. State Farm Mut. Auto. Ins. Co.*, 897 So. 2d 1287, 1291 n.2 (Fla. 2005).

¹³ Laws subject to strict scrutiny will be sustained only if they are suitably tailored to serve a compelling state interest. *Jackson v. Florida*, 191 So. 3d 423, 427 (Fla. 2016).

¹⁴ The Florida Supreme Court explained that, “this test, which is almost always fatal in its application, imposes a heavy burden of justification upon the state.” *In re Estate of Greenberg*, 390 So. 2d 40, 43 (Fla. 1980).

¹⁵ 473 U.S. 432 (1985).

¹⁶ Despite purporting to apply rational basis scrutiny, the Court actually applied a heightened form of rational basis scrutiny, often referred to as “rational basis with teeth.” See Michael E. Waterstone, *Disability Constitutional Law*, 63 Emory L. J. 527, 540 (2001).

¹⁷ 473 U.S. 432, 445-446 (1985).

The Supreme Court would continue to affirm this position in later cases involving intellectual disabilities and the mentally ill.¹⁸ Eventually, in *Board of Trustees of the University of Alabama v. Garrett*,¹⁹ a case involving physical disabilities,²⁰ the U.S. Supreme Court extended to all groups of persons with disabilities the finding from *Cleburne*:²¹

The result of *Cleburne* is that States are not required by the Fourteenth Amendment to make special accommodations for the *disabled*, so long as their actions toward such individuals are rational [Emphasis added].²²

In contrast, under the Equal Protection Provision of the Florida Constitution, “physical disabilities” are a specifically enumerated suspect classification requiring strict scrutiny. The Florida Supreme Court has also described the express prohibition against discrimination as a more stringent constitutional requirement than the standard of review in equal protection cases involving suspect classifications.²³ Accordingly, courts need only decide whether laws deprive claimants of any right, not just the right to be treated equally before the law.²⁴ Thus, this clause in the Florida Constitution is “an unambiguous vehicle for providing greater protection to individuals who are members of any newly enumerated group”²⁵ than may be found under the U.S. Constitution.

Defining “Disability”

“Disability” or “physical disability” is not defined by the Florida Constitution, nor does it appear that any case has interpreted the meaning of this term under Article I, Section 2.²⁶ For purposes of construing an undefined constitutional provision, the Florida Supreme Court will first begin with an examination of the provision’s explicit language. If that language is clear and unambiguous, and addresses the matter at issue, it is enforced as written. If, however, the provision’s language is ambiguous or does not address the exact issue, a court must endeavor to construe the constitutional provision in a manner consistent with the intent of the framers and the voters.²⁷

Concept-based Definition

In its ordinary usage, the term “disability” is understood as a physical, mental, cognitive, or developmental condition that impairs, interferes with, or limits a person’s ability to engage in

¹⁸ See e.g., *Heller v. Doe*, 509 U.S. 312 (1993).

¹⁹ 531 U.S. 356 (2001).

²⁰ The suit was brought by two state employees seeking money damages under the ADA, a nurse with breast cancer who lost her director position after undergoing cancer treatment and a security officer with asthma and sleep apnea denied workplace accommodations. 531 U.S. 356, 362 (2001).

²¹ Steven K. Hoge, *Cleburne and the Pursuit of Equal Protection for Individuals with Mental Disorders*, THE JOURNAL OF THE AMERICAN ACADEMY OF PSYCHIATRY AND THE LAW 43(4), p. 416-422, available at <http://jaapl.org/content/43/4/416> (last visited Nov. 26, 2017).

²² 531 U.S. 356, 367-368 (2001).

²³ 363 So. 2d 1095, 1097-1098 (1978).

²⁴ *Id.*

²⁵ *Supra* note 10.

²⁶ There does not appear to be any case interpreting the meaning of this term under Article I, Section 2 of the Florida Constitution.

²⁷ *West Florida Regional Medical Center v. See*, 79 So. 3d 1, 9 (Fla. 2012).

certain tasks or actions or participate in typical daily activities and interactions.²⁸ However, in practice, there is not a single definition of the term “disability.” Health professionals, advocates, and other individuals use the term in different contexts, with different meanings.

