

The Constitution Revision Commission
COMMITTEE MEETING EXPANDED AGENDA

ETHICS AND ELECTIONS
Commissioner Coxe, Chair
Commissioner Kruppenbacher, Vice Chair

MEETING DATE: Friday, January 26, 2018
TIME: 8:00 a.m.—12:00 noon
PLACE: 301 Senate Office Building, Tallahassee, Florida

MEMBERS: Commissioner Coxe, Chair; Commissioner Kruppenbacher, Vice Chair; Commissioners Gaetz, Heuchan, Joyner, Newsome, Plymale, Schifino, and Smith

TAB	PROPOSAL NO. and INTRODUCER	PROPOSAL DESCRIPTION and COMMITTEE ACTIONS	COMMITTEE ACTION
1	P 98 Kruppenbacher	GENERAL PROVISIONS, Ethics in government; Section 8 of Article II of the State Constitution to prohibit members of the Legislature from taking action on certain matters of the state and its political subdivisions which will directly inure to the legislator's benefit or to the benefit of the legislator's immediate family. EE 12/13/2017 Temporarily Postponed EE 01/26/2018 Temporarily Postponed GP	Temporarily Postponed
2	P 39 Gaetz	GENERAL PROVISIONS, Ethics in government; JUDICIARY, Ethics in the judiciary Prohibited activities; SCHEDULE, creates new section; Section 8 of Article II and Section 13 of Article V and create a new section in Article XII of the State Constitution to establish certain restrictions for specified public officers and employees regarding the personal representation for compensation of another person or entity before certain government bodies. EE 12/13/2017 Temporarily Postponed EE 01/26/2018 Fav/CS GP	Fav/CS Yeas 7 Nays 1
3	P 62 Schifino	SUFFRAGE AND ELECTIONS, Primary, general, and special elections; Section 5 of Article VI of the State Constitution to authorize a qualified elector who is registered with no party affiliation to vote a primary election ballot of a political party. EE 01/12/2018 Temporarily Postponed EE 01/26/2018 Fav/CS GP	Fav/CS Yeas 6 Nays 3

COMMITTEE MEETING EXPANDED AGENDA

Ethics and Elections

Friday, January 26, 2018, 8:00 a.m.—12:00 noon

TAB	PROPOSAL NO. and INTRODUCER	PROPOSAL DESCRIPTION and COMMITTEE ACTIONS	COMMITTEE ACTION
4	P 56 Kruppenbacher	SUFFRAGE AND ELECTIONS, Prohibition on expenditure of public funds for campaign spending; Section 7 of Article VI of the State Constitution to remove the requirement that a method of public financing for campaigns for statewide office be established by law and to prohibit the expenditure of any public funds on campaigns for state or local elections. EE 11/29/2017 Temporarily Postponed EE 11/30/2017 EE 12/13/2017 Temporarily Postponed EE 01/12/2018 Temporarily Postponed EE 01/26/2018 Unfavorable FT	Unfavorable Yeas 4 Nays 5
5	CS/P 66 Executive / Lee	EXECUTIVE, Lieutenant governor; Section 2 of Article IV of the State Constitution to require the Lieutenant Governor to serve as the head of a department as assigned by the Governor. EX 01/19/2018 Fav/CS EE 01/26/2018 Favorable LE	Favorable Yeas 8 Nays 0
6	P 19 Rouson	GENERAL PROVISIONS, Ethics in government; SCHEDULE, creates new section; Section 8 of Article II and create a new section in Article XII of the State Constitution to prohibit legislators and statewide elected officers from personally representing another person or entity for compensation before any state government body or state agency except judicial tribunals for six years following vacation of office and to provide that the prohibition applies to individuals who were members of the Legislature or who were statewide elected officers at any time after November 6, 2018. EE 12/13/2017 Temporarily Postponed EE 01/26/2018 Temporarily Postponed	Temporarily Postponed
7	P 97 Keiser	AMENDMENTS, Amendment or revision election; Section 5 of Article XI of the State Constitution to require that any proposed amendment to or revision of the State Constitution be approved by a vote of not fewer than 60 percent of the voters voting in the election in which the proposed amendment or revision is considered. GP 12/14/2017 Favorable EE 01/26/2018 Favorable	Favorable Yeas 7 Nays 2

**Constitution Revision Commission
Ethics and Elections Committee
Proposal Analysis**

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

Proposal #: P 98

Relating to: GENERAL PROVISIONS, Ethics in government

Introducer(s): Commissioner Kruppenbacher

Article/Section affected:

Date: December 6, 2017

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

I. SUMMARY:

Proposal #98 amends Section 8 of Article II of the State Constitution to prohibit members of the Legislature from attempting to influence, involve themselves in, or vote on any legislation or attempt to influence or involve themselves in any business of the state or its political subdivisions which will directly inure to his or her benefit or to the benefit of his or her immediate family.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Ethics in Government – General

Ethics in government covers a broad range of concepts regarding the appropriate behavior of elected officials and public employees. The National Conference on State Legislatures (NCSL) lists governmental ethics under the following broad categories:

- Conflict of Interest
- Financial Disclosure
- Gift Restrictions
- Lobbyist Regulation
- Oversight/Ethics Commissions and Committees
- Staff Ethics

Conflict of Interest – General

NCSL provides the following information under Conflict of Interest Definitions:

“Whether it be in state constitution, statute or rule, all states address the potential of conflicts of interests for legislators. Definitions usually specify that a legislator may not have a personal or private interest or gain in a financial way by votes and in their legislative duties. States differ on how to handle the conflict.” NCSL also provides a table listing the conflict of interest provisions for each state.

Ethics in Government – Florida

Florida Commission on Ethics

Florida’s Constitution and state law provide that the Florida Commission on Ethics (Commission) is the independent body charged with receiving and investigating sworn complaints involving Florida’s constitutional ethics provisions, as well as any other violation of Florida’s Code of Ethics for Public Officers and Employees. While the Commission receives and investigates sworn complaints, the Commission does not have the authority to impose punishment for an ethics violation. Instead, whenever the Commission finds probable cause exists that an ethics violation has occurred, the commission is required to submit its findings, along with a recommended penalty, to the statutorily designated official who may impose punishment. The Commission must make such submission to the Senate President or Speaker of the House, whichever is applicable, in any case concerning a former legislator who is alleged to have violated a provision applicable to former legislators or whose alleged conduct occurred while a member of the Legislature. In the case of a former statewide elected officer, the commission is required to make such submission to the Governor.

Florida State Constitution – Conflict of Interest

Article II of Florida’s State Constitution is entitled General Provisions, and Section 8 of this Article is entitled Ethics in Government. Subsection (c) of this section reads:

“Any public officer or employee who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the state for all financial benefits obtained by such actions. The manner of recovery and additional damages may be provided by law.”

Subsection (h) of this section reads:

“This section shall not be construed to limit disclosures and prohibitions which may be established by law to preserve the public trust and avoid conflicts between public duties and private interests.”

Florida State Law – Conflict of Interest Provisions

Codified in state law as Part III of Chapter 112, Florida Statutes, is the Code of Ethics for Public Officers and Employees. Section 112.312(8), Florida Statutes, provides the following definition:

““Conflict” or “conflict of interest” means a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.”

Per the 2018 Florida Commission on Ethics Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees (Guide), Section 112.3143, Florida Statutes, provides for the following:

- State public officers are prohibited from voting in an official capacity on any measure which they know would inure to their own special private gain or loss. A state public officer who abstains, or who votes on a measure which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate, must make every reasonable effort to file a memorandum of voting conflict with the recording secretary in advance of the vote. If that is not possible, it must be filed within 15 days after the vote occurs. The memorandum must disclose the nature of the officer's interest in the matter.
- No appointed state or local officer shall participate in any matter which would inure to the officer's special private gain or loss, the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate, without first disclosing the nature of his or her interest in the matter. The memorandum of voting conflict (Commission Form 8A or 8B) must be filed with the meeting's recording officer, be provided to the other members of the agency, and be read publicly at the next meeting.
- If the conflict is unknown or not disclosed prior to the meeting, the appointed official must orally disclose the conflict at the meeting when the conflict becomes known. Also, a written memorandum of voting conflict must be filed with the meeting's recording officer within 15 days of the disclosure being made and must be provided to the other members of the agency, with the disclosure being read publicly at the next scheduled meeting.

Also per the Guide, Section 112.313(6), Florida Statutes, and Section 112.313(7), Florida Statutes, provide for the following:

- Public officers and employees, and local government attorneys are prohibited from corruptly using or attempting to use their official positions or the resources thereof to obtain a special privilege or benefit for themselves or others.
- A public officer or employee is prohibited from holding any employment or contract with any business entity or agency regulated by or doing business with his or her public agency. A public officer or employee also is prohibited from holding any employment or having a contractual relationship which will pose a frequently recurring conflict between the official's private interests and public duties or which will impede the full and faithful discharge of the official's public duties. Limited exceptions to this prohibition have been created in the law for legislative bodies, certain special tax districts, drainage districts, and persons whose professions or occupations qualify them to hold their public positions.

Under current law, a serving public officer who violates any of Florida's constitutional ethics provisions or a provision of the Code may be subject to one or more of the following civil penalties:

- Impeachment.
- Removal from office.
- Suspension from office.
- Public censure and reprimand.
- Forfeiture of no more than one-third of his or her salary per month for no more than 12 months.
- A civil penalty not to exceed \$10,000.
- Restitution of any pecuniary benefits received because of the violation committed.

Rules of the Florida House of Representatives (2016 – 2018)

House Rule 15 is entitled "ETHICS AND CONDUCT OF MEMBERS." Rule 15.3(a) reads:

- A member may neither solicit nor accept anything that reasonably may be construed to improperly influence the member's official act, decision, or vote.

Rule 15.4(c) reads:

- (A member shall) Not directly or indirectly receive or agree to receive any compensation for any services rendered or to be rendered either by the member or any other person when such activity is in substantial conflict with the duties of a member of the House.

Rule 15.5 reads:

- A member may not corruptly use or attempt to use the member's official position or any property or resource which may be within the member's trust in a manner contrary to the trust or authority placed in the member, either by the public or by other members, for the purpose of securing a special privilege, benefit, or exemption for the member or for others. A member may not solicit or accept an employment offer or investment advice arising out of legislative activities or political activities engaged in while he or she is a member of, or candidate for, the House. A member may not enter into any investment, joint venture, or other profitmaking relationship with or advised by a lobbyist or principal, except that a member may buy or sell listed, publicly traded securities of a principal unless in violation of Rule 15.6. For purposes of this rule, "investment, joint venture, or other profitmaking relationship" does not include an employment relationship or professional partnership or similar venture engaging the professional services of the member.

Rules of the Florida Senate (2016-2018)

Within Rule 1, Part Four is entitled “Legislative Conduct and Ethics” and covers Rules 1.35 through 1.43. Rule 1.36 reads:

- A Senator shall not accept anything that will improperly influence his or her official act, decision, or vote.

Rule 1.38 reads:

- A Senator shall not use his or her influence as a Senator in any issue that involves substantial conflict between his or her personal interest and his or her duties in the public interest.

Rule 1.39 reads:

- (1) Abstention on matters of special private gain or loss.—A Senator may not vote on any matter that the Senator knows would inure to the special private gain or loss of the Senator. The Senator must disclose the nature of the interest in the matter from which the Senator is required to abstain.
(2) Disclosure on matters of special private gain or loss to family or principals.—When voting on any matter that the Senator knows would inure to the special private gain or loss of:
 - (a) 1. Any principal by whom the Senator or the Senator’s spouse, parent, or child is retained or employed;
2. Any parent organization or subsidiary of a corporate principal by which the Senator is retained or employed; or
3. An immediate family member or business associate of the Senator, the Senator must disclose the nature of the interest of such person in the outcome of the vote.
 - (b) For the purpose of this Rule, the term:
 - 1. “Immediate family member” means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.
 - 2. “Business associate” means any person or entity engaged in or carrying on a business enterprise with the Senator as a partner, joint venturer, corporate shareholder where the shares of such corporation are not listed on any national or regional stock exchange, or co-owner of property.

2017 Florida Legislative Session

During the 2017 Session of the Florida Legislature, the House of Representatives submitted for consideration proposed changes Florida law to strengthen public officer and employee conduct regarding solicitation and negotiation of conflicting and potentially conflicting income producing relationships. House Bill (HB) 7083 was an omnibus ethics reform bill that among other changes contained the following provisions:

- Prohibited public officers and employees from soliciting an employment or contractual relationship from entities with whom they are prohibited from entering into conflicting employment and contractual relationships.
- Imposed the following restrictions on statewide elected officers and legislators:
 - Prohibited solicitation of employment or investment advice arising out of official duties.
 - Prohibited solicitation and acceptance of investment advice or profitmaking arrangements (other than employment) from lobbyists or lobbyists' employers or principals.

HB 7083 passed the House on April 20, 2017 by a vote of 118-1 but was not considered in the Senate.

2018 Florida Legislative Committee Meetings

During committee meetings leading up to the 2018 Session of the Florida Legislature, the House of Representatives has submitted for consideration HB 7007, an omnibus ethics reform bill which contains ethics provisions similar to last year's HB 7083. HB 7007 passed the House Public Integrity and Ethics Committee on November 7, 2017 by a vote of 18-0, and as of December 5, 2017 is available for assignment to other committees or to the calendar of bills available for consideration by the full House. As of December 5, 2017 there is no similar companion bill filed in the Senate.

B. EFFECT OF PROPOSED CHANGES:

Proposal #98 would add a new subsection to Section 8 of Article II of the Florida State Constitution to read:

“A member of the legislature may not attempt to influence, involve themselves in, or vote on any legislation or attempt to influence or involve themselves in any business of the state or its political subdivisions which will directly inure to his or her benefit or to the benefit of his or her immediate family.”

Florida Commission on Ethics Analysis

The Florida Commission on Ethics has scheduled a meeting for December 8, 2017. Included on the agenda for this meeting is Item IX, Constitution Revision Proposals. Included in the meeting materials for this item is a memo dated November 20, 2017 to Commission Members from the Executive Director. The subject of the memo is Constitution Revision Commission (CRC) request, and it provides information on each of the current four CRC proposals to amend the ethics provisions of the Florida Constitution. Regarding the changes made by this proposal (#98), the memo states:

“This proposal would prohibit members of the Legislature from attempting to influence, involving themselves in, or voting on any legislation directly inuring to the member's benefit or that of the member's immediate family. Pursuant to Section 112.3143, state public officers, including legislators, must abstain on measures that would inure to their

own special private gain or loss. They may vote, but must disclose a voting conflict of interest, if the measure would inure to the special private gain or loss of a relative, principal by whom they are retained or the corporate parent or subsidiary thereof, or business associate.

This proposal would also prohibit members of the Legislature from attempting to influence or involving themselves in, any business of the state or its political subdivisions which would inure to the benefit of the member or the member's immediate family. To this is addressed in current law at all, it would be through the application of the conflicts law in Section 112.313(7) or the misuse of position provision in Section 112.313(6)."