For example, the concept of cognitive disabilities is extremely broad. In general, a person with a cognitive disability has a disability that adversely affects the brain resulting in greater difficulty performing one or more types of mental tasks²⁹ than the average person.³⁰ Cognitive impairment is not caused by any one disease or condition, nor is it limited to a specific age group.³¹ There are at least two ways to classify cognitive disabilities: by functional disability or by clinical disability. Clinical diagnoses of cognitive disabilities include autism, Down Syndrome, traumatic brain injury (TBI), and even dementia. Other cognitive conditions include attention deficit disorder (ADD), dyslexia (difficulty reading), dyscalculia (difficulty with math), and learning disabilities in general.³²

“Intellectual disabilities” refer to certain cognitive disabilities that develop at an early age. The American Association on Intellectual and Developmental Disabilities (AAIDD) defines “intellectual disability” as a disability characterized by significant limitations both in intellectual functioning (reasoning, learning, problem solving) and in adaptive behavior, which covers a range of everyday social and practical skills, with an onset before the age of 18.³³ The term covers the same population of individuals who were diagnosed previously with mental retardation.³⁴

“Developmental Disabilities” is an umbrella term that includes intellectual disabilities but also includes other disabilities that are apparent during childhood.³⁵ Developmental disabilities are severe chronic disabilities that can be cognitive or physical or both. These disabilities typically manifest before the age of 22 and are likely to be lifelong. Some developmental disabilities are largely related to physical disabilities, such as cerebral palsy or epilepsy. Other conditions involve the co-occurrence of a physical and intellectual disability, for example Down Syndrome or Fetal Alcohol Syndrome.³⁶

Intent-based Definition

The 1997-1998 Constitution Revision Commission cited the intent to offer a body of federal law for purposes of defining the term “disability” as one reason for replacing the term “physical handicap” with “physical disability” in 1998.³⁷ Related federal laws with definitions of

²⁸ “Disability.” Merriam-Webster.com. Accessed November 22, 2017. <https://www.merriam-webster.com/dictionary/disability>.

²⁹ Tasks such as reasoning, planning, problem-solving, abstract thinking, comprehension of complex ideas, and learning.

³⁰ Finn Orfano, *Defining cognitive disability*, BRIGHT HUB EDUCATION, <http://www.brighthouseeducation.com/special-ed-learning-disorders/70555-defining-cognitive-disabilities/> (last visited November 24, 2017).

³¹ CENTERS FOR DISEASE CONTROL AND PREVENTION, *Cognitive Impairment: The Impact on Health in Florida*, https://www.cdc.gov/aging/pdf/cognitive_impairment/cogImp_fl_final.pdf (last visited Nov. 24, 2017).

³² WebAIM, *Cognitive*, <https://webaim.org/articles/cognitive/> (last visited Nov. 24, 2017).

³³ AMERICAN ASSOCIATION ON INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, *Frequently Asked Questions on Intellectual Disability*, <https://aaidd.org/intellectual-disability/definition/faqs-on-intellectual-disability#.Whh9K7pFzct> (last visited Nov. 24, 2017).

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Supra* note 10.

“disabilities” could include, without limitation, the Americans with Disabilities Act,³⁸ the 1973 Rehabilitation Act,³⁹ the Social Security Disability Insurance Program,⁴⁰ the Fair Housing Act,⁴¹ or the Individuals with Disabilities Education Act.⁴²

B. EFFECT OF PROPOSED CHANGES:

This proposal amends Article I, Section 2 of the Florida Constitution (the Basic Rights Provision) to expand the prohibited bases of discrimination to include “any disability,” rather than only physical disabilities. Thus, classifications based upon disabilities may be subject to a higher level of judicial scrutiny under the Florida Constitution than is currently required by the Equal Protection Clause of the U.S. Constitution.

The term “disability” is undefined, but may encompass a wide spectrum of physical, mental, cognitive, and developmental conditions that impair, interfere with, or limit a person’s ability to engage in certain tasks or actions. It may also encompass “disabilities” as defined under various federal laws.