C. FISCAL IMPACT:

To the extent that the change made by this proposal resulted in greater or fewer reported ethics complaints than is currently the case, there could be an indeterminate fiscal impact based on the related change in the workload of the Florida Commission on Ethics. There may be an indeterminate negative fiscal impact to the legislators and members of their immediate families who would be impacted by the change made by this proposal.

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 Kruppenbacher

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A proposal to amend

Section 8 of Article II of the State Constitution to prohibit members of the Legislature from taking action on certain matters of the state and its political subdivisions which will directly inure to the legislator's benefit or to the benefit of the legislator's immediate family.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 8 of Article II of the State Constitution is amended to read:

ARTICLE II
GENERAL PROVISIONS

SECTION 8. Ethics in government.—A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse. To assure this right:

(a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.

(b) All elected public officers and candidates for such offices shall file full and public disclosure of their campaign finances.

(c) Any public officer or employee who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the state for all financial benefits obtained by such actions. The manner of recovery and additional damages may be provided by law.

(d) Any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to

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forfeiture of rights and privileges under a public retirement system or pension plan in such manner as may be provided by law.

(e) A member of the legislature may not attempt to influence, involve themselves in, or vote on any legislation or attempt to influence or involve themselves in any business of the state or its political subdivisions which will directly inure to his or her benefit or to the benefit of his or her immediate family.

(f) No member of the legislature or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of two years following vacation of office. No member of the legislature shall personally represent another person or entity for compensation during term of office before any state agency other than judicial tribunals. Similar restrictions on other public officers and employees may be established by law.

(g) ~~(f)~~ There shall be an independent commission to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission.

(h) ~~(g)~~ A code of ethics for all state employees and nonjudicial officers prohibiting conflict between public duty and private interests shall be prescribed by law.

(i) ~~(h)~~ This section shall not be construed to limit disclosures and prohibitions which may be established by law to preserve the public trust and avoid conflicts between public duties and private interests.

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62 (j)~~(i)~~ Schedule—On the effective date of this amendment and
63 until changed by law:

64 (1) Full and public disclosure of financial interests shall
65 mean filing with the custodian of state records by July 1 of
66 each year a sworn statement showing net worth and identifying
67 each asset and liability in excess of \$1,000 and its value
68 together with one of the following:

69 a. A copy of the person's most recent federal income tax
70 return; or

71 b. A sworn statement which identifies each separate source
72 and amount of income which exceeds \$1,000. The forms for such
73 source disclosure and the rules under which they are to be filed
74 shall be prescribed by the independent commission established in
75 subsection (g) ~~(f)~~, and such rules shall include disclosure of
76 secondary sources of income.

77 (2) Persons holding statewide elective offices shall also
78 file disclosure of their financial interests pursuant to
79 paragraph (1) ~~subsection (i)(1)~~.

80 (3) The independent commission provided for in subsection
81 (g) ~~(f)~~ shall mean the Florida Commission on Ethics.

**Constitution Revision Commission
Ethics and Elections Committee
Proposal Analysis**

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

Proposal #: P 39

Relating to: GENERAL PROVISIONS, Ethics in government; JUDICIARY, Ethics in the judiciary
Prohibited activities; SCHEDULE, creates new section

Introducer(s): Commissioner Gaetz

Article/Section affected:

Date: December 5, 2017

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

I. SUMMARY:

Proposal #39:

- Amends Section 8 of Article II of the State Constitution to:
 - Prohibit legislators and statewide elected officers from personally representing another person or entity for compensation before the legislature or any state government body or state agency except judicial tribunals for six years following vacation of office.
 - Prohibit legislators and statewide elected officers from personally representing another person or entity for compensation during term of office before any federal agency; the legislature; any state government body or agency other than judicial tribunals; or any political subdivision of the state.
 - Prohibit state appointed officers from personally representing another person or entity for compensation before the legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or his or her former department for a period of six years following vacation of his or her position.
 - Prohibit state appointed officers during service from personally representing another person or entity for compensation before any federal agency; the legislature; any state government body or agency other than judicial tribunals; or any political subdivision of the state.
 - Prohibit county officers pursuant to Article VIII or a county charter, school board members, superintendent of schools, elected municipal officers, or elected special district officers in special districts with ad valorem taxing authority from personally representing

- another person or entity for compensation before his or her former agency or governing body for a period of six years following vacation of office, or before any federal agency; the legislature; any state government body or agency other than judicial tribunals; or any political subdivision of the state during his or her term of office.
- Does not prohibit any public officer or public employee from representing his or her agency before any other governmental entities in the normal course of his or her duties.
 - Amends Section 13 of Article 5 of the State Constitution to prohibit a justice or judge from personally representing another person for compensation before the legislative, executive, or judicial branches of state government, other than practicing law before a judicial tribunal, for a period of six years following vacation of office.
 - Creates a new section in Article XII of the State Constitution, providing that the prohibitions on personal representation for compensation of another person or entity before specified governmental bodies by certain public officers and employees, and the creation of this section, shall take effect January 1, 2020.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Ethics in Government – General

Ethics in government covers a broad range of concepts regarding the appropriate behavior of elected officials and public employees. The National Conference on State Legislatures (NCSL) lists governmental ethics under the following broad categories:

- Conflict of Interest
- Financial Disclosure
- Gift Restrictions
- Lobbyist Regulation
- Oversight/Ethics Commissions and Committees
- Staff Ethics

Conflict of Interest – Revolving Door Prohibitions - General

NCSL lists a category under Conflict of Interest as “Revolving Door Prohibitions: Rules Against Legislators Lobbying State Government After They Leave Office.” Under this category, the following information is provided:

“At least 34 states have enacted a “cooling-off period” before a former legislator can come back to work at the legislature as a lobbyist. Also known as revolving door laws, statutes range from Maryland, where the ban is until the conclusion of the next regular session, to eight states—Alabama, Colorado, Florida, Iowa, Kentucky, Louisiana, Montana, and New York—that ban former legislators for two years...In Minnesota, the ban only applies to House members, not those in the Senate, and exists in chamber rule.

Ohio formerly had a one year ban, but the law was overturned by a federal district court in 2010. New Mexico and Wisconsin exempt legislators and certain legislative staff from their laws. Statutes in Kansas, Mississippi and Oklahoma restrict former legislators from certain contracting with government opportunities.”

Per House staff analysis of 2018 House Bill 5, while no state currently has a post-service lobbying ban longer than two years, House Bill 213 was filed in the Missouri House of Representatives during the 2017 Regular Legislative Session to extend Missouri’s lobbying ban applicable to former legislators and appointed state officers from six months to five years following vacation of office.

Ethics in Government – Florida

Florida Commission on Ethics

Florida’s Constitution and state law provide that the Florida Commission on Ethics (Commission) is the independent body charged with receiving and investigating sworn complaints involving Florida’s constitutional ethics provisions, as well as any other violation of Florida’s Code of Ethics for Public Officers and Employees. While the Commission receives and investigates sworn complaints, the Commission does not have the authority to impose punishment for an ethics violation. Instead, whenever the Commission finds probable cause exists that an ethics violation has occurred, the commission is required to submit its findings, along with a recommended penalty, to the statutorily designated official who may impose punishment. The Commission must make such submission to the Senate President or Speaker of the House, whichever is applicable, in any case concerning a former legislator who is alleged to have violated a provision applicable to former legislators or whose alleged conduct occurred while a member of the Legislature. In the case of a former statewide elected officer, the commission is required to make such submission to the Governor.

Florida State Constitution – Conflict of Interest - Revolving Door Prohibition

Article II of Florida’s State Constitution is entitled General Provisions, and Section 8 of this Article is entitled Ethics in Government. Within this section, subsection (e) reads as follows:

“No member of the legislature or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of two years following vacation of office. No member of the legislature shall personally represent another person or entity for compensation during term of office before any state agency other than judicial tribunals. Similar restrictions on other public officers and employees may be established by law.”

Florida State Law – Conflict of Interest - Revolving Door Prohibition

Codified in state law as Part III of Chapter 112, Florida Statutes, is the Code of Ethics for Public Officers and Employees. Specifically, per the 2018 Florida Commission on Ethics Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees, Section 112.313(9), Florida Statutes provides for the following:

- A member of the Legislature or a statewide elected or appointed state official is prohibited for two years following vacation of office from representing another person or entity for compensation before the government body or agency of which the individual was an officer or member. Former members of the Legislature are also prohibited for two years from lobbying the executive branch.
- A member of the Legislature is prohibited from representing another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals.
- Certain employees of the executive and legislative branches of state government are prohibited from personally representing another person or entity for compensation before the agency with which they were employed for a period of two years after leaving their positions, unless employed by another agency of state government. These employees include the following:
 - Executive and legislative branch employees serving in the Senior Management Service and Selected Exempt Service, as well as any person employed by the Department of the Lottery having authority over policy or procurement.
 - Persons serving in the following position classifications: the Auditor General; the director of the Office of Program Policy Analysis and Government Accountability (OPPAGA); the Sergeant at Arms and Secretary of the Senate; the Sergeant at Arms and Clerk of the House of Representatives; the executive director and deputy executive director of the Commission on Ethics; an executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, legislative analyst, or attorney serving in the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, the Senate Minority Party Office, the House Majority Party Office, or the House Minority Party Office; the Chancellor and Vice-Chancellors of the State University System; the general counsel to the Board of Regents; the president, vice presidents, and deans of each state university; any person hired on a contractual basis and having the power normally conferred upon such persons, by whatever title; and any person having the power normally conferred upon the above positions.
- The prohibition does not apply to a person who was employed by the Legislature or other agency prior to July 1, 1989; who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994; or who reached normal retirement and retired by July 1, 1991. It does apply to OPS employees.

Per the 2018 Florida Commission on Ethics Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees, Section 112.313(13) and Section 112.313(14), Florida Statutes provide for the following:

- A person elected to county, municipal, school district, or special district office is prohibited from representing another person or entity for compensation before the government body or agency of which he or she was an officer for two years after leaving office. Appointed officers and employees of counties, municipalities, school districts, and special districts may be subject to a similar restriction by local ordinance or resolution.

Under current law, a serving public officer who violates any of Florida's constitutional ethics provisions or a provision of the Code may be subject to one or more of the following civil penalties:

- Impeachment.
- Removal from office.
- Suspension from office.
- Public censure and reprimand.
- Forfeiture of no more than one-third of his or her salary per month for no more than 12 months.
- A civil penalty not to exceed \$10,000.
- Restitution of any pecuniary benefits received because of the violation committed.

Under current law, a former public officer who violates any of Florida's constitutional ethics provisions or a provision of the Code may be subject to one or more of the following civil penalties:

- Public censure and reprimand.
- Civil penalty up to \$10,000.
- Restitution of any pecuniary benefits received because of the violation committed.

Rules of the Florida House of Representatives (2016 – 2018)

Per House staff analysis of 2018 House Bill 5, during the 2016 Organization Session the Florida House of Representatives adopted Rule 17.1(g), which prohibits a lobbyist who was a member of the Legislature at any time after November 8, 2016, from lobbying the House of Representatives for a period of six years following vacation of office as a member of the Legislature.

2017 Florida Legislative Session

During the 2017 Session of the Florida Legislature, the House of Representatives submitted for consideration proposed changes to both the Florida Constitution and Florida law to broaden and lengthen the existing prohibitions on personal representation for compensation:

- House Joint Resolution (HJR) 7001 would have amended the Florida Constitution to prohibit legislators and statewide elected officers from personally representing another person or entity for compensation before any state government body or state agency except judicial tribunals for six years following vacation of office. This would have applied to individuals who were members of the Legislature or who were

statewide elected officers at any time after November 8, 2016. HJR7001 passed the House on March 30, 2017 by a vote of 108-4, but was not considered in the Senate.

- House Bill (HB) 7003 would have codified the constitutional change made by HJR 7001 in state law (although the ban would have remained two years for appointed state officers.) HB 7003 passed the House on March 10, 2017 by a vote of 110-3, but was not considered in the Senate.
- HB 7083 was an omnibus ethics reform bill that contained the provisions in HB 7003; it passed the House on April 20, 2017 by a vote of 118-1 but was not considered in the Senate.

2018 Florida Legislative Committee Meetings

During committee meetings leading up to the 2018 Session of the Florida Legislature, the House of Representatives has submitted for consideration proposed changes to Florida law that would broaden and lengthen the existing prohibitions on personal representation for compensation:

- HB 5 would prohibit legislators and statewide elected officers from personally representing another person or entity for compensation before any state government body or state agency except judicial tribunals for six years following vacation of office (the ban would remain two years for appointed state officers.) HB 5 passed the House Public Integrity and Ethics Committee on November 7, 2017 by a vote of 18-0, and as of December 5, 2017 is on the calendar of bills available for consideration by the full House. As of December 5, 2017 there is no similar companion bill filed in the Senate.

Article V

Article V of the Florida State Constitution covers the Judiciary. Section 13 of Article V currently reads:

“Prohibited activities.—All justices and judges shall devote full time to their judicial duties. They shall not engage in the practice of law or hold office in any political party.”

B. EFFECT OF PROPOSED CHANGES:

Article II

Proposal #39 would replace the current constitutional prohibition on legislators and statewide elected officers personally representing another person or entity for compensation before **their former government body or agency** for **two years** following vacation of office with a new prohibition. The proposed language would prohibit legislators and statewide elected officers from personally representing another person or entity for compensation before **the legislature or any state government body or state agency other than judicial tribunals** for **six years** following vacation of office.

Proposal #39 would also replace the current constitutional prohibition against **legislators** personally representing another person or entity for compensation during term of office before **any state agency** other than judicial tribunals with a new prohibition. The proposed language would prohibit **legislators and statewide elected officers** from personally representing another person or entity for compensation during term of office before **any federal agency; the legislature, any state government body or agency** other than judicial tribunals; **or any political subdivision of the state**.

Proposal #39 would also constitutionally establish several new provisions prohibiting public officials from personally representing another person or entity for compensation:

- A person who served as a secretary, executive director, or other agency head of a department of the executive branch of state government, may not personally represent another person or entity for compensation before the legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or his or her former department for a period of six years following vacation of his or her position.
- A person who is serving as a secretary, executive director, or other agency head of a department of the executive branch of state government, may not personally represent another person or entity for compensation before any federal agency; the legislature; any state government body or agency, other than judicial tribunals; or any political subdivision of the state.
- A county officer pursuant to Article VIII or a county charter, a school board member, a superintendent of schools, an elected municipal officer, or an elected special district officer in a special district with ad valorem taxing authority, may not personally represent another person or entity for compensation before his or her former agency or governing body for a period of six years following vacation of office.
- A county officer pursuant to Article VIII or a county charter, a school board member, a superintendent of schools, an elected municipal officer, or an elected special district officer in a special district with ad valorem taxing authority, may not personally represent another person or entity for compensation before any federal agency; the legislature; any state government body or agency, other than judicial tribunals; or any political subdivision of the state during his or her term of office.

Finally, with regards to all the changes made to this subsection of Section 8 of Article II, Proposal #39 clarifies that no public officer or public employee would be prohibited from representing his or her agency before any other governmental entities in the normal course of his or her duties.

With all the changes incorporated, this proposal would amend Subsection (e) of Section 8 of Article II of the Florida State Constitution to read:

“(e)(1) A member of the legislature or a statewide elected officer may not personally represent another person or entity for compensation before the legislature or any state

government body or agency, other than judicial tribunals, for a period of six years following vacation of office. A member of the legislature or a statewide elected officer may not personally represent another person or entity for compensation during term of office before any federal agency; the legislature; any state government body or agency, other than judicial tribunals; or any political subdivision of the state.

(2) A person who served as a secretary, executive director, or other agency head of a department of the executive branch of state government, may not personally represent another person or entity for compensation before the legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or his or her former department for a period of six years following vacation of his or her position. A person who is serving as a secretary, executive director, or other agency head of a department of the executive branch of state government, may not personally represent another person or entity for compensation before any federal agency; the legislature; any state government body or agency, other than judicial tribunals; or any political subdivision of the state.

(3) A county officer pursuant to Article VIII or a county charter, a school board member, a superintendent of schools, an elected municipal officer, or an elected special district officer in a special district with ad valorem taxing authority, may not personally represent another person or entity for compensation:

a. Before his or her former agency or governing body for a period of six years following vacation of office.

b. Before any federal agency; the legislature; any state government body or agency, other than judicial tribunals; or any political subdivision of the state during his or her term of office.

(4) This subsection does not prohibit any public officer or public employee from representing his or her agency before any other governmental entities in the normal course of his or her duties.

(5) Similar restrictions on other public officers and employees may be established by law.”

Article V

Proposal #39 would constitutionally establish a new provision prohibiting a justice or judge from personally representing another person for compensation before the legislative, executive, or judicial branches of state government, other than practicing law before a judicial tribunal, for a period of six years following vacation of office. As amended by this proposal, Section 13 of Article V would read:

“Ethics in the judiciary.—All justices and judges shall devote full time to their judicial duties. A justice or judge may not engage in the practice of law or hold office in any political party. A justice or judge may not personally represent another person for compensation before the legislative, executive, or judicial branches of state government, other than practicing law before a judicial tribunal, for a period of six years following vacation of office.”

Article XII

The proposal would also create a new section in Article XII of the State Constitution to read:

“Personal representation prohibitions for specified public officers and employees.—The amendments to Section 8 of Article II and Section 13 of Article V, which establish certain prohibitions on the personal representation for compensation of another person or entity before specified governmental bodies by certain public officers and employees, and the creation of this section, shall take effect January 1, 2020.”

Florida Commission on Ethics Analysis

The Florida Commission on Ethics has scheduled a meeting for December 8, 2017. Included on the agenda for this meeting is Item IX, Constitution Revision Proposals. Included in the meeting materials for this item is a memo dated November 20, 2017 to Commission Members from the Executive Director. The subject of the memo is Constitution Revision Commission (CRC) request, and it provides information on each of the current four CRC proposals to amend the ethics provisions of the Florida Constitution. Regarding the changes made by this proposal (#39), the memo states:

“This proposal incorporates changes similar to those in Proposal 19, and in addition, prohibits members of the Legislature and statewide elected officers – during their term of office – from representing persons or entities for compensation before federal agencies, the Legislature, state government bodies or agencies other than judicial tribunals, and political subdivisions.

This proposal would prohibit a secretary, executive director, or head of an executive branch agency from representations for compensation before the Legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or the official’s own former department, for six years after leaving employment.

The proposal would also impose an in-office/employment ban which would prohibit the secretary, executive director, or agency head from representations for compensation, other than in the course of their duties, before federal agencies, the Legislature, state government bodies or agencies other than judicial tribunals, and political subdivisions. Current law does not speak to these kinds of activities, although if they were in conflict with the official’s public duties, they could potentially be addressed through application of the conflicts of interest law in Section 112.313(7).

The proposal also places a six-year restriction on county officials, including a county officer pursuant to Article VIII or county charter, a school board member, a superintendent of schools, an elected municipal officer, or an elected special district officer in a special district with ad valorem taxing authority. The restriction would (be) on representations for compensation before their own former agency or governing body... The proposal also creates an in-office/employment ban, which would prohibit such officials, during their terms in office, from representations for compensation before any federal agency, the Legislature, any state government body or agency other than judicial tribunals, or any political subdivision, except in the representation of their own government entity. Again, current law does not specifically speak to such activities, but in particular circumstances, they could fall within the ambit of Section 112.313(7).

The proposal also makes a change to Article V to place a six year limit on former judges representing persons or entities for compensation before the legislative, executive, or judicial branches of state government, other than practicing law before a judicial tribunal.”

C. FISCAL IMPACT:

To the extent that the change made by this proposal resulted in greater or fewer reported ethics complaints than is currently the case, there could be an indeterminate fiscal impact based on the related change in the workload of the Florida Commission on Ethics. There may be an indeterminate negative fiscal impact to legislators and statewide elected officers who would be impacted by the change made by this proposal. This could be offset by an indeterminate positive fiscal impact for those personally representing another person or entity for compensation before a state government body or state agency who in essence replace those who are prohibited under this proposal.

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-00043A-17

201739__

A proposal to amend

Section 8 of Article II and Section 13 of Article V and create a new section in Article XII of the State Constitution to establish certain restrictions for specified public officers and employees regarding the personal representation for compensation of another person or entity before certain government bodies.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 8 of Article II of the State Constitution is amended to read:

ARTICLE II
GENERAL PROVISIONS

SECTION 8. Ethics in government.—A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse. To assure this right:

(a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.

(b) All elected public officers and candidates for such offices shall file full and public disclosure of their campaign finances.

(c) Any public officer or employee who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the state for all financial benefits obtained by such actions. The manner of recovery and additional damages may be provided by law.

(d) Any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to

Page 1 of 5

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

gaetzd-00043A-17

201739__

forfeiture of rights and privileges under a public retirement system or pension plan in such manner as may be provided by law.

(e) (1) A ~~no~~ member of the legislature or a statewide elected officer ~~may not shall~~ personally represent another person or entity for compensation before the legislature or any state government body or agency, other than judicial tribunals, of which the individual was an officer or member for a period of six ~~two~~ years following vacation of office. A ~~no~~ member of the legislature or a statewide elected officer may not ~~shall~~ personally represent another person or entity for compensation during term of office before any federal agency; the legislature; any state government body or agency, other than judicial tribunals; or any political subdivision of the state.

(2) A person who served as a secretary, executive director, or other agency head of a department of the executive branch of state government, may not personally represent another person or entity for compensation before the legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or his or her former department for a period of six years following vacation of his or her position. A person who is serving as a secretary, executive director, or other agency head of a department of the executive branch of state government, may not personally represent another person or entity for compensation before any federal agency; the legislature; any state government body or agency, other than judicial tribunals; or any political subdivision of the state.

(3) A county officer pursuant to Article VIII or a county charter, a school board member, a superintendent of schools, an

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gaetzd-00043A-17

201739__

62 elected municipal officer, or an elected special district
 63 officer in a special district with ad valorem taxing authority,
 64 may not personally represent another person or entity for
 65 compensation:

66 a. Before his or her former agency or governing body for a
 67 period of six years following vacation of office.

68 b. Before any federal agency; the legislature; any state
 69 government body or agency, other than judicial tribunals; or any
 70 political subdivision of the state during his or her term of
 71 office.

72 (4) This subsection does not prohibit any public officer or
 73 public employee from representing his or her agency before any
 74 other governmental entities in the normal course of his or her
 75 duties.

76 (5) Similar restrictions on other public officers and
 77 employees may be established by law.

78 (f) There shall be an independent commission to conduct
 79 investigations and make public reports on all complaints
 80 concerning breach of public trust by public officers or
 81 employees not within the jurisdiction of the judicial
 82 qualifications commission.

83 (g) A code of ethics for all state employees and
 84 nonjudicial officers prohibiting conflict between public duty
 85 and private interests shall be prescribed by law.

86 (h) This section shall not be construed to limit
 87 disclosures and prohibitions which may be established by law to
 88 preserve the public trust and avoid conflicts between public
 89 duties and private interests.

90 (i) Schedule—On the effective date of this amendment and

Page 3 of 5

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gaetzd-00043A-17

201739__

91 until changed by law:

92 (1) Full and public disclosure of financial interests shall
 93 mean filing with the custodian of state records by July 1 of
 94 each year a sworn statement showing net worth and identifying
 95 each asset and liability in excess of \$1,000 and its value
 96 together with one of the following:

97 a. A copy of the person's most recent federal income tax
 98 return; or

99 b. A sworn statement which identifies each separate source
 100 and amount of income which exceeds \$1,000. The forms for such
 101 source disclosure and the rules under which they are to be filed
 102 shall be prescribed by the independent commission established in
 103 subsection (f), and such rules shall include disclosure of
 104 secondary sources of income.

105 (2) Persons holding statewide elective offices shall also
 106 file disclosure of their financial interests pursuant to
 107 subsection (i) (1).

108 (3) The independent commission provided for in subsection
 109 (f) shall mean the Florida Commission on Ethics.

110
 111 Section 13 of Article V of the State Constitution is
 112 amended to read:

ARTICLE V

JUDICIARY

115 SECTION 13. Ethics in the judiciary ~~Prohibited activities.~~
 116 All justices and judges shall devote full time to their judicial
 117 duties. A justice or judge may ~~They shall~~ not engage in the
 118 practice of law or hold office in any political party. A justice
 119 or judge may not personally represent another person for

Page 4 of 5

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

gaetzd-00043A-17 201739__
120 compensation before the legislative, executive, or judicial
121 branches of state government, other than practicing law before a
122 judicial tribunal, for a period of six years following vacation
123 of office.

124
125 A new section is added to Article XII of the State
126 Constitution to read:

127 ARTICLE XII
128 SCHEDULE

129 Personal representation prohibitions for specified public
130 officers and employees.—The amendments to Section 8 of Article
131 II and Section 13 of Article V, which establish certain
132 prohibitions on the personal representation for compensation of
133 another person or entity before specified governmental bodies by
134 certain public officers and employees, and the creation of this
135 section, shall take effect January 1, 2020.



403400

CRC ACTION

Commissioner .
Comm: FAV .
01/26/2018 .
. .
. .
. .

The Committee on Ethics and Elections (Gaetz and Kruppenbacher) recommended the following:

CRC Amendment (with title amendment)

Delete lines 83 - 85

and insert:

(g) (1) A code of ethics for all state employees and nonjudicial officers prohibiting conflict between public duty and private interests shall be prescribed by law.

(2) The code of ethics shall, at a minimum, prohibit public officers or public employees from abusing their public position to obtain a disproportionate benefit for themselves; or to



403400

11 obtain a disproportionate benefit for their spouse, their
12 children, their employer, or any other business entity with whom
13 they do business or in which they own an interest. The Florida
14 Commission on Ethics shall define disproportionate benefit and
15 prescribe the requisite intent, if any, required for finding a
16 violation of such prohibition, and shall prescribe appropriate
17 financial penalties for violations of this paragraph.

18
19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 Delete line 7

22 and insert:

23 person or entity before certain government bodies and
24 to specify minimum requirements for the Code of Ethics
25 as to the prohibition against abuse of public
26 position.



506456

CRC ACTION

Commissioner .
Comm: WD .
01/26/2018 .
. .
. .
. .

The Committee on Ethics and Elections (Kruppenbacher)
recommended the following:

CRC Amendment to Amendment (403400)

Delete line 18

and insert:

(3) A member of the legislature may not be employed by any
entity that lobbies any branch of state government while in
office and for a period of ten years following vacation of
office.

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18

Meeting Date

39

Proposal Number (if applicable)

*Topic Ethics

Amendment Barcode (if applicable)

*Name Brad Ashwell

Address Street

Phone 850-294-1008

City State Zip

Email

*Speaking: [X] For [] Against [] Information Only

Waive Speaking: [X] 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 Cause FL

Are you a registered lobbyist? [X] 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

39
Proposal Number (if applicable)

*Topic FDHICS

Amendment Barcode (if applicable)

*Name Ben Wilcox

Address 1719 Old Fort Dr
Street

Phone _____

Jal. 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? Integrity 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**

Closed Primaries

Closed primaries are those in which voters must be registered members of the political party holding the primary. This system prevents “cross-over” voting by voters registered with other political parties, as well as voters unaffiliated through voter registration with any political party. Nine states are categorized as having closed primary systems - Delaware, Florida, Kentucky, Maryland, Nevada, New Mexico, New York, Oregon and Pennsylvania.

Partially Closed Primaries

Partially closed primaries are those in which voters must be registered members of the political party holding the primary, unless the party chooses to allow unaffiliated voters to participate. This system gives the parties more flexibility from election to election concerning which voters to include in the primary election process. Seven states are categorized as having partially closed primary systems – Alaska, Connecticut, Idaho, North Carolina, Oklahoma, South Dakota, and Utah.

Partially Open Primaries

Partially open primaries are those in which voters are essentially allowed to vote in a political party’s primary even if they are not registered members of that party, by declaring their affiliation to that political party at the time of voting. This system essentially allows for same-day changing of political party affiliation in order to vote in a given political party’s primary. Six states are categorized as having partially open primary systems – Illinois, Indiana, Iowa, Ohio, Tennessee, and Wyoming.

Primaries Open to Unaffiliated Voters

Primaries open to unaffiliated voters allows such voters to choose a political party primary in which to participate. It does not allow voters registered with another political party to “cross-over” and vote in the primary of a different political party. This system differs from the partially closed primary system in that unaffiliated voters are entitled to vote in a political party primary; it is not subject to the choice of a political party from election to election. Nine states are categorized as having primary systems open to unaffiliated voters – Arizona, Colorado, Kansas, Maine, Massachusetts, New Hampshire, New Jersey, Rhode Island, and West Virginia.

Open Primaries

Open primaries are those in which voters are allowed to participate in a political party’s primary, whether or not they are registered members of the political party holding the primary or for that matter any political party. This system allows for unconditional “cross-over” voting and participation by unaffiliated voters. Fifteen states are categorized as having open primary systems – Alabama, Arkansas, Georgia, Hawaii, Michigan, Minnesota, Mississippi, Missouri, Montana, North Dakota, South Carolina, Texas, Vermont Virginia, and Wisconsin.

Top-Two Primaries

Top-two primaries are those in which all voters can participate, where all candidates for a given office appear on the primary ballot regardless of party of affiliation. The “top-two” vote getters in the primary, again regardless of party affiliation, advance to the general

election ballot. Four states are categorized as having top-two primary systems – California, Louisiana, Nebraska, and Washington.

Primary Elections in Florida

As noted, the NCSL categorizes Florida as a closed primary state, defined as voters having to be registered members of the political party holding the primary. However, the 1998 Florida Constitution Revision Commission voted to place Proposition 11 on the ballot for the November 1998 general election. Among several election-related changes, Proposition 11 proposed amending Article VI of the Florida State Constitution by including the following language:

“If all candidates for an office have the same party affiliation and the winner will have no opposition in the general election, all qualified electors, regardless of party affiliation, may vote in the primary elections for that office.”

Proposition 11 was approved and placed into the Constitution by the voters of Florida, with 64.1 percent voting in favor.