If approved by the voters, the proposal will take effect on January 8, 2019.⁴³

C. FISCAL IMPACT:

The fiscal impact on state and local government is indeterminate.

³⁸ Under the ADA, a “disability” is defined as a physical or mental impairment that substantially limits one or more of the major life activities of such individual, a record of such impairment; or being regarded as having such an impairment. 42 U.S.C. § 12102.

³⁹ The definition of “disability” under the ADA applies to claims under the 1973 Rehabilitation Act. 29 U.S.C. § 705(20)(B).

⁴⁰ For individuals applying for disability benefits under Title II of the Social Security Act (Disability), and for adults applying under Title XVI (SSI), the definition of disability is the same. The law defines disability as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment (s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. Under Title XVI (SSI), a child under the age of 18 will be considered disabled if he or she has a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months. A “medically determinable impairment” is an impairment that results from anatomical, physiological, or psychological abnormalities that can be shown by medically acceptable clinical and laboratory diagnostic techniques. *See Disability Evaluation under Social Security*, Social Security Administration, <https://www.ssa.gov/disability/professionals/bluebook/general-info.htm> (last visited Nov. 24, 2017).

⁴¹ Under the FHA, a “handicap” means, with respect to a person, a physical or mental impairment which substantially limits one or more of such person’s major life activities; a record of having such impairment; or being regarded as having such impairment. 42 U.S.C. § 3602 (h).

⁴² Under IDEA, a “child with a disability” means a child with intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities. For children aged 3 -9, the definition may also include children experiencing developmental delays in physical development, cognitive development, communication development, social or emotional development, or adaptive development. 20 U.S.C. § 1401(3).

⁴³ *See* FLA. CONST. ART XI, S. 5(E) (1968) (“Unless otherwise specifically provided for elsewhere in this constitution, if the proposed amendment or revision is approved by vote of at least sixty percent of the electors voting on the measure, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.”)

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:

The adoption of the proposed amendment may subject Florida laws relating to mental, cognitive, or developmental disabilities to a heightened level of judicial scrutiny. Areas of the law which may be impacted include, but are not limited to guardianship, involuntary mental health treatment (Baker Act), etc.



600642

CRC ACTION

Commissioner .
Comm: FAV .
02/01/2018 .
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The Committee on Education (Washington) recommended the following:

CRC Amendment (with title amendment)

Delete line 21
and insert:
because of race, religion, national origin, or ~~physical~~

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 4
and insert:



600642

11 because of disability

By Commissioner Martinez

martinezr-00060-17

201730__

A proposal to amend

Section 2 of Article I of the State Constitution to
provide that a person may not be deprived of any right
because of any disability.

Be It Proposed by the Constitution Revision Commission of
Florida:

Section 2 of Article I of the State Constitution is amended
to read:

ARTICLE I

DECLARATION OF RIGHTS

SECTION 2. Basic rights.—All natural persons, female and
male alike, are equal before the law and have inalienable
rights, among which are the right to enjoy and defend life and
liberty, to pursue happiness, to be rewarded for industry, and
to acquire, possess and protect property; except that the
ownership, inheritance, disposition and possession of real
property by aliens ineligible for citizenship may be regulated
or prohibited by law. No person shall be deprived of any right
because of race, religion, national origin, or any ~~physical~~
disability.

By Commissioner Gamez

gameza-00034-17

201715__

A proposal to amend

Section 2 of Article I of the State Constitution to remove a provision authorizing laws that regulate or prohibit the ownership, inheritance, disposition, and possession of real property by aliens ineligible for citizenship and to provide that a person may not be deprived of any right because of a cognitive disability.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 2 of Article I of the State Constitution is amended to read:

ARTICLE I

DECLARATION OF RIGHTS

SECTION 2. Basic rights.—All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property; ~~except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law.~~ No person shall be deprived of any right because of race, religion, national origin, or a physical or cognitive disability.

**Constitution Revision Commission
Education Committee
Proposal Analysis**

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

Proposal #: P 82

Relating to: EDUCATION, School districts; school boards; Section 4 of Article IX of the State Constitution to provide a limitation as to the opening date for schools set by a school board.