At first glance, the 1998 constitutional change to Florida’s primary system appears to allow for open primaries – where all voters may participate regardless of party affiliation – under circumstances in which a party’s primary will determine who will be elected to a given office because there are no opposing candidates appearing on the ballot in the subsequent general election. However, in 2000 the Florida Department of State’s Division of Elections published an opinion stating that the presence of a write-in candidate in an otherwise all-Republican or all-Democratic field “closed” the primary to all voters other than those registered with the party holding the primary. Since that opinion was published, multiple district and appellate courts have confirmed the Division’s legal position. Over the ensuing years, qualification of write-in candidates for general elections has resulted in the closing of numerous Florida primary elections that otherwise would have been open to all voters regardless of party affiliation.

B. EFFECT OF PROPOSED CHANGES:

Proposal 62 would amend Section 5 of Article VI of the State Constitution, adding a new subsection stating that “A qualified elector who is registered with no party affiliation may choose to vote a primary election ballot of a political party; however, a qualified elector who is registered with a political party designation may vote only in a primary election of the political party which he or she has designated.” Under the NCSL state primary classification system, the proposed change would remove Florida from the Closed Primaries category and place it into the Primaries Open to Unaffiliated Voters category with nine other states. If adopted by the 2018 Florida Constitution Revision Commission, the proposed amendment will be submitted to Florida’s electors for approval or rejection at the next general election (November 6, 2018). If approved, it would be in place for Florida’s 2020 election cycle.

October 2017 Presentation by the Florida Association of Supervisors of Elections

On October 4, 2017, representatives of the Florida Association of Supervisors of Elections (Association) made a presentation to the Ethics and Elections Committee of the 2018 Florida Constitution Revision Commission on Florida's primary election system. While a broad range of issues related to this topic were discussed, in response to questions from committee members Association representatives made the following points:

- Voter turnout in Florida primary elections is significantly lower than in general elections (since 2002, voter turnout in Florida primary elections has averaged 22.5 percent for both presidential election cycles – years when voters elect the President of the United States – and non-presidential election cycles. In contrast, since 2002 voter turnout in Florida general elections has averaged 74 percent in presidential election cycles and 50.5 percent in non-presidential election cycles.) One factor that may be contributing to low turnout is that the majority of Florida primaries are closed.
- In recent years the largest growth in Florida voter registration has been among voters who do not affiliate with any political party (as of November 30 2017, statewide voter registration in Florida was 37.4 percent Democrat, 35.3 percent Republican, 0.5 percent Other Parties, and 26.8 percent No Party Affiliation.) Unaffiliated voters may not participate in closed primary elections.
- Over time, county Supervisors of Elections have received more complaints from voters about the inability to vote due to closed primaries than any other issue. One factor that may be contributing to the level of dissatisfaction is that many Florida voters have moved here from other states where primary elections are open or not fully closed. Opening primary voting eligibility to unaffiliated voters could lead to fewer voter complaints to county Supervisors of Elections over primaries being closed, as well as contribute to increased overall voter participation in Florida's primary elections.

C. FISCAL IMPACT:

Approval of this proposal could contribute to an increase of Florida voters participating in primary elections, due to the fact that voters with no political party affiliation would now be eligible to vote in primaries along with voters registered to the political parties holding the primaries. Should this occur, county Supervisors of Elections could experience an indeterminate increase in costs for primary election administration.

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 Schifino

schifinow-00066-17

201762__

1 A proposal to amend
2 Section 5 of Article VI of the State Constitution to
3 authorize a qualified elector who is registered with
4 no party affiliation to vote a primary election ballot
5 of a political party.

6
7 Be It Proposed by the Constitution Revision Commission of
8 Florida:

9
10 Section 5 of Article VI of the State Constitution is
11 amended to read:

12 ARTICLE VI

13 SUFFRAGE AND ELECTIONS

14 SECTION 5. Primary, general, and special elections.-

15 (a) A general election shall be held in each county on the
16 first Tuesday after the first Monday in November of each even-
17 numbered year to choose a successor to each elective state and
18 county officer whose term will expire before the next general
19 election and, except as provided herein, to fill each vacancy in
20 elective office for the unexpired portion of the term. A general
21 election may be suspended or delayed due to a state of emergency
22 or impending emergency pursuant to general law. Special
23 elections and referenda shall be held as provided by law.

24 (b) If all candidates for an office have the same party
25 affiliation and the winner will have no opposition in the
26 general election, all qualified electors, regardless of party
27 affiliation, may vote in the primary elections for that office.

28 (c) A qualified elector who is registered with no party
29 affiliation may choose to vote a primary election ballot of a
30 political party; however, a qualified elector who is registered
31 with a political party designation may vote only in a primary
32 election of the political party which he or she has designated.

Page 1 of 1

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



973422

CRC ACTION

Commissioner .
Comm: FAV .
01/26/2018 .
. .
. .
. .

The Committee on Ethics and Elections (Schifino) recommended the following:

CRC Amendment (with title amendment)

Delete everything after the proposing clause
and insert:

Section 5 of Article VI of the State Constitution is
amended to read:

SECTION 5. Primary, general, and special elections.-

(a) A general election shall be held in each county on the
first Tuesday after the first Monday in November of each even-
numbered year to choose a successor to each elective state and



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11 county officer whose term will expire before the next general
12 election and, except as provided herein, to fill each vacancy in
13 elective office for the unexpired portion of the term. A general
14 election may be suspended or delayed due to a state of emergency
15 or impending emergency pursuant to general law. Special
16 elections and referenda shall be held as provided by law.

17 ~~(b) If all candidates for an office have the same party~~
18 ~~affiliation and the winner will have no opposition in the~~
19 ~~general election, all qualified electors, regardless of party~~
20 ~~affiliation, may vote in the primary elections for that office.~~

21 (b) This section (b) shall govern all primary elections for
22 all federal, state, county and local elective office except (i)
23 those in which no party affiliation, registration or preference
24 appears on the ballot as provided by law; and (ii) the system
25 for selection of President and Vice President of the United
26 States.

27 (1) All electors qualified to vote for the office being
28 filled shall be allowed to vote in the primary election
29 regardless of the voter's affiliation or lack of affiliation
30 with a political party and regardless of the candidate's
31 nomination by or affiliation with a political party.

32 (2) All candidates for an office shall be listed on a
33 single primary ballot regardless of their nomination by or
34 affiliation with a political party. Only the two candidates
35 receiving the greatest numbers of votes cast in the primary
36 shall advance to the general election and appear on that ballot;
37 no other candidate shall appear on the general election ballot.

38 (3) If more than one candidate is to be elected to an
39 office, the number of candidates advancing to the general



973422

40 election shall be twice the number to be elected, with said
41 candidates receiving the greatest number of votes.

42 (4) Should only two candidates qualify for the same office,
43 no primary election will be held and the winner will be
44 determined in the general election.

45 (5) Candidates nominated, endorsed or otherwise selected by
46 a political party to run in the primary election may have such
47 nomination, endorsement or selection indicated on the ballot in
48 a manner provided by law.

49 (6) A candidate that is not nominated, endorsed or
50 otherwise selected by a political party to run in the primary
51 election may have their political party preference, or lack of
52 political party preference, indicated upon the ballot in a
53 manner provided by law. Designation of a party preference by a
54 candidate under this subsection (b) (6) shall not constitute or
55 imply the nomination, endorsement or selection of the candidate
56 by the party designated.

57 (7) Nothing in this section (b) shall be interpreted to
58 prohibit a political party or party central committee from
59 nominating, endorsing, supporting, or opposing any candidate.

60 (8) No state funds shall be used to pay for the
61 administration of an election unless all qualified voters
62 regardless of party preference or affiliation are allowed to
63 vote for any candidate who appears on the ballot.

64 (9) This subsection is effective upon adoption by the
65 voters and is self-executing.

66

67

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



973422

69 And the title is amended as follows:

70 Delete everything before the enacting clause

71 and insert:

72 A proposal to amend

73 Section 5 of Article VI of the State Constitution to
74 authorize a qualified elector who is registered with
75 no party affiliation to vote a primary election ballot
76 of a political party and proscribe the method of
77 election for local, state, and federal offices.

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/78

Meeting Date

Proposal Number (if applicable)

*Topic Sport P & M Men # 62

Amendment Barcode (if applicable)

*Name Ray Hedkins

Address 1126 E La Rue

Phone 850 346-5799

Street Pensacola
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? _____

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 62

Proposal Number (if applicable)

*Topic Open Primaries

Amendment Barcode (if applicable)

*Name STEVE HOUGH

Address 9701 Resota Beach Rd.

Phone 850-265-9073

Southport FL 32409
City State Zip

Email shough195@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? Florida Fair and Open Primaries

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

62
Proposal Number (if applicable)

*Topic Open Primaries

Amendment Barcode (if applicable)

*Name JASON OLSON

Address _____

Phone _____

Street

City

NY

NY

State

Zip

Email

jolson@openprimaries.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? Open Primaries

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 62

Proposal Number (if applicable)

*Topic Open Primaries

Amendment Barcode (if applicable)

*Name Tom Wells

Address 802 NE 6th Ave

Phone 352-514-5487

Street

Gainesville FL 32601

Email tbwells@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

62

Proposal Number (if applicable)

*Topic open primaries

Amendment Barcode (if applicable)

*Name Stephanie Owens

Address _____

Phone 276391243

Street

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

P62

Proposal Number (if applicable)

*Topic P62 - TOP 2 PRIMARIES

Amendment Barcode (if applicable)

*Name GLENN BURKANS JR

Address 106 E. COLLIER AVE.
Street

Phone 850.329.4850

Tallah FL 32312
City State Zip

Email glburkans@stems
news.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**

January 24, 2018

Members of the Ethics and Elections Committee:

In anticipation of a vote on Commissioner Schifino's amended open primaries proposal, I woke up this morning thinking about my final appeal. As such, I have decided to waive my time in support on Friday. However, I will leave you with these thoughts.

I remember reviewing the video of the public hearing held in Boca Raton last April. I was impressed by Dave Aronberg's testimony- especially the part about an elected official who had used her mother as a write-in candidate over the course of three election cycles. I was moved by Commissioner Thurlow-Lippisch when she related her personal experience to me after the October 4 meeting and by her passionate testimony before the committee on November 29. Closing the write-in loophole is a must, but isn't it merely correcting an oversight from twenty years ago? As Commissioner Schifino has asked, do you want the next CRC questioning why you didn't do more when you had the opportunity?

By now, you know what I would like to see happen. After ten months of engagement, I believe we have presented ample evidence that Floridians will approve an open primaries amendment if given the opportunity to vote for it.

The intent of the voters was clear twenty years ago. When an elected representative is guaranteed to come from a single party, every interested voter should have a voice in the selection process. The demographics have changed radically since then, and as so many races are decided in the primaries (whether or not the winner will face an opponent in the general election), please do not deny Florida voters an opportunity to make their intent known this November.

Like Commissioner Thurlow-Lippisch, my passion is born of experience. In too many cases, politics has replaced governing, and NPAs are collateral damage. Although I was raised a Baptist, I'm not expecting a miracle, but can we at least make an attempt to change?

Thank you for your service on the commission.

Sincerely,

Steve Hough

Florida Fair and Open Primaries

**Constitution Revision Commission
Ethics and Elections Committee
Proposal Analysis**

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

Proposal #: P 56

Relating to: SUFFRAGE AND ELECTIONS, Prohibition on expenditure of public funds for campaign spending

Introducer(s): Commissioner Kruppenbacher

Article/Section affected: Article VI, Section 7

Date: November 22, 2017

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

I. SUMMARY:

Amends Section 7 of Article VI of the State Constitution to remove the requirement that a method of public financing for campaigns for statewide office be established by law and to prohibit the expenditure of any public funds on campaigns for state or local elections.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Public Campaign Financing Systems – General

A public campaign financing system is one where government funds are provided to candidates running for elected offices to help fund their campaigns. The funds are provided if candidates adhere to the system's established requirements.

According to the National Conference on State Legislatures, 13 states – Arizona, Connecticut, Florida, Hawaii, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Mexico, Rhode Island, Vermont, and West Virginia - provide some form of public financing option for campaigns. Each of these plans require the candidate to accept public money for his or her campaign in exchange for a promise to limit both how much the candidate spends on the election and how much they receive in donations from any one group or individual. In most cases, these systems provide funding only to certain types of candidates, for example those running for Governor.

Public Campaign Financing Systems – Types

The two main types of programs states offer for public financing of elections are the clean elections programs, offered in states such as Maine and Arizona, and programs that provide a candidate with matching funds for each qualifying contribution they receive. The “clean election states” offer full funding for the campaign, and the matching funds programs provide a candidate with a portion of the funds needed to run the campaign.

Clean Elections Programs

In the clean elections programs offered in Arizona, Connecticut, Maine and New Mexico, candidates are encouraged to collect small contributions from a number of individuals (depending on the position sought) to demonstrate that he or she has enough public support to warrant public funding of his or her campaign. In return, the commission established for the program gives the candidate a sum of money equal to the expenditure limit set for the election.

As an example of a clean elections program, a candidate for state office in Arizona must raise \$5 contributions from at least 200 people in order to qualify for the program. In return, the state provides the candidate with public money in an amount equal to the expenditure limit. In the 2014 election, the expenditure limit for gubernatorial candidates was \$1,130,424, and the limit for legislative positions was \$22,880. Arizona Governor Doug Ducey, who declined participation in the clean elections program, raised \$2.4 million for his 2014 campaign, more than double the amount authorized for the program’s participants.

The program is funded through a 10 percent surcharge on all civil penalties and criminal fees, civil penalties paid by the candidates, and the qualifying contributions the candidate raised.

Matching Funds Programs

The other type of public financing program, offered in states such as Florida and Hawaii, provide matching funds for candidates up to a certain amount. In Hawaii, candidates are encouraged to limit their contributions and expenditures to an amount set by the legislature. For the 2014 election, the expenditure limit for the general election was \$1,597,208. The candidate who participates in the matching funds program is eligible to receive 10 percent of this limit in public funds, or \$159,721. A candidate must first receive \$100,000 in qualifying contributions during the primary season for the state to provide a matching \$100,000 during the general election. The candidate can then raise an additional \$59,721 in qualifying contributions that the state will match, for a total of \$319,442. The candidate can then raise additional money from other sources, like PACs, parties, or individuals, to reach the expenditure limit of \$1,597,208.

For example, Hawaii governor David Ige received \$105,164.73 in public funds for his 2014 gubernatorial campaign, and spent the maximum of \$1,597,208 during the general election. His challenger, Duke Aiona, who elected to not participate in the public financing program, spent \$1,532,306.65 on his unsuccessful election. Mr. Aiona, like all

candidates, had to comply with the state's contribution limits, but did not have to worry about collecting the smaller qualifying contributions from many different sources.

The program is funded through a tax return checkoff, whereby citizens choose whether they want to contribute three dollars from their tax burden to the Hawaii Election Campaign Fund.

Florida's Public Campaign Financing System

1986 Florida Election Campaign Financing Act

The Florida Election Campaign Financing Act was enacted in 1986. Effective July 1, 1987, this law established a procedure for partial public funding of campaigns for statewide office (governor/lieutenant governor and cabinet officers) for candidates who voluntarily limit campaign expenditures. Resources for this system were provided through the Election Campaign Financing Trust Fund, which was funded by fines assessed for late filed campaign treasurer reports, the one percent election assessment for municipal candidates, and the three percent filing fee for all other candidates. This trust fund expired by law on November 4, 1996; since then, distribution of public campaign financing to participating candidates has been from the state General Revenue Fund.

1998 Amendment to the Constitution

At the time the Florida Constitution Revision Commission met in 1998, a number of legal challenges had been made to the Florida Elections Campaign Financing Act, with existing sentiment in some quarters that the law be repealed. Others were of the opinion that the state campaign financing system be expanded, and initial proposals before the 1998 Constitution Revision Commission would have increased spending limits and extended public funding to elections for legislators. In the end, the 1998 Commission's recommendation simply maintained the status quo by requiring the retention of the existing campaign financing act or a similar general law that provides public funds to those statewide candidates who limit their campaign expenditures.

The 1998 Constitution Revision Commission voted to place Proposition 11 on the ballot for the November 1998 general election. Among several election-related changes, Proposition 11 proposed adding a new Section 7 to Article VI of the Florida State Constitution that included the following language:

“Campaign spending limits and funding of campaigns for elective state-wide office.--It is the policy of this state to provide for state-wide elections in which all qualified candidates may compete effectively. A method of public financing for campaigns for state-wide office shall be established by law. Spending limits shall be established for such campaigns for candidates who use public funds in their campaigns. The legislature shall provide funding for this provision. General law implementing this paragraph shall be at least as protective of effective competition by a candidate who uses public funds as the general law in effect on January 1, 1998.”

Proposition 11 was approved and placed into the Constitution by the voters of Florida, with 64.1 percent voting in favor.

2010 Proposed Amendment to the Constitution

In 2009, the Florida Legislature voted 80-34 and the Florida Senate voted 29-11 to place a constitutional amendment - House Joint Resolution (HJR) 81 - on the 2010 general election ballot. HJR 81 repealed Section 7 of Article VI of the Florida State Constitution, thus removing the language added in 1998. HJR 81 was supported by a majority of those voting on the amendment – 52.5 percent. However, Florida’s Constitution then (and now) required amendments to receive 60 percent of the vote to pass, so HJR 81 was not adopted.

Operation and Administration of Florida’s Public Campaign Financing System

Florida’s public campaign financing system is administered by the Florida Department of State’s Division of Elections (Division.) The program can be summarized as follows:

- Participating statewide candidates must have opposition.
- Candidates must submit an irrevocable statement to abide by overall expenditure limits as well as contribution limits on personal (\$25,000) and party (\$250,000) funds
- Only personal contributions of \$250 or less from state residents are eligible for matching; corporate and political committee contributions are not eligible for matching.
- Participating candidates must raise an initial threshold amount of \$150,000 (for gubernatorial candidates) or \$100,000 (for candidates for Cabinet offices.) Contributions received from the candidate, political parties or non-Florida residents are not counted towards meeting the threshold amount.
- Contributions received after September 1 of the calendar year preceding the election are eligible for matching; contributions prior to September 1 can be counted towards meeting the threshold amount but are not matched.
- The threshold amounts are matched on a two-to-one basis, and after that, a contribution is eligible to be matched on a one-to-one basis, up to \$250. Thus, if a person makes a \$250 contribution, it is matched with \$250 from the state.
- Distribution of public financing begins on the 32nd day prior to the primary election and every seven days thereafter; the last distribution occurs one week after the general election.

Participating candidates must complete a form declaring their intention to apply for public campaign financing at the time of qualifying and after this declaration, submit their contributions for audit by the Division to determine eligibility for the match. The Division audits the submissions and makes payment to the candidate.

Participating candidates must abide by campaign expenditure limits that are based on the total number of Florida registered voters as of June 30th of each odd numbered year. For Governor/Lt. Governor races, the expenditure limit is \$2 for each registered voter; for Cabinet races, the limit is \$1 for each registered voter. According to the Division, the total number of Florida registered voters as of June 30, 2017 was 13,545,731. Therefore, candidates for Governor in the 2018 election cycle that want to accept public financing would be limited to approximately \$27.1 million in campaign expenditures, and

candidates for Cabinet offices that want to accept public financing would be limited to approximately \$13.5 million in campaign expenditures.

Distribution Amounts from Florida’s Public Campaign Financing System

From 1994 through 2016, distribution of funds through Florida’s public campaign financing system have been as follows:

1994

- Governor (5 Candidates): \$8.8 million
- Cabinet (6 Offices, 13 Candidates): \$4.1 million

1998

- Governor (1 Candidate): \$1.1 million
- Cabinet (6 Offices, 13 Candidates): \$3.5 million

2000

- Cabinet (2 Offices, 4 Candidates): \$1.6 million

2002

- Governor (3 Candidates): \$3.0 million
- Cabinet (2 Offices, 7 Candidates): \$2.2 million

2006

- Governor (4 Candidates): \$7.4 million
- Cabinet (3 Offices, 6 Candidates): \$3.7 million

2010

- Governor (1 Candidate): \$1.8 million
- Cabinet (3 Offices, 9 Candidates): \$4.3 million

2014

- Governor (2 Candidates): \$2.8 million
- Cabinet (3 Offices, 5 Candidates): \$1.6 million

TOTAL 1994-2014: \$46 million

Distributions to Governor Candidates

- Low (1998): \$1.1 million
- High (1994): \$8.8 million
- Average: \$4.2 million

Distributions to Cabinet Candidates

- Low (2000): \$1.6 million
- High (2010): \$4.3 million
- Average: \$3.0 million

B. EFFECT OF PROPOSED CHANGES:

This proposal amends Section 7 of Article VI of the State Constitution by deleting existing language and inserting new language. The proposal removes the following language from Section 7:

“...limits and funding of campaigns for elective state-wide office.—It is the policy of this state to provide for state-wide elections in which all qualified candidates may compete effectively. A method of public financing for campaigns for state-wide office shall be established by law. Spending limits shall be established for such campaigns for candidates who use public funds in their campaigns. The legislature shall provide funding for this provision. General law implementing this paragraph shall be at least as protective of effective competition by a candidate who uses public funds as the general law in effect on January 1, 1998.”

The proposal also adds language, with the final result being that the revised Section 7 of Article VI would read as follows:

“SECTION 7. Prohibition on expenditure of public funds for campaign spending.—Public funds may not be expended on any campaign for a state or local election.”

C. FISCAL IMPACT:

Passage of the amendment would require elimination of the existing Florida public campaign financing system. Based on distributions from 1994 through 2014, the state General Revenue Fund could save somewhere between \$2.7 million and \$13.1 million every four years when the Governor and Cabinet are up for election, with a likely savings in the range of \$4-\$6 million.

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 Kruppenbacher

kruppenbf-00070-17

201756__

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A proposal to amend

Section 7 of Article VI of the State Constitution to remove the requirement that a method of public financing for campaigns for statewide office be established by law and to prohibit the expenditure of any public funds on campaigns for state or local elections.

Be It Proposed by the Constitution Revision Commission of Florida:

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

ARTICLE VI

SUFFRAGE AND ELECTIONS

SECTION 7. Prohibition on expenditure of public funds for campaign spending. ~~Public funds may not be expended on any campaign for a state or local election, limits and funding of campaigns for elective state wide office. It is the policy of this state to provide for state wide elections in which all qualified candidates may compete effectively. A method of public financing for campaigns for state wide office shall be established by law. Spending limits shall be established for such campaigns for candidates who use public funds in their campaigns. The legislature shall provide funding for this provision. General law implementing this paragraph shall be at least as protective of effective competition by a candidate who uses public funds as the general law in effect on January 1, 1998.~~



348922

CRC ACTION

Commissioner .
Comm: FAV .
01/26/2018 .
. .
. .
. .

The Committee on Ethics and Elections (Kruppenbacher)
recommended the following:

CRC Amendment (with title amendment)

Delete line 18

and insert:

campaign for a state election. ~~limits and funding of~~

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

And the title is amended as follows:

Delete line 6

and insert:

any public funds on campaigns for state



348922

11

CONSTITUTION REVISION COMMISSION APPEARANCE RECORD

(Deliver completed form to Commission staff)

1/26/18

Meeting Date

56

Proposal Number (if applicable)

*Topic Public Campaign Finance

Amendment Barcode (if applicable)

*Name Brad Ashwell

Address 1536 Chuli Nene
Street

Phone 850-294-1008

Tallahassee, FL 32301
City State Zip

Email bradashwell@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 Cause 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

156

Proposal Number (if applicable)

*Topic Banning Public Election Funding

Amendment Barcode (if applicable)

*Name Tom Wells

Address 502 NE 6th Ave

Phone 352-514-5467

Street

Gainesville

FL

32601

City

State

Zip

Email twells@gov.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**

1/26/18

CONSTITUTION REVISION COMMISSION APPEARANCE RECORD

(Deliver completed form to Commission staff)

~~1/12/18~~
Meeting Date

56
Proposal Number (if applicable)

*Topic Campaign Finance ✓

Amendment Barcode (if applicable)

*Name Ben Wilcox

Address 1719 Old Fort Dr

Phone _____

Street

City

Tallahassee FL

State

Zip

32301

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? Integrity 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)

1.26.2018

Meeting Date

P56

Proposal Number (if applicable)

*Topic Public Campaign financing

Amendment Barcode (if applicable)

*Name Stephanie Owens

Address Phone 727.639.1243

Street

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
Ethics and Elections Committee
Proposal Analysis**

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

Proposal #: CS/P 66

Relating to: EXECUTIVE, Lieutenant governor

Introducer(s): Executive Committee and Commissioner Lee

Article/Section affected:

Date: January 24, 2018

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

I. SUMMARY:

The proposal requires the Lieutenant Governor, as assigned by the Governor, to serve as the head of any department whose head is a Secretary appointed by the Governor. The Lieutenant Governor is not subject to qualifications or Senate confirmation requirements pertaining to the Secretary of the department.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Lieutenant Governor

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

Article IV, section 5 of the Florida Constitution provides that the Governor and Lieutenant Governor, along with members of the Cabinet, are elected each calendar year that is even but not a multiple of four. The four-year terms begin on the first Tuesday after the first Monday in January of the year succeeding the election.³ Candidates for

¹ Article IV, s. 2, FLA. CONST.

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

³ Article IV, s. 5, FLA. CONST.

Lieutenant Governor are not required in primary elections, however all candidates for Governor and Lieutenant Governor must form joint candidacies in the general election.⁴

Article IV, section 6 of the Florida Constitution provides that each executive department must be placed under the supervision of the Governor, the Lieutenant Governor, the Governor and Cabinet, a Cabinet member, or an officer or board appointed by the Governor. Section 20.05, F.S., provides that the Governor may assign the Lieutenant Governor, without Senate confirmation, the duty of serving as the head of any one department whose head is a Secretary appointed by the Governor.

Lieutenant Governors in Other States

Duties of the Lieutenant Governor vary from state to state. Three states currently have a Lieutenant Governor who serves as Secretary of State.⁵ The Governor has the authority to assign duties to the Lieutenant Governor in 23 states.⁶ In 25 states, the Lieutenant Governor presides over the Senate.⁷ The Lieutenant Governor is a member of the Governor's Cabinet or advisory body in 24 states.⁸ Other duties, such as serving as the head of one or more departments, boards, or commissions, are designated to the Lieutenant Governor in 24 states.⁹

History of the Lieutenant Governor

The 1865 Florida Constitution was the first to provide for a Lieutenant Governor.¹⁰ The 1865 Constitution provided that the Lieutenant Governor was ex-officio President of the Senate and could vote only in cases of a tie.¹¹ The Lieutenant Governor exercised the powers of the Governor in cases of impeachment, death, resignation, or absence of the Governor from the state until the Governor's return.¹² The Lieutenant Governor continued in a similar capacity in the 1868 Constitution, but was later abolished by the 1885 Constitution.¹³ The Lieutenant Governor was not reinstated in Florida until 1968.¹⁴

B. EFFECT OF PROPOSED CHANGES:

The proposal requires the Lieutenant Governor, as assigned by the Governor, to serve as the head of any department whose head is a Secretary appointed by the Governor. The

⁴ *Id.*

⁵ See National Association of Secretaries of State, *Roster of Secretaries of State/Lieutenant Governors*, <http://www.nass.org/index.php/membership> (last visited 1/23/2018).

⁶ The Council of State Governments, *Book of the States*, Table 4.14 Lieutenant Governors: Powers and Duties, <http://knowledgecenter.csg.org/kc/system/files/4.14.2017.pdf> (last visited 1/15/2018).

⁷ *Id.* Data includes Nebraska's Lieutenant Governor, who presides over a unicameral Legislature.

⁸ *Id.*

⁹ *Id.*

¹⁰ Article III, s. 4, FLA. CONST. (1865). The 1865 Constitution was rejected by the United States Congress.

¹¹ *Id.*

¹² Article III, s. 19, FLA. CONST. (1865).

¹³ See Article V, ss. 14 and 15, FLA. CONST. (1868).

¹⁴ Article IV, s. 2, FLA. CONST. (1968).

Lieutenant Governor is not subject to qualifications or Senate confirmation requirements pertaining to the Secretary of the department.

C. FISCAL IMPACT:

There may be a minimal reduction in state expenditures as a result of the Lieutenant Governor filling the role of a Secretary of a department, through a reduction in associated salary and benefits.¹⁵

III. Additional Information:

A. Statement of Changes:

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

Executive Committee on January 19, 2018:

The amended proposal requires the Lieutenant Governor to serve as the head of any department whose head is a Secretary appointed by the Governor. The Lieutenant Governor is not subject to qualifications or Senate confirmation requirements pertaining to the head of the department.

The amendment removed provisions specifying that the Lieutenant Governor serves as the Secretary of State and has the authority to cast the tiebreaking vote on final passage of any measure on which the Senate is equally divided. The amendment removed the new section in Article XII, revising the effective date of the proposal to January 8, 2019.¹⁶

B. Amendments:

None.

C. Technical Deficiencies:

D. Related Issues:

None.

¹⁵ The Lieutenant Governor currently receives a salary of \$124,851 (Chapter 2017-70, L.O.F.). Salaries for current Secretaries of departments who are appointed by the Governor range from approximately \$141,000 to approximately \$161,000. Florida Has a Right to Know, *State of Florida Employee Salaries*, <http://salaries.myflorida.com/> (last visited 1/23/2018).

¹⁶ See Art. XI, s. 5(e), FLA. CONST.

By the Committee on Executive; and Commissioner Lee

310-00193-17

201766c1

1 A proposal to amend
2 Section 2 of Article IV of the State Constitution to
3 require the Lieutenant Governor to serve as the head
4 of a department as assigned by the Governor.

5
6 Be It Proposed by the Constitution Revision Commission of
7 Florida:

8
9 Section 2 of Article IV of the State Constitution is
10 amended to read:

11 ARTICLE IV

12 EXECUTIVE

13 SECTION 2. Lieutenant governor.—

14 There shall be a lieutenant governor, who shall:

15 (a) As assigned by the governor, serve as the head of any
16 department of which the head is a secretary appointed by the
17 governor, without senate confirmation and notwithstanding any
18 qualifications for appointment as secretary of the department;
19 and

20 (b) Perform such duties pertaining to the office of
21 governor as shall be assigned by the governor, except when
22 otherwise provided by law, and such other duties as may be
23 prescribed by law.