Introducer(s): Commissioner Heuchan

Article/Section affected: Article IX, section 4

Date: January 24, 2018

	REFERENCE	ACTION
1.	ED	<u>Pre-meeting</u>
2.		

I. SUMMARY:

The proposal amends Section 4 of Article IX of the Florida Constitution to provide a limitation as to the opening date for schools set by a school board. The limitation requires that school districts do not open schools earlier than seven days before Labor Day each year.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Presently, the Florida Constitution does not include any provision addressing the beginning date for schools.

Florida statute outlines the powers of school boards and requires the school boards to establish dates for opening and closing of schools¹. Current law prohibits districts from beginning before August 10th. This prohibition was adopted by the legislation in 2015. Before that, and beginning in 2006, statutory law prevented school boards from beginning school more than 14 days before Labor Day, which allowed schools to begin later. In the past, opening day had been left to each school board to establish.

¹ Section 1001.42, F.S.

When public education started in the 1800s, school calendars varied. Generally, schools in cities were open almost year-round; rural schools were open for only five months and closed in the fall and spring so that students could help with harvesting and planting of crops. In the late 1800s, schools eliminated the summer term, due in part to financial shortfalls and a concern for the professionalism of teachers. By the early 20th century, most schools started after Labor Day and ended in June. However, by the mid-1990s, schools began earlier start dates in August.²

These are current considerations school districts and their local communities discuss when developing school district calendars³:

- Designing instructional calendar to finish first semester before holiday break.
- Alignment with college and university schedules.
- Finishing the school year before Memorial Day.
- Maximum preparation time for national assessments (AP, IB, AICE).
- Flexibility for emergency makeup days.
- Uniform statewide pre-planning time.
- Impact on school choice options.
- High mobility rates and students/teachers coming from other states that may start earlier or later.
- Family vacation plans and tourism industry.

B. EFFECT OF PROPOSED CHANGES:

The proposal amends Section 4 of Article IX of the Florida Constitution to provide a limitation as to the opening date for schools set by a school board. The limitation requires that school districts do not open schools earlier than seven days before Labor Day each year.

The impact on the educational system is indeterminate; however, it does not allow for the flexible progression of educational best practices. The proposal limits the ability of the legislature to establish start dates more than seven days before Labor Day. It also limits the ability of the legislature to provide more local control over school start dates.

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.

² School's In: The History of Summer Education in American Public Schools, Kenneth Gold

³ CRC Education Committee presentation by Florida Department of Education December 14, 2017, <https://www.flcrc.gov/Committees/ED/Meeting%20Packet/116> (last visited 1/24/2018)

B. Amendments:

None.

C. Technical Deficiencies:

None.

D. Related Issues:

None.

By Commissioner Heuchan

heuchanb-00026B-17

201782__

A proposal to amend

Section 4 of Article IX of the State Constitution to
provide a limitation as to the opening date for
schools set by a school board.

Be It Proposed by the Constitution Revision Commission of
Florida:

Section 4 of Article IX of the State Constitution is
amended to read:

ARTICLE IX

EDUCATION

SECTION 4. School districts; school boards.—

(a) Each county shall constitute a school district;
provided, two or more contiguous counties, upon vote of the
electors of each county pursuant to law, may be combined into
one school district. In each school district there shall be a
school board composed of five or more members chosen by vote of
the electors in a nonpartisan election for appropriately
staggered terms of four years, as provided by law.

(b) The school board shall operate, control and supervise
all free public schools within the school district and determine
the rate of school district taxes within the limits prescribed
herein. Two or more school districts may operate and finance
joint educational programs.

(c) A school board may not set the opening date for schools
in the school district for earlier than seven days before Labor
Day each year.

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18

Meeting Date

p82

Proposal Number (if applicable)

*Topic p82 School Start Date

Amendment Barcode (if applicable)

*Name Sue Woltanski

Address 146 Westminster Dr

Phone 305-240-1565

Tavernier FL 33070
City State Zip

Email kingwolt@yahoo.com

*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☐ Yes ☒ No

If yes, who? Common Ground

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

**Constitution Revision Commission
Education Committee
Proposal Analysis**

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

Proposal #: P 10

Relating to: EDUCATION, Civic literacy in public education

Introducer(s): Commissioner Gaetz

Article/Section affected:

Date: January 24, 2018

	REFERENCE	ACTION
1.	ED	Pre-meeting
2.		

I. SUMMARY:

The proposal creates a new Section, Article IX, in the Florida Constitution, which requires the Legislature to provide for the promotion of civic literacy in public education.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Currently, there is no provision within the Florida Constitution that addresses civic literacy or civic education.

Civics Standards

Each district school board is required to provide instruction regarding the history, significance, and principles of the Declaration of Independence and the Constitution of the United States, flag education, and the arguments in support of adopting our republican form of government¹. Districts are also required to provide a character-development program in kindergarten through grade 12. Each school district must develop or adopt a curriculum for its K-12 character-development program and submit it to the Department of Education (DOE) for approval.

Florida's Next Generation Sunshine State Standards for social studies includes civics content in kindergarten through grade 8 and in grades 9 through 12.² Each middle grades

¹ Section 1003.42, F.S.

² Section 1003.41(2)(d), F.S.

student must complete three social studies classes in order to be promoted to high school, one semester of which must be in civics.³ The law requires the middle grade civics course to include “the roles and responsibilities of federal, state, and local governments; the structures and functions of the legislative, executive, and judicial branches of government; and the meaning and significance of historic documents, such as the Articles of Confederation, the Declaration of Independence, and the Constitution of the United States.”⁴

This course requirement also includes a required statewide, standardized end-of-course (EOC) assessment in civics.⁵ Additionally, the students score on the Civics EOC must constitute 30 percent of the student’s final course grade.⁶ Overall student performance on the Civics EOC increased by 2 percentage points (67% to 69%) from 2016 to 2017 and 8 percentage points from its inception in 2014 (61% to 69%).⁷

Each public high school student must earn a one-half course credit each in U.S. Government and economics, including financial literacy, and one credit each in World History and U.S. History.⁸

Florida statute also establishes Celebrate Freedom Week.⁹ The law provides that, “To educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded, the last full week of classes in September shall be recognized in public schools as Celebrate Freedom Week. Celebrate Freedom Week must include at least 3 hours of appropriate instruction in each social studies class, as determined by each school district, which instruction shall include an in-depth study of the intent, meaning, and importance of the Declaration of Independence.” “To emphasize the importance of this week, at the beginning of each school day or in homeroom, during the last full week of September, public school principals and teachers shall conduct an oral recitation by students of the following words of the Declaration of Independence....” “Student recitation of this statement shall serve to reaffirm the American ideals of individual liberty.”

To aid students in their responsibilities as citizens, Florida statute provides that,¹⁰ “The Department of Education shall encourage school districts to initiate, adopt, expand, and institutionalize service-learning programs, activities, and policies in kindergarten through grade 12. Service learning refers to a student-centered, research-based teaching and learning strategy that engages students in meaningful service activities in their schools or communities. Service-learning activities are directly tied to academic curricula, standards, and course, district, or state assessments. Service-learning activities foster academic

³ Section 1003.4156(c), F.S.

⁴ *Id.*

⁵ Section 1008.22(3)(b), F.S.

⁶ Section 1003.4156(c), F.S.

⁷ <http://www.fldoe.org/core/fileparse.php/5668/urlt/90NGSSSPacket.pdf> (last visited 1/24/2018)

⁸ Section 1003.4282(3)(d), F.S.

⁹ Section 1003.421(1)-(3), F.S.

¹⁰ Section 1003.497(1), F.S.

achievement, character development, civic engagement, and career exploration and enable students to apply curriculum content, skills, and behaviors taught in the classroom.”