LIEUTENANT GOVERNORS: POWERS AND DUTIES

<i>State or other Jurisdiction</i>	<i>Presides over Senate</i>	<i>Appoints Committee</i>	<i>Breaks Ties</i>	<i>Assigns Bills</i>	<i>Authority for Gov. to assign</i>	<i>Member of Cabinet or Advisory Body</i>	<i>Serves as acting Governor while</i>	<i>Other duties</i>
Alabama	★	★	★	★			★	
Alaska					★	★		(a)
ArizonaNone (Sec. of State is next in line).....							
Arkansas	★		★				★	
California	★		★		★		★	(a)
Colorado					★	★	★	(a)
Connecticut	★		★		★	★	★	
Delaware	★		★				★	(a)
Florida					★		★	
Georgia	★	★		★	★			(a)
Hawaii					★		★	Sec. of State
Idaho	★		★		★		★	
Illinois					★	★		
Indiana	★		★				★	
Iowa		★			★	★	★	
Kansas						★		
Kentucky					★		★	(a)
Louisiana					★	★	★	
MaineNone (Senate President is next in line).....							
Maryland						★	★	
Massachusetts		★			★	★	★	(a)
Michigan	★		★		★	★	★	(a)
Minnesota					★		★	(a)
Mississippi	★	★	★	★			★	(a)
Missouri	★		★		★		★	(a)
Montana					★	★	★	
Nebraska	★				★	★	★	
Nevada	★		★				★	
New HampshireNone (Senate President is next in line).....							
New Jersey					★	★	★	Sec. of State
New Mexico	★		★			★	★	
New York	★		★		★	★	★	
North Carolina	★		★		★	★	★	
North Dakota	★					★	★	
Ohio					★	★		
Oklahoma	★		★				★	(a)
OregonNone (Sec. of State is next in line).....							
Pennsylvania	★		★					
Rhode Island								(a)
South Carolina	★	★	★	★		★	★	(a)
South Dakota	★		★		★	★		(a)
Tennessee	★	★	★	★				Senate Pres.
Texas	★	★	★	★			★	
Utah					★	★	★	(a)
Vermont	★	★	★	★		★	★	
Virginia	★		★			★		
Washington	★	★	★				★	
West Virginia	★	★		★				(a)
Wisconsin					★			
WyomingNone (Sec. of State is next in line).....							

Lieutenant Governor's Additional Duties

Alaska

The lieutenant governor bears these additional responsibilities:

- Alaska Historical Commission Chair;
- Alaska Workforce Investment Board;
- Supervise the Division of Elections;
- Supervise the certification process for citizen ballot initiative and referenda;
- Provide constituent care and communications;
- Lend support to governor's legislative and administrative initiatives;
- Review, sign and file regulations;
- Publish the Alaska Administrative Code and the Online Public Notice System;
- Commission notaries public;
- Regulate use of State Seal,
- Co-chair Alaska Criminal Justice Working Group;
- Member of Clemency Advisory Cmte.;
- Represent Alaska on the Aerospace States Association (ASA), the National Association of Secretaries of State and the National Lieutenant Governors' Association.
- Arctic Winter Games; Experimental Program to Stimulate Competitive Research (EPSCoR), Chair; Project GRAD.

California

- Lieutenant governor sits on the UC Board of Regents and the CSU Board of Trustees,
- Serves as the chair of the Commission for Economic Development,
- Chair of the State Lands Commission,
- Member of the Ocean Protection Council,
- Member of the California Emergency Council.

Colorado

Additional responsibilities include: Chair of the Colorado Commission of Indian Affairs (by statute); member of the Homeland Security and All-Hazards Senior Advisory Committee (Cabinet duty).

Delaware

Serves as President of the Board of Pardons.

Georgia

The lieutenant governor, by statute, is responsible for board, commission and committee appointments. In addition the lieutenant governor appoints conference committees, rules on germaneness, and must sign all acts of the General Assembly.

Kentucky

In addition to the duties set forth by the Kentucky Constitution, state law also gives the lieutenant governor the responsibility to act as chair, or serve as a member, on various boards and commissions, such as:

- the State Property and Buildings Commission,
- Kentucky Turnpike Authority,
- Kentucky Council on Agriculture,
- Board of the Kentucky Housing Corporation and
- Appalachian Development Council.

South Dakota

Member of Governor's Executive Committee, a group of 6 advisors reporting directly to the Governor. Currently has responsibilities for the Department of the Military, Department of Veterans' Affairs, and the Department of Tribal Relations. Serves as the interim Secretary of the Department of Veterans' Affairs.

Utah

The lieutenant governor serves as:

- Secretary of State (Constitution);
- Chair of the Lieutenant Governor's Commission on Volunteers (statutory);
- Chair of the Lieutenant Governor's Commission on Civic and Character Education (statutory);
- Chair of the Utah Capitol Preservation Board (statutory);
- Chair (Governor's Cabinet).
- Direct cabinet oversight of following departments:
 - Utah Department of Public Safety and Homeland Security,
 - Utah Department of Transportation,
 - Utah Division of Water Rights, and
 - Utah Division of Rural Affairs.

West Virginia

The President of the Senate and the Lieutenant Governor are one in the same. The legislature provided in statute the title of Lieutenant Governor upon the Senate President. The Senate President serves 2 year terms, elected by the Senate on the first day of the first session of each two year legislative term.

**Constitution Revision Commission
Ethics and Elections Committee
Proposal Analysis**

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

Proposal #: P 19

Relating to: GENERAL PROVISIONS, Ethics in government; SCHEDULE, creates new section

Introducer(s): Commissioner Rouson

Article/Section affected:

Date: December 5, 2017

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

I. SUMMARY:

Proposal #19 amends Section 8 of Article II of the State Constitution to prohibit legislators and statewide elected officers from personally representing another person or entity for compensation before any state government body or state agency except judicial tribunals for six years following vacation of office. It also creates a new section in Article XII of the State Constitution, providing that this prohibition applies to individuals who were members of the Legislature or who were statewide elected officers at any time after November 6, 2018.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Ethics in Government – General

Ethics in government covers a broad range of concepts regarding the appropriate behavior of elected officials and public employees. The National Conference on State Legislatures (NCSL) lists governmental ethics under the following broad categories:

- Conflict of Interest
- Financial Disclosure
- Gift Restrictions
- Lobbyist Regulation
- Oversight/Ethics Commissions and Committees
- Staff Ethics

Conflict of Interest – Revolving Door Prohibitions - General

NCSL lists a category under Conflict of Interest as “Revolving Door Prohibitions: Rules Against Legislators Lobbying State Government After They Leave Office.” Under this category, the following information is provided:

“At least 34 states have enacted a “cooling-off period” before a former legislator can come back to work at the legislature as a lobbyist. Also known as revolving door laws, statutes range from Maryland, where the ban is until the conclusion of the next regular session, to eight states—Alabama, Colorado, Florida, Iowa, Kentucky, Louisiana, Montana, and New York—that ban former legislators for two years... In Minnesota, the ban only applies to House members, not those in the Senate, and exists in chamber rule. Ohio formerly had a one year ban, but the law was overturned by a federal district court in 2010. New Mexico and Wisconsin exempt legislators and certain legislative staff from their laws. Statutes in Kansas, Mississippi and Oklahoma restrict former legislators from certain contracting with government opportunities.”

Per House staff analysis of 2018 House Bill 5, while no state currently has a post-service lobbying ban longer than two years, House Bill 213 was filed in the Missouri House of Representatives during the 2017 Regular Legislative Session to extend Missouri’s lobbying ban applicable to former legislators and appointed state officers from six months to five years following vacation of office.

Ethics in Government – Florida

Florida Commission on Ethics

Florida’s Constitution and state law provide that the Florida Commission on Ethics (Commission) is the independent body charged with receiving and investigating sworn complaints involving Florida’s constitutional ethics provisions, as well as any other violation of Florida’s Code of Ethics for Public Officers and Employees. While the Commission receives and investigates sworn complaints, the Commission does not have the authority to impose punishment for an ethics violation. Instead, whenever the Commission finds probable cause exists that an ethics violation has occurred, the commission is required to submit its findings, along with a recommended penalty, to the statutorily designated official who may impose punishment. The Commission must make such submission to the Senate President or Speaker of the House, whichever is applicable, in any case concerning a former legislator who is alleged to have violated a provision applicable to former legislators or whose alleged conduct occurred while a member of the Legislature. In the case of a former statewide elected officer, the commission is required to make such submission to the Governor.

Florida State Constitution – Conflict of Interest - Revolving Door Prohibition

Article II of Florida’s State Constitution is entitled General Provisions, and Section 8 of this Article is entitled Ethics in Government. Within this section, subsection (e) reads as follows:

“No member of the legislature or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of

which the individual was an officer or member for a period of two years following vacation of office. No member of the legislature shall personally represent another person or entity for compensation during term of office before any state agency other than judicial tribunals. Similar restrictions on other public officers and employees may be established by law.”

Florida State Law – Conflict of Interest - Revolving Door Prohibition

Codified in state law as Part III of Chapter 112, Florida Statutes, is the Code of Ethics for Public Officers and Employees. Specifically, per the 2018 Florida Commission on Ethics Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees, Section 112.313(9), Florida Statutes provides for the following:

- A member of the Legislature or a statewide elected or appointed state official is prohibited for two years following vacation of office from representing another person or entity for compensation before the government body or agency of which the individual was an officer or member. Former members of the Legislature are also prohibited for two years from lobbying the executive branch.
- A member of the Legislature is prohibited from representing another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals.
- Certain employees of the executive and legislative branches of state government are prohibited from personally representing another person or entity for compensation before the agency with which they were employed for a period of two years after leaving their positions, unless employed by another agency of state government. These employees include the following:
 - Executive and legislative branch employees serving in the Senior Management Service and Selected Exempt Service, as well as any person employed by the Department of the Lottery having authority over policy or procurement.
 - Persons serving in the following position classifications: the Auditor General; the director of the Office of Program Policy Analysis and Government Accountability (OPPAGA); the Sergeant at Arms and Secretary of the Senate; the Sergeant at Arms and Clerk of the House of Representatives; the executive director and deputy executive director of the Commission on Ethics; an executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, legislative analyst, or attorney serving in the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, the Senate Minority Party Office, the House Majority Party Office, or the House Minority Party Office; the Chancellor and Vice-Chancellors of the State University System; the general counsel to the Board of Regents; the president, vice presidents, and deans of each state university; any person hired on a contractual basis and having the power

normally conferred upon such persons, by whatever title; and any person having the power normally conferred upon the above positions.

- The prohibition does not apply to a person who was employed by the Legislature or other agency prior to July 1, 1989; who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994; or who reached normal retirement and retired by July 1, 1991. It does apply to OPS employees.

Under current law, a former public officer who violates this or any of Florida's constitutional ethics provisions or a provision of the Code may be subject to one or more of the following civil penalties:

- Public censure and reprimand.
- Civil penalty up to \$10,000.
- Restitution of any pecuniary benefits received because of the violation committed.

Rules of the Florida House of Representatives (2016 – 2018)

Per House staff analysis of 2018 House Bill 5, during the 2016 Organization Session the Florida House of Representatives adopted Rule 17.1(g), which prohibits a lobbyist who was a member of the Legislature at any time after November 8, 2016, from lobbying the House of Representatives for a period of six years following vacation of office as a member of the Legislature.

2017 Florida Legislative Session

During the 2017 Session of the Florida Legislature, the House of Representatives submitted for consideration proposed changes to both the Florida Constitution and Florida law to broaden and lengthen the existing prohibitions on personal representation for compensation:

- House Joint Resolution (HJR) 7001 would have amended the Florida Constitution to prohibit legislators and statewide elected officers from personally representing another person or entity for compensation before any state government body or state agency except judicial tribunals for six years following vacation of office. This would have applied to individuals who were members of the Legislature or who were statewide elected officers at any time after November 8, 2016. HJR7001 passed the House on March 30, 2017 by a vote of 108-4, but was not considered in the Senate.
- House Bill (HB) 7003 would have codified the constitutional change made by HJR 7001 in state law (although the ban would have remained two years for appointed state officers.) HB 7003 passed the House on March 10, 2017 by a vote of 110-3, but was not considered in the Senate.
- HB 7083 was an omnibus ethics reform bill that contained the provisions in HB 7003; it passed the House on April 20, 2017 by a vote of 118-1 but was not considered in the Senate.

2018 Florida Legislative Committee Meetings

During committee meetings leading up to the 2018 Session of the Florida Legislature, the House of Representatives has submitted for consideration proposed changes to Florida law that would broaden and lengthen the existing prohibitions on personal representation for compensation:

- HB 5 would prohibit legislators and statewide elected officers from personally representing another person or entity for compensation before any state government body or state agency except judicial tribunals for six years following vacation of office (the ban would remain two years for appointed state officers.) HB 5 passed the House Public Integrity and Ethics Committee on November 7, 2017 by a vote of 18-0, and as of December 5, 2017 is on the calendar of bills available for consideration by the full House. As of December 5, 2017 there is no similar companion bill filed in the Senate.

B. EFFECT OF PROPOSED CHANGES:

Article II

Proposal #19 would replace the current constitutional prohibition on legislators and statewide elected officers personally representing another person or entity for compensation before **their former government body or agency** for **two years** following vacation of office with a new prohibition. Effective November 6, 2018, the proposed language would prohibit legislators and statewide elected officers from personally representing another person or entity for compensation before **any state government body or state agency other than judicial tribunals** for **six years** following vacation of office. Specifically, this proposal would amend Subsection (e) of Section 8 of Article II of the Florida State Constitution to read:

“(e) A member of the legislature or a statewide elected officer may not personally represent another person or entity for compensation before any state government body or state agency other than judicial tribunals for a period of six years following vacation of office. A member of the legislature may not personally represent another person or entity for compensation during term of office before any state agency other than judicial tribunals. Similar restrictions on other public officers and employees may be established by law.”

Article XII

The proposal would also create a new section in Article XII of the State Constitution to read:

“State officers post-service personal representation prohibitions.—The amendment to Section 8 of Article II prohibiting legislators and statewide elected officers from providing personal representation for compensation before any state government body or state agency for six years following vacation of office is applicable only to those

individuals who were members of the legislature or who were statewide elected officers at any time after November 6, 2018.

Florida Commission on Ethics Analysis

The Florida Commission on Ethics has scheduled a meeting for December 8, 2017. Included on the agenda for this meeting is Item IX, Constitution Revision Proposals. Included in the meeting materials for this item is a memo dated November 20, 2017 to Commission Members from the Executive Director. The subject of the memo is Constitution Revision Commission (CRC) request, and it provides information on each of the current four CRC proposals to amend the ethics provisions of the Florida Constitution. Regarding the changes made by this proposal (#19), the memo states:

“This proposal would: 1) expand the language in the Constitution from “the government body or agency of which the individual was an officer or member” to “any state government body or state agency” 2) extend the prohibition to six years, and 3) include an exemption which does not exist in the current language for representation before judicial tribunals.”

C. FISCAL IMPACT:

To the extent that the change made by this proposal resulted in greater or fewer reported ethics complaints than is currently the case, there could be an indeterminate fiscal impact based on the related change in the workload of the Florida Commission on Ethics. There may be an indeterminate negative fiscal impact to legislators and statewide elected officers who would be impacted by the change made by this proposal. This could be offset by an indeterminate positive fiscal impact for those personally representing another person or entity for compensation before a state government body or state agency who in essence replace those who are prohibited under this proposal.

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 Rouson

rousond-00041A-17

201719__

A proposal to amend

Section 8 of Article II and create a new section in Article XII of the State Constitution to prohibit legislators and statewide elected officers from personally representing another person or entity for compensation before any state government body or state agency except judicial tribunals for six years following vacation of office and to provide that the prohibition applies to individuals who were members of the Legislature or who were statewide elected officers at any time after November 6, 2018.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 8 of Article II of the State Constitution is amended to read:

ARTICLE II
GENERAL PROVISIONS

SECTION 8. Ethics in government.—A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse. To assure this right:

(a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.

(b) All elected public officers and candidates for such offices shall file full and public disclosure of their campaign finances.

(c) Any public officer or employee who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the state for all financial benefits

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

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obtained by such actions. The manner of recovery and additional damages may be provided by law.

(d) Any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to forfeiture of rights and privileges under a public retirement system or pension plan in such manner as may be provided by law.

(e) A ~~No~~ member of the legislature or a statewide elected officer ~~may not shall~~ personally represent another person or entity for compensation before any state ~~the~~ government body or state agency other than judicial tribunals ~~of which the individual was an officer or member~~ for a period of six ~~two~~ years following vacation of office. A ~~No~~ member of the legislature ~~may not shall~~ personally represent another person or entity for compensation during term of office before any state agency other than judicial tribunals. Similar restrictions on other public officers and employees may be established by law.

(f) There shall be an independent commission to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission.

(g) A code of ethics for all state employees and nonjudicial officers prohibiting conflict between public duty and private interests shall be prescribed by law.

(h) This section shall not be construed to limit disclosures and prohibitions which may be established by law to preserve the public trust and avoid conflicts between public duties and private interests.

(i) Schedule—On the effective date of this amendment and

Page 2 of 4

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

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62 until changed by law:

63 (1) Full and public disclosure of financial interests shall
64 mean filing with the custodian of state records by July 1 of
65 each year a sworn statement showing net worth and identifying
66 each asset and liability in excess of \$1,000 and its value
67 together with one of the following:

68 a. A copy of the person's most recent federal income tax
69 return; or

70 b. A sworn statement which identifies each separate source
71 and amount of income which exceeds \$1,000. The forms for such
72 source disclosure and the rules under which they are to be filed
73 shall be prescribed by the independent commission established in
74 subsection (f), and such rules shall include disclosure of
75 secondary sources of income.

76 (2) Persons holding statewide elective offices shall also
77 file disclosure of their financial interests pursuant to
78 subsection (i) (1).

79 (3) The independent commission provided for in subsection
80 (f) shall mean the Florida Commission on Ethics.

81
82 A new section is added to Article XII of the State
83 Constitution to read:

84 ARTICLE XII

85 SCHEDULE

86 State officers post-service personal representation
87 prohibitions.—The amendment to Section 8 of Article II
88 prohibiting legislators and statewide elected officers from
89 providing personal representation for compensation before any
90 state government body or state agency for six years following

Page 3 of 4

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

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91 vacation of office is applicable only to those individuals who
92 were members of the legislature or who were statewide elected
93 officers at any time after November 6, 2018.

Page 4 of 4

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



112688

CRC ACTION

Commissioner

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The Committee on Ethics and Elections (Gaetz and Kruppenbacher) recommended the following:

CRC Amendment (with title amendment)

Delete everything after the proposal clause
and insert:

Section 8 of Article II of the State Constitution is
amended to read:

ARTICLE II

GENERAL PROVISIONS

SECTION 8. Ethics in government.—A public office is a
public trust. The people shall have the right to secure and



11 sustain that trust against abuse. To assure this right:

12 (a) All elected constitutional officers and candidates for
13 such offices and, as may be determined by law, other public
14 officers, candidates, and employees shall file full and public
15 disclosure of their financial interests.

16 (b) All elected public officers and candidates for such
17 offices shall file full and public disclosure of their campaign
18 finances.

19 (c) Any public officer or employee who breaches the public
20 trust for private gain and any person or entity inducing such
21 breach shall be liable to the state for all financial benefits
22 obtained by such actions. The manner of recovery and additional
23 damages may be provided by law.

24 (d) Any public officer or employee who is convicted of a
25 felony involving a breach of public trust shall be subject to
26 forfeiture of rights and privileges under a public retirement
27 system or pension plan in such manner as may be provided by law.

28 (e) (1) A ~~No~~ member of the legislature or a statewide
29 electd officer may not ~~shall~~ personally represent another
30 person or entity for compensation before the legislature or any
31 state government body or agency, other than judicial tribunals,
32 of which the individual was an officer or member for a period of
33 six ~~two~~ years following vacation of office. A ~~No~~ member of the
34 legislature or a statewide elected officer may not ~~shall~~
35 personally represent another person or entity for compensation
36 during term of office before any federal agency; the
37 legislature; any state government body or agency, other than
38 judicial tribunals; or any political subdivision of the state.

39 (2) A person who served as a secretary, executive director,



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40 or other agency head of a department of the executive branch of
41 state government, may not personally represent another person or
42 entity for compensation before the legislature, the governor,
43 the executive office of the governor, members of the cabinet, a
44 department that is headed by a member of the cabinet, or his or
45 her former department for a period of six years following
46 vacation of his or her position. A person who is serving as a
47 secretary, executive director, or other agency head of a
48 department of the executive branch of state government, may not
49 personally represent another person or entity for compensation
50 before any federal agency; the legislature; any state government
51 body or agency, other than judicial tribunals; or any political
52 subdivision of the state.

53 (3) A county officer pursuant to Article VIII or a county
54 charter, a school board member, a superintendent of schools, an
55 elected municipal officer, or an elected special district
56 officer in a special district with ad valorem taxing authority,
57 may not personally represent another person or entity for
58 compensation:

59 a. Before his or her former agency or governing body for a
60 period of six years following vacation of office.

61 b. Before any federal agency; the legislature; any state
62 government body or agency, other than judicial tribunals; or any
63 political subdivision of the state during his or her term of
64 office.

65 (4) This subsection does not prohibit any public officer or
66 public employee from representing his or her agency before any
67 other governmental entities in the normal course of his or her
68 duties.



69 (5) Similar restrictions on other public officers and
70 employees may be established by law.

71 (f) There shall be an independent commission to conduct
72 investigations and make public reports on all complaints
73 concerning breach of public trust by public officers or
74 employees not within the jurisdiction of the judicial
75 qualifications commission.

76 (g) (1) A code of ethics for all state employees and
77 nonjudicial officers prohibiting conflict between public duty
78 and private interests shall be prescribed by law.

79 (2) The code of ethics shall, at a minimum, prohibit public
80 officers or public employees from abusing their public position
81 to obtain a disproportionate benefit for themselves; or to
82 obtain a disproportionate benefit for their spouse, their
83 children, their employer, or any other business entity with whom
84 they do business or in which they own an interest. The Florida
85 Commission on Ethics shall define disproportionate benefit and
86 prescribe the requisite intent, if any, required for finding a
87 violation of such prohibition, and shall prescribe appropriate
88 financial penalties for violations of this paragraph.

89 (h) This section shall not be construed to limit
90 disclosures and prohibitions which may be established by law to
91 preserve the public trust and avoid conflicts between public
92 duties and private interests.

93 (i) Schedule—On the effective date of this amendment and
94 until changed by law:

95 (1) Full and public disclosure of financial interests shall
96 mean filing with the custodian of state records by July 1 of
97 each year a sworn statement showing net worth and identifying



98 each asset and liability in excess of \$1,000 and its value
99 together with one of the following:

100 a. A copy of the person's most recent federal income tax
101 return; or

102 b. A sworn statement which identifies each separate source
103 and amount of income which exceeds \$1,000. The forms for such
104 source disclosure and the rules under which they are to be filed
105 shall be prescribed by the independent commission established in
106 subsection (f), and such rules shall include disclosure of
107 secondary sources of income.

108 (2) Persons holding statewide elective offices shall also
109 file disclosure of their financial interests pursuant to
110 subsection (i)(1).

111 (3) The independent commission provided for in subsection
112 (f) shall mean the Florida Commission on Ethics.

113
114 Section 13 of Article V of the State Constitution is
115 amended to read:

116 ARTICLE V

117 JUDICIARY

118 SECTION 13. Ethics in the judiciary ~~Prohibited activities.-~~
119 All justices and judges shall devote full time to their judicial
120 duties. A justice or judge may ~~They shall~~ not engage in the
121 practice of law or hold office in any political party. A justice
122 or judge may not personally represent another person for
123 compensation before the legislative, executive, or judicial
124 branches of state government, other than practicing law before a
125 judicial tribunal, for a period of six years following vacation
126 of office.



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

ARTICLE XII

SCHEDULE

Personal representation prohibitions for specified public
officers and employees.—The amendments to Section 8 of Article
II and Section 13 of Article V, which establish certain
prohibitions on the personal representation for compensation of
another person or entity before specified governmental bodies by
certain public officers and employees, and the creation of this
section, shall take effect January 1, 2020.

===== 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 8 of Article II and Section 13 of Article V
and create a new section in Article XII of the State
Constitution to establish certain restrictions for
specified public officers and employees regarding the
personal representation for compensation of another
person or entity before certain government bodies and
to specify minimum requirements for the Code of Ethics
as to the prohibition against abuse of public
position.



759538

CRC ACTION

Commissioner

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The Committee on Ethics and Elections (Gaetz and Kruppenbacher) recommended the following:

CRC Amendment (with title amendment)

Delete everything after the proposal clause
and insert:

Section 8 of Article II of the State Constitution is
amended to read:

ARTICLE II

GENERAL PROVISIONS

SECTION 8. Ethics in government.—A public office is a
public trust. The people shall have the right to secure and



11 sustain that trust against abuse. To assure this right:

12 (a) All elected constitutional officers and candidates for
13 such offices and, as may be determined by law, other public
14 officers, candidates, and employees shall file full and public
15 disclosure of their financial interests.

16 (b) All elected public officers and candidates for such
17 offices shall file full and public disclosure of their campaign
18 finances.

19 (c) Any public officer or employee who breaches the public
20 trust for private gain and any person or entity inducing such
21 breach shall be liable to the state for all financial benefits
22 obtained by such actions. The manner of recovery and additional
23 damages may be provided by law.

24 (d) Any public officer or employee who is convicted of a
25 felony involving a breach of public trust shall be subject to
26 forfeiture of rights and privileges under a public retirement
27 system or pension plan in such manner as may be provided by law.

28 (e) (1) A ~~No~~ member of the legislature or a statewide
29 electd officer may not ~~shall~~ personally represent another
30 person or entity for compensation before the legislature or any
31 state government body or agency, other than judicial tribunals,
32 of which the individual was an officer or member for a period of
33 six ~~two~~ years following vacation of office. A ~~No~~ member of the
34 legislature or a statewide electd officer may not ~~shall~~
35 personally represent another person or entity for compensation
36 during term of office before any federal agency; the
37 legislature; any state government body or agency, other than
38 judicial tribunals; or any political subdivision of the state.

39 (2) A person who served as a secretary, executive director,



40 or other agency head of a department of the executive branch of
41 state government, may not personally represent another person or
42 entity for compensation before the legislature, the governor,
43 the executive office of the governor, members of the cabinet, a
44 department that is headed by a member of the cabinet, or his or
45 her former department for a period of six years following
46 vacation of his or her position. A person who is serving as a
47 secretary, executive director, or other agency head of a
48 department of the executive branch of state government, may not
49 personally represent another person or entity for compensation
50 before any federal agency; the legislature; any state government
51 body or agency, other than judicial tribunals; or any political
52 subdivision of the state.

53 (3) A county officer pursuant to Article VIII or a county
54 charter, a school board member, a superintendent of schools, an
55 elected municipal officer, or an elected special district
56 officer in a special district with ad valorem taxing authority,
57 may not personally represent another person or entity for
58 compensation:

59 a. Before his or her former agency or governing body for a
60 period of six years following vacation of office.

61 b. Before any federal agency; the legislature; any state
62 government body or agency, other than judicial tribunals; or any
63 political subdivision of the state during his or her term of
64 office.

65 (4) This subsection does not prohibit any public officer or
66 public employee from representing his or her agency before any
67 other governmental entities in the normal course of his or her
68 duties.



69 (5) Similar restrictions on other public officers and
70 employees may be established by law.

71 (f) There shall be an independent commission to conduct
72 investigations and make public reports on all complaints
73 concerning breach of public trust by public officers or
74 employees not within the jurisdiction of the judicial
75 qualifications commission.

76 (g) A code of ethics for all state employees and
77 nonjudicial officers prohibiting conflict between public duty
78 and private interests shall be prescribed by law.

79 (h) This section shall not be construed to limit
80 disclosures and prohibitions which may be established by law to
81 preserve the public trust and avoid conflicts between public
82 duties and private interests.

83 (i) Schedule—On the effective date of this amendment and
84 until changed by law:

85 (1) Full and public disclosure of financial interests shall
86 mean filing with the custodian of state records by July 1 of
87 each year a sworn statement showing net worth and identifying
88 each asset and liability in excess of \$1,000 and its value
89 together with one of the following:

90 a. A copy of the person's most recent federal income tax
91 return; or

92 b. A sworn statement which identifies each separate source
93 and amount of income which exceeds \$1,000. The forms for such
94 source disclosure and the rules under which they are to be filed
95 shall be prescribed by the independent commission established in
96 subsection (f), and such rules shall include disclosure of
97 secondary sources of income.



98 (2) Persons holding statewide elective offices shall also
99 file disclosure of their financial interests pursuant to
100 subsection (i)(1).

101 (3) The independent commission provided for in subsection
102 (f) shall mean the Florida Commission on Ethics.

103
104 Section 13 of Article V of the State Constitution is
105 amended to read:

106 ARTICLE V

107 JUDICIARY

108 SECTION 13. Ethics in the judiciary ~~Prohibited activities.~~-
109 All justices and judges shall devote full time to their judicial
110 duties. A justice or judge may ~~They shall~~ not engage in the
111 practice of law or hold office in any political party. A justice
112 or judge may not personally represent another person for
113 compensation before the legislative, executive, or judicial
114 branches of state government, other than practicing law before a
115 judicial tribunal, for a period of six years following vacation
116 of office.

117
118 A new section is added to Article XII of the State
119 Constitution to read:

120 ARTICLE XII

121 SCHEDULE

122 Personal representation prohibitions for specified public
123 officers and employees.-The amendments to Section 8 of Article
124 II and Section 13 of Article V, which establish certain
125 prohibitions on the personal representation for compensation of
126 another person or entity before specified governmental bodies by



759538

127 certain public officers and employees, and the creation of this
128 section, shall take effect January 1, 2020.