2017 Legislative Changes

The 2017 legislative session expanded civics education in Florida.¹¹ Section 683.1455, F.S., was created to designate September as “American Founders’ Month.” The governor is authorized to annually issue a proclamation urging all civic, fraternal, and religious organizations and public and private educational institutions to recognize and observe this occasion through appropriate programs, meetings, services, or celebrations, in which state, county and local governmental officials are invited to participate.¹² Section 1003.44, F.S., regarding patriotic programs, was amended to state, “All public schools in the state are encouraged to coordinate, at all grade levels, instruction related to our nation’s founding fathers with ‘American Founders’ Month’ pursuant to s. 683.1455 Florida Statutes.”

A new section was created which provides that the priorities of Florida’s K-20 education system include civic literacy and that students are prepared to become civically engaged and knowledgeable adults who make positive contributions to their communities.¹³

Finally, the 2017 legislative session created the requirement that beginning with students initially entering a Florida College System institution or state university in the 2018-19 school year and thereafter, each student must demonstrate competency in civic literacy.¹⁴ Students have the option to complete a civic literacy course or to achieve a passing score on an assessment. The State Board of Education and Board of Governors are required to jointly appoint a faculty committee to develop a new course in civic literacy or revise an existing general education core course in American History or American Government to include civic literacy. The committee is also required to establish core competencies and identify outcomes that include an understanding of the basic principles of American democracy and how they are applied in our republican form of government, an understanding of the United States Constitution, knowledge of the founding documents and how they have shaped the nature and functions of our institutions of self-governance, and an understanding of landmark Supreme Court cases and their impact on law and society.

As of February 2017, nine states had a similar postsecondary requirement in statute for civics education: Texas, Oklahoma, Utah, Arkansas, California, Georgia, Massachusetts, Missouri, and Nevada.¹⁵

¹¹ part of HB 7069

¹² <http://www.fldoe.org/academics/standards/subject-areas/social-studies/American-Founders-Month.stml> (last visited 1/24/18)

¹³ Section 1000.03(5)(c), F.S.

¹⁴ Section 1007.25(4), F.S., created by HB 7069 in 2017

¹⁵ CRC Education Committee Presentation by Office of Program Policy Analysis and Government Accountability on November 27, 2017. https://www.flcra.gov/PublishedContent/Committees/2017-2018/ED/MeetingRecords/MeetingPacket_96.pdf (last visited 1/24/2018)

B. EFFECT OF PROPOSED CHANGES:

If passed, the proposal solidifies the purpose of civic literacy and the requirement for legislation. Florida already has several laws requiring civic literacy in public education. If this proposal passes, this would be the only subject content area specified in the constitution.

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:

None.

By Commissioner Gaetz

gaetzd-00021-17

201710__

1 A proposal to create
2 a new section in Article IX of the State Constitution
3 to require the Legislature to provide for the
4 promotion of civic literacy in public education.
5
6 Be It Proposed by the Constitution Revision Commission of
7 Florida:
8
9 A new section is added to Article IX of the State
10 Constitution to read:
11 ARTICLE IX
12 EDUCATION
13 Civic literacy.~~As education is essential to the~~
14 ~~preservation of the rights and liberties of the people, the~~
15 ~~legislature shall provide by law for the promotion of civic~~
16 ~~literacy in order to ensure that students enrolled in public~~
17 ~~education understand and are prepared to exercise their rights~~
18 ~~and responsibilities as citizens of a constitutional democracy.~~

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18

Meeting Date

p10

Proposal Number (if applicable)

*Topic p10

Civic Literacy

Amendment Barcode (if applicable)

*Name

Sue Woltanski

Address

146 Westminster Dr

Phone 305-240-1565

Street

Tavernier

FL

33070

City

State

Zip

Email kingwolt@yahoo.com

*Speaking:

☐

For

☒

Against

☐

Information Only

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Are you representing someone other than yourself?

☐

Yes

☒

No

If yes, who? Common Ground

Are you a registered lobbyist?

☐

Yes

☒

No

Are you an elected official or judge?

☐

Yes

☒

No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

By Commissioner Keiser

keiserb-00083A-17

201770__

A proposal to create
a new section in Article X of the State Constitution
to establish the right to a tuition and fee waiver for
the survivors of specified military members.