129

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

131 And the title is amended as follows:

132 Delete everything before the proposal clause
133 and insert:

134 A proposal to amend
135 Section 8 of Article II and Section 13 of Article V
136 and create a new section in Article XII of the State
137 Constitution to establish certain restrictions for
138 specified public officers and employees regarding the
139 personal representation for compensation of another
140 person or entity before certain government bodies.

**Constitution Revision Commission
Ethics and Elections Committee
Proposal Analysis**

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

Proposal #: P 97

Relating to: AMENDMENTS, Amendment or revision election

Introducer(s): Commissioner Keiser

Article/Section affected:

Date: January 22, 2018

	REFERENCE	ACTION
1.	<u>GP</u>	<u>Favorable</u>
2.	<u>EE</u>	<u>Pre-meeting</u>

I. SUMMARY:

The proposal amends Section 5 of Article XI of the Florida Constitution to require that any proposed amendment to or revision of the Florida Constitution be approved by a vote of not fewer than 60 percent of the voters voting in the election in which the proposed amendment or revision is considered rather than 60 percent of the voters voting on the measure.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Currently, a constitutional amendment passes when it is approved by at least sixty percent of the electors voting on the measure (ignoring any electors who refrain from voting on the measure).¹ Prior to 2006, section 5 of Article XI specified only a simple majority for amendments to pass. The constitutional amendment raising passage to 60 percent was placed on the ballot by the Legislature² and approved by voters in 2006.³

An example of the effects of the change from a simple majority to 60 percent can be seen in the last general election. Amendment 1: Rights of Electricity Consumers Regarding

¹ Fla. Const. art. XI, § 5.

² See Florida House of Representative Staff Analysis of CS/HJR 1723 (2005) for additional information <http://archive.flsenate.gov/data/session/2005/House/bills/analysis/pdf/h1723d.JC.pdf>.

³ <http://dos.elections.myflorida.com/initiatives/initdetail.asp?account=10&seqnum=63>.

Solar Energy Choice received a simple majority in favor of the amendment, but did not receive 60 percent so it did not pass.⁴

B. EFFECT OF PROPOSED CHANGES:

This proposal raises the bar to pass new constitutional amendments by effectively counting electors who refrain from casting a vote on a proposed amendment as disapproving of the amendment. Typically, voters who participate in an election but refuse to cast a vote on a particular item will be ignored with respect to that item when the results are calculated.⁵ If this proposal were to pass, failure to vote would count as a no vote on a proposal.

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.

⁴ Amendment 1 (2016) received 4,560,682 for and 4,418,788 against
<http://dos.elections.myflorida.com/initiatives/initdetail.asp?account=64817&seqnum=1>

⁵ See, e.g., Fla. Stat. § 102.071 (2017)

By Commissioner Keiser

keiserb-00072B-17

201797__

1 A proposal to amend
2 Section 5 of Article XI of the State Constitution to
3 require that any proposed amendment to or revision of
4 the State Constitution be approved by a vote of not
5 fewer than 60 percent of the voters voting in the
6 election in which the proposed amendment or revision
7 is considered.

8
9 Be It Proposed by the Constitution Revision Commission of
10 Florida:

11
12 Section 5 of Article XI of the State Constitution is
13 amended to read:

14 ARTICLE XI
15 AMENDMENTS

16 SECTION 5. Amendment or revision election.—

17 (a) A proposed amendment to or revision of this
18 constitution, or any part of it, shall be submitted to the
19 electors at the next general election held more than ninety days
20 after the joint resolution or report of revision commission,
21 constitutional convention or taxation and budget reform
22 commission proposing it is filed with the custodian of state
23 records, unless, pursuant to law enacted by the affirmative vote
24 of three-fourths of the membership of each house of the
25 legislature and limited to a single amendment or revision, it is
26 submitted at an earlier special election held more than ninety
27 days after such filing.

28 (b) A proposed amendment or revision of this constitution,
29 or any part of it, by initiative shall be submitted to the
30 electors at the general election provided the initiative
31 petition is filed with the custodian of state records no later
32 than February 1 of the year in which the general election is

Page 1 of 2

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

keiserb-00072B-17

201797__

33 held.

34 (c) The legislature shall provide by general law, prior to
35 the holding of an election pursuant to this section, for the
36 provision of a statement to the public regarding the probable
37 financial impact of any amendment proposed by initiative
38 pursuant to section 3.

39 (d) Once in the tenth week, and once in the sixth week
40 immediately preceding the week in which the election is held,
41 the proposed amendment or revision, with notice of the date of
42 election at which it will be submitted to the electors, shall be
43 published in one newspaper of general circulation in each county
44 in which a newspaper is published.

45 (e) Unless otherwise specifically provided for elsewhere in
46 this constitution, if the proposed amendment or revision is
47 approved by vote of not fewer than ~~at least~~ sixty percent of the
48 voters ~~electors~~ voting in the election in which such proposed
49 amendment or revision is considered ~~on the measure~~, it shall be
50 effective as an amendment to or revision of the constitution of
51 the state on the first Tuesday after the first Monday in January
52 following the election, or on such other date as may be
53 specified in the amendment or revision.

Page 2 of 2

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



717644

CRC ACTION

Commissioner .
Comm: WD .
01/26/2018 .
. .
. .
. .

The Committee on Ethics and Elections (Gaetz) recommended the following:

CRC Amendment (with title amendment)

Delete lines 45 - 53

and insert:

(e) 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 in each congressional district, 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



717644

11 January following the election, or on such other date as may be
12 specified in the amendment or revision.

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

14 And the title is amended as follows:

15 Delete lines 4 - 7

16 and insert:

17 the State Constitution be approved by a vote of at least 60
18 percent of the electors voting on the measure in each
19 congressional district of the state.

CONSTITUTION REVISION COMMISSION APPEARANCE RECORD

(Deliver completed form to Commission staff)

97

Proposal Number (if applicable)

717644

Amendment Barcode (if applicable)

Meeting Date _____

*Topic _____

*Name CHRISTOPHER EMMANUEL

Address 136 S. BROWNSHAW

Phone _____

Street

TLH

City

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 CHAMBER OF COMMERCE

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)

97

Proposal Number (if applicable)

Meeting Date

*Topic PROPOSAL 97

Amendment Barcode (if applicable)

*Name CHRISTOPHER EMMANUEL

Address 136 S BRONOUGH

Phone _____

Street

TLH

City

FL

State

32201

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 CHAMBER OF COMMERCE

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

97
Proposal Number (if applicable)

*Topic Ballot Initiative Threshold

Amendment Barcode (if applicable)

*Name Brad Ashwell

Address 1536 Chuli Nene
Street

Phone 850-294-1008

Tallahassee FL 32301
City State Zip

Email bradashwell@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 Cause 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

97

Proposal Number (if applicable)

*Topic P97 - Amendments or revision elections

Amendment Barcode (if applicable)

*Name Jake Farmer

Address 227 S Adams St

Phone 352 359 6835

Street

City

Tallahassee

FL

State

32311

Zip

Email Jake@frf.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 Retail Federation

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)

7-26-18

Meeting Date

1097

Proposal Number (if applicable)

*Topic _____

Amendment Barcode (if applicable)

*Name Tom Wells

Address 502 NE 6th Ave

Phone 352-514-5467

Street

Gainesville

FL

32601

Email twells@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

97
Proposal Number (if applicable)

Amendment Barcode (if applicable)

*Topic Elections

*Name Samantha Padgett

Address 230 S. Adams St.
Street

Phone 850-528-5006

Tallahassee, FL 32301
City State Zip

Email spadgett@fcla.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 Restaurant & Lodging 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. 18

Meeting Date

P 97

Proposal Number (if applicable)

*Topic 60% voter threshold

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 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

97

Proposal Number (if applicable)

*Topic Constitutional Amendment/Revision Election

Amendment Barcode (if applicable)

*Name Teye Reeves

Address 108 S. Monroe St.

Phone 8507285490

Tallahassee

FL

32301

Email treeves@flapartners.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? Associated Industries 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)

Jan 26, 2018

Meeting Date

P97

Proposal Number (if applicable)

*Topic P97

Amendment Barcode (if applicable)

*Name Robert Weissert ("Why-cert")

Address 106 N. Brough St. Street

Phone 850-222-5052

Tallahassee FL 32301 City State Zip

Email robert@florida taxwatch.org

*Speaking: [X] 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 Tax Watch

Are you a registered lobbyist? [] Yes [X] No

Are you an elected official or judge? [] Yes [X] 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



COMMISSIONER BELINDA KEISER

CONSTITUTION REVISION COMMISSION

— 2017 - 2018 —

COMMITTEES:
Legislative, *Vice Chair*
Education, *Commissioner*
Executive, *Commissioner*

Ethics and Elections

January 26, 2018

Presentation of Proposal 97

Sponsored by Commissioner Belinda Keiser

Proposal 97: Addresses Section 5, Article 11 in the Florida Constitution

Key Roles of 2017-2018 Constitution Revision Commission:

- **IDENTIFY** internal inconsistencies within the Florida Constitution for the voters
- **DETERMINE** what belongs in the Florida Constitution versus being addressed by the Legislature, Florida Statutes or local ordinances
- The Florida Constitution has been amended **110 times in the last 60 years**
- **IN CONTRAST**, the US Constitution has only been amended **27 times in 230 years**



COMMISSIONER BELINDA KEISER

CONSTITUTION REVISION COMMISSION
2017 - 2018

COMMITTEES:
Legislative, *Vice Chair*
Education, *Commissioner*
Executive, *Commissioner*

Proposal 97: Addresses Section 5, Article 11 in the Florida Constitution

CORRECTING AN INCONSISTENCY

- Section 5 of Article 11, where the passage of constitutional amendments is **calculated differently** on the basis of whether or not an amendment is a taxing amendment
- **The numerator is the same on both, but the denominator is very different**
- **PROPOSAL 97 FIXES THE INCONSISTENCY:**
 - All amendments would be calculated by the number of yes votes divided by the total number of votes cast in the election
 - In the same way, that the total number of yes votes over the total number of votes cast in the election are calculated when we are considering a taxing issue / amendment
 - This would be a change/revision Florida Constitution



COMMISSIONER BELINDA KEISER

CONSTITUTION REVISION COMMISSION
2017 - 2018

COMMITTEES:
Legislative, *Vice Chair*
Education, *Commissioner*
Executive, *Commissioner*

The fraction for passing a constitutional amendment is calculated differently in two sections of Article XI.

<p>CURRENTLY, a Non-Taxing Amendment is calculated as follows: [Art. XI 5(e), Fla. Con.]</p>	<p>CURRENTLY, a Taxing Amendment is calculated as follows: [Art. XI 7, Fla. Con.]</p>
$\frac{\text{Number of 'Yes' Votes}}{\text{Number of Total Votes on the Specific Amendment}} = 60\% + 1 \text{ for Adoption}$	$\frac{\text{Number of 'Yes' Votes}}{\text{Number of Total Voters Voting in the Election}} = \text{Two-Thirds for Adoption}$
<p>A Non-Taxing Amendment <i>does not</i> CURRENTLY include abstaining voters in the total count.</p>	<p>A Taxing Amendment <i>includes</i> abstaining voters in the total count.</p>

- **Proposal 97** would create uniformity throughout Article XI for the passage of constitutional amendments by changing the way in which non-taxing amendments are calculated to the same way that taxing proposals are counted.
- **Proposal 97** would *include* abstaining voters in the total count for non-taxing amendments. Consequently, not voting on a non-taxing amendment would be counted as a 'No' vote.
- **Proposal 97** would make both the denominator and the formula consistent for both non-taxing and taxing proposals.

<p>Under Proposal 97: A Non-Taxing Amendment would be calculated as follows:</p>	<p>Under Proposal 97: NO CHANGE -A Taxing Amendment is calculated as follows:</p>
$\frac{\text{Number of 'Yes' Votes}}{\text{Number of Total Voters Voting in the Election}} = 60\% + 1 \text{ for Adoption}$	$\frac{\text{Number of 'Yes' Votes}}{\text{Number of Total Voters Voting in the Election}} = \text{Two-Thirds for Adoption}$

Proposal 97: Addresses Section 5, Article 11 in the Florida Constitution

CORRECTING AN INCONSISTENCY

- Why do we have two different standards within in the same Article?
- Which standard do we apply?
 - The current option is the use of the standards in Section 5, which does not count all the voters in the election, **OR**
 - The standards in Section 7, which does count all voters in the election
- **PROPOSAL 97 COUNTS ALL** counts all of the voters in the election towards the passage of an amendment, **which I believe better protects our Constitution**



COMMISSIONER BELINDA KEISER

CONSTITUTION REVISION COMMISSION
2017 - 2018

COMMITTEES:
Legislative, *Vice Chair*
Education, *Commissioner*
Executive, *Commissioner*

Proposal 97: Addresses Section 5, Article 11 in the Florida Constitution

Potential Concern: Does this new threshold *prohibit* voters seeking constitutional change? *IT DOES NOT...*

ONE EXAMPLE: Remember the 2014 Ballot--A proposed amendment called “The Florida Water and Land Conservation Initiative” was denoted as Amendment 1

- That ballot initiative required the state to “dedicate 33 percent of net revenue from the existing excise tax on documents to the Land Acquisition Trust Fund”
- **The Amendment passed then and it would have also passed under the new standard set forth in Proposal 97**

HOW?

- In the November 2014 General Election, 6,052,462 ballots were cast
- 4,238,739 voters voted YES on Amendment 1 while 1,415,924 voted NO
- Under the current standard (60% of voters voting on the amendment), the Amendment passed with 74.96%
- Under the proposed standard (from Proposal 97), the measure would have been recorded as receiving 70.03% of the vote with a 60% threshold, so it ALSO would have passed ($4,238,739/6,052,462 = 70.033\%$)



COMMISSIONER BELINDA KEISER

CONSTITUTION REVISION COMMISSION
2017 - 2018

COMMITTEES:
Legislative, Vice Chair
Education, Commissioner
Executive, Commissioner

Proposal 97: Addresses Section 5, Article 11 in the Florida Constitution

BOTTOM LINE

- Proposal 97 provides **consistency in the Constitution in terms of passing amendments that have the potential to revise our foundational document for years to come, maybe forever**
- Grassroots initiatives, which mobilize voters to come out to the polls, become informed, and vote the will of the people WILL remain strong and effective
- Singular, well-financed groups, focused on one interest, or even out of state groups seeking to radically change our State's constitution, will have a far greater challenge
- **I STRONGLY BELIEVE THAT IS APPROPRIATE AND NECESSARY**



COMMISSIONER BELINDA KEISER

CONSTITUTION REVISION COMMISSION
2017 - 2018

COMMITTEES:
Legislative, *Vice Chair*
Education, *Commissioner*
Executive, *Commissioner*

Proposal 97: Addresses Section 5, Article 11 in the Florida Constitution

I respectfully request your consideration of Proposal 97. It protects our State's foundational document and ensures changes to its sacred mission and messages are made by the will of the majority of voters for the long-term, and not singular, short-term interests or motives.

**Thank You
Q & A**



CONSTITUTION REVISION COMMISSION
2017 - 2018

COMMISSIONER BELINDA KEISER

COMMITTEES:
Legislative, *Vice Chair*
Education, *Commissioner*
Executive, *Commissioner*