Be It Proposed by the Constitution Revision Commission of
Florida:

A new section is added to Article X of the State
Constitution to read:

ARTICLE X
MISCELLANEOUS

Tuition and fee waivers for survivors of military members.-

(a) A tuition and fee waiver shall be provided for by funds
from general revenue when an active duty member of the United
States Armed Forces or Florida National Guard, while engaged in
the performance of his or her official duties, is:

(1) Accidentally killed or receives accidental bodily
injury which results in the loss of the individual's life,
provided that such killing is not the result of suicide and that
such bodily injury is not intentionally self-inflicted; or

(2) Unlawfully and intentionally killed or dies as a result
of such unlawful and intentional act.

(b) An eligible military member must have been a Florida
resident or whose duty post was within the State of Florida at
the time of death.

(c) If an active duty member of the United States Armed
Forces or the Florida National Guard is accidentally killed as
specified in paragraph (a) (1), or unlawfully and intentionally
killed as specified in paragraph (a) (2), the state shall waive
certain tuition and fee expenses that the child or spouse of the
deceased military member incurs while obtaining a career

keiserb-00083A-17

201770__

certificate, an undergraduate education, or a postgraduate
education. The amount waived by the state shall be an amount
equal to the cost of tuition and matriculation and registration
fees for a total of 120 credit hours. The child or spouse may
attend a state career center, a Florida College System
institution, or a state university. The child or spouse may
attend any or all of the institutions specified in this
subsection, on either a full-time or part-time basis. The
benefits provided to a child under this subsection continue
until the child's 25th birthday. The benefits provided to a
spouse under this subsection must commence within 5 years after
the death occurs, and entitlement thereto shall continue until
the tenth anniversary of that death.

(d) This section does not limit the legislature from
enacting laws consistent with this section.

(e) This amendment becomes effective upon approval by the
electors.



289304

CRC ACTION

Commissioner

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. .

The Committee on Education (Johnson) recommended the following:

CRC Amendment (with title amendment)

Delete everything after the proposal clause
and insert:

Section 3 of Article I of the State Constitution is amended
to read:

ARTICLE I

DECLARATION OF RIGHTS

SECTION 3. Religious freedom.—There shall be no law
respecting the establishment of religion or prohibiting or
penalizing the free exercise thereof. Religious freedom shall



289304

not justify practices inconsistent with public morals, peace or safety. No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution. This section shall be construed in conformity with the First Amendment to the United States Constitution, as interpreted by the United States Supreme Court.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the proposal clause
and insert:

A proposal to amend
Section 3 of Article I of the State Constitution to
provide that this section shall be construed in
conformity with the First Amendment to the United
States Constitution.

By Commissioner Johnson

johnsonm-00013-17

201759__

A proposal to amend

Section 3 of Article I and Sections 1 and 6 of Article IX of the State Constitution to establish rights of public school students and to create an exception to the prohibition on the appropriation of public funds to certain private schools.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 3 of Article I of the State Constitution is amended to read:

ARTICLE I

DECLARATION OF RIGHTS

SECTION 3. Religious freedom.—There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with public morals, peace or safety. No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution, with the exception of educational programs under Article IX, section 1.

Sections 1 and 6 of Article IX of the State Constitution are amended to read:

ARTICLE IX

EDUCATION

SECTION 1. Public education.—

(a) The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education

Page 1 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

johnsonm-00013-17

201759__

of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education; for public funds to be appropriated for private schools in the event that a student's right to an education that meets his or her individual needs and learning differences as provided under paragraph (b) (6) is violated; and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.

(b) A public school student is entitled to:

(1) A meaningful education that has lifelong value and prepares the student for future goals and needs.

(2) A socially, emotionally, and physically safe, sanitary, and positive school environment.

(3) The systemic maintenance of high educational standards, effective curricula, and assessment in a way which most accurately captures abilities and knowledge.

(4) Teachers who are qualified, appropriate, and effective.

(5) Opportunities for school and educational choice to enable and effect decision making about personal education.

(6) An education that meets individual needs and learning differences and to use public funding to attend a non-public school if those needs and differences cannot be completely met and accommodated by the student's zoned public school.

(7) Express publicly and to hear various points of view on subjects without fear, reprisal, or penalty, subject to constitutional limitations.

Page 2 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

johnsonm-00013-17

201759__

61 (8) Protection from arbitrary interference of privacy.

62 (9) Due process and to petition the government for redress of
 63 grievances.

64 (c) To assure that children attending public schools obtain
 65 a high quality education, the legislature shall make adequate
 66 provision to ensure that, by the beginning of the 2010 school
 67 year, there are a sufficient number of classrooms so that:

68 (1) The maximum number of students who are assigned to each
 69 teacher who is teaching in public school classrooms for
 70 prekindergarten through grade 3 does not exceed 18 students;

71 (2) The maximum number of students who are assigned to each
 72 teacher who is teaching in public school classrooms for grades 4
 73 through 8 does not exceed 22 students; and

74 (3) The maximum number of students who are assigned to each
 75 teacher who is teaching in public school classrooms for grades 9
 76 through 12 does not exceed 25 students.

77
 78 The class size requirements of this subsection do not apply to
 79 extracurricular classes. Payment of the costs associated with
 80 reducing class size to meet these requirements is the
 81 responsibility of the state and not of local schools districts.
 82 Beginning with the 2003-2004 fiscal year, the legislature shall
 83 provide sufficient funds to reduce the average number of
 84 students in each classroom by at least two students per year
 85 until the maximum number of students per classroom does not
 86 exceed the requirements of this subsection.

87 (d) ~~(b)~~ Every four-year old child in Florida shall be
 88 provided by the State a high quality pre-kindergarten learning
 89 opportunity in the form of an early childhood development and

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90 education program which shall be voluntary, high quality, free,
 91 and delivered according to professionally accepted standards. An
 92 early childhood development and education program means an
 93 organized program designed to address and enhance each child's
 94 ability to make age appropriate progress in an appropriate range
 95 of settings in the development of language and cognitive
 96 capabilities and emotional, social, regulatory and moral
 97 capacities through education in basic skills and such other
 98 skills as the Legislature may determine to be appropriate.

99 (e) ~~(c)~~ The early childhood education and development
 100 programs provided by reason of subsection (d) ~~subparagraph (b)~~
 101 shall be implemented no later than the beginning of the 2005
 102 school year through funds generated in addition to those used
 103 for existing education, health, and development programs.
 104 Existing education, health, and development programs are those
 105 funded by the State as of January 1, 2002 that provided for
 106 child or adult education, health care, or development.

107 SECTION 6. State school fund.—The income derived from the
 108 state school fund shall, and the principal of the fund may, be
 109 appropriated, but only to the support and maintenance of ~~free~~
 110 ~~public~~ schools.

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

Jan 26 2018

Meeting Date

59

Proposal Number (if applicable)

289304

Amendment Barcode (if applicable)

*Topic Education Declaration of Rights

*Name Marie-Claire Leman

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*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? Common Ground

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18

Meeting Date

p59

Proposal Number (if applicable)

*Topic p59

Declaration of Rights

Amendment Barcode (if applicable)

*Name Sue Woltanski

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*Speaking: ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☐ Yes ☒ No

If yes, who? Common Ground

Are you a registered lobbyist? ☐ Yes ☒ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18

Meeting Date

P 59

Proposal Number (if applicable)

***Topic** Amending No Aid provision to Allow State Funding of Religious Schools

Amendment Barcode (if applicable)

***Name** Kara Gross

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Email kgross@aclufl.org

***Speaking:** ☐ For ☒ Against ☐ Information Only

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? American Civil Liberties Union of Florida

Are you a registered lobbyist? ☒ Yes ☐ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18
Meeting Date

P.59
Proposal Number (if applicable)

*Topic Religious Freedom

Amendment Barcode (if applicable)

*Name Marco Paredes

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*Speaking: ☒ For ☐ Against ☐ Information Only

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? ☒ Yes ☐ No

If yes, who? FL Conference of Catholic Bishops

Are you a registered lobbyist? ☒ Yes ☐ No

Are you an elected official or judge? ☐ Yes ☒ No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required