IN THE SUPREME COURT OF FLORIDA

ADVISORY OPINION TO THE ATTORNEY GENERAL RE: FLORIDA'S AMENDMENT TO REDUCE CLASS SIZE

CASE NO.: SC01-2421

ORIGINAL PROCEEDING

AMENDED INITIAL BRIEF OF COALITION TO REDUCE CLASS SIZE

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STATEMENT OF THE CASE AND THE FACTS

In accordance with Article V, Section 3(b)(10), Florida Constitution, and Section 16.061, Florida Statutes, the Attorney General has petitioned this Court for an advisory opinion on the validity of a proposed initiative amendment seeking to amend the Florida Constitution to reduce class size in public schools. The issue before this Court is whether the proposed initiative petition complies with Article IX, Section 3, Florida Constitution, and whether the proposed ballot title and summary comply with Section 101.161, Florida Statutes.

The Coalition to Reduce Class Size is the sponsor of the initiative amendment. The proposed amendment amends Article IX, Section 1 of the State Constitution, which relates to public education. It reads as follows:

> Article IX, Section 1, Florida Constitution, is amended to read:
>
> Section 1. Public Education. - -
>
> The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty

of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require. **To assure that children attending public schools obtain a high quality education, the legislature shall make adequate provision to ensure that, by the beginning of the 2010 school year, there are sufficient number of classrooms so that:**

1. The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for pre-kindergarten through grade 3 does not exceed 18 students;

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

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

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

The ballot title and summary for the proposed amendment states:

Florida's Amendment to Reduce Class Size

> Proposes an amendment to the State Constitution to require that the Legislature provide funding for sufficient classrooms so that there be a maximum number of students in public school classrooms for various grade levels; requires compliance by the beginning of the 2010 school year; requires the Legislature, and not local school districts, to pay for the costs associated with reduced class size; prescribes a schedule for phased-in funding to achieve the required maximum class size.

This brief is submitted, pursuant to this Court's order of November 8, 2001, on behalf of The Coalition to Reduce Class Size, the sponsor of the proposed initiative amendment.

SUMMARY OF ARGUMENT

In this proceeding, this Court determines two issues: whether the proposed initiative complies with Article XI, Section 3, Florida Constitution, which requires that a proposed initiative amendment to "embrace but one subject and matter directly connected therewith," and whether the ballot summary and title comply with the requirements of Section 101.161, Florida Statutes, which require that the substance and effect of the proposed amendment be set forth in clear and unambiguous language, so as to give voters notice of the purpose of the amendment. The initiative proposal before the Court meets these two requirements.

The sole and exclusive purpose of the proposed amendment is to place a duty on the Legislature, and the Legislature only, to provide for funding public school classrooms at certain levels, measured by standards set forth in the proposed initiative. The amendment does not limit or restrict in any way the power of the Governor to veto in any monies appropriated by the Legislature in accordance with the requirements of the amendment, nor does it restrict the power of the Governor and the Cabinet to adjust state funding in the event of an economic down turn. The amendment, because it does not involve itself in the day-to-day operational aspects of the operation of schools, does not alter or perform the duties or responsibilities of the school

districts. Hence, the proposed initiative "embrace[s] but one subject and the matter directly connected therewith."

The ballot title and ballot summary of the proposed initiative provide voters with fair notice of the content of the proposed amendment, do not mislead as to its purpose, and permit a voter to cast an intelligent and informed ballot. The ballot title conveys that the purpose of the amendment is to reduce the number of children in Florida's classrooms. The ballot summary advises voters of the ways in which the amendment accomplishes this purpose and the time frames within which it must be accomplished.

ARGUMENT

I. The Proposed Initiative Petition Meets the Single Subject Requirements of Article XI, Section 3 of the Florida Constitution

A. Nature and Scope of Review

This Court's role, when determining the validity of an initiative petition, is limited to two legal issues: whether the petition satisfies the single-subject requirement of Article XI, Section 3, Florida Constitution, and whether the ballot title and summary comply with the requirements of Section 101.161, Florida Statutes. *See, for example, Advisory Opinion to the Attorney General Re: Amendment to Bar Government from Treating People Differently based on Race in Public Education,* 778 So.2d 888, 890 (Fla. 2000); *Advisory Opinion to the Attorney General Re: Florida Transportation Initiative for Statewide High Speed Monorail, Fixed Guideway or Magnetic Levitation System,* 769 So.2d 367, 368-369 (Fla. 2000); *Advisory Opinion to the Attorney General Re: Right of Citizens to Choose Health Care Providers,* 705 So.2d 563, 565 (Fla. 1998); and *Advisory Opinion to the Attorney General Re: Prohibiting Public Funding of Political Candidates' Campaigns,* 693 So.2d 972, 974 (Fla. 1997).

This Court will not review the merits or wisdom of a proposed initiative amendment.

> This Court's role in these matters is strictly limited to the legal issues presented by the constitution and the relevant statutes. This Court does not have the authority or responsibility to rule on the merits or wisdom of these proposed initiative amendments….

Advisory Opinion to the Attorney General – Limited Political Terms in Certain Elective Offices, 592 So.2d 225, 227(Fla. 1991). *See, also*, *Advisory Opinion to the Attorney General Re: Florida Transportation Initiative for Statewide High Speed Monorail, Fixed Guideway or Magnetic Levitation System, supra* at 368; *Advisory Opinion to the Attorney General – Limited Casinos,* 644 So.2d 71, 75 (Fla. 1994); *and Advisory Opinion to the Attorney General Re: Tax Limitation,* 644 So.2d 486, 489 (Fla. 1994).

Article XI, Section 3, Florida Constitution, provides, in pertinent part, as follows:

> The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that any such revision or amendment, except for those limiting the power of government to raise revenues, shall embrace but one subject and matter directly connected therewith.

To comply with the single-subject requirement of Article XI, Section 3, Florida Constitution, a proposed initiative must manifest a "logical and

natural oneness of purpose." *Fine v. Firestone,* 448 So.2d 984, 990 (Fla. 1984). The two primary reasons for the single-subject requirement of Article XI Section 3, Florida Constitution, are :

(i) "to prevent what is known as 'logrolling,' which is a 'practice whereby an amendment is proposed which contains unrelated provisions, some of which electors might wish to support, in order to get an otherwise disfavored provision passed.'" *Advisory Opinion to the Attorney General Re: Florida Transportation Initiative for Statewide High Speed Monorail, Fixed Guideway or Magnetic Levitation System, supra* at 369. *See, also Advisory Opinion to the Attorney General Re: Limited Casinos, supra* at 73.

(ii) "to prevent a single constitutional amendment from substantially altering or performing the functions of multiple aspects of government." *Advisory Opinion to the Attorney General Re: Florida Transportation Initiative for Statewide High Speed Monorail, Fixed Guideway or Magnetic Levitation System, supra* at 369. *See, also Advisory Opinion to the Attorney General – Save our Everglades,* 636 So.2d 1336, 1340 (Fla. 1994).

Article XI, Section 3, Florida Constitution,

> protects against multiple "precipitous" and "cataclysmic" changes in the constitution by limiting to a single subject what may be included in any one amendment proposal.

Advisory Opinion to the Attorney General Re: Fish and Wildlife Conservation Commission, 705 So.2d 1351, 1353 (Fla. 1998).

Accordingly, this Court has concluded that the single-subject requirement is

> a "rule of restraint" that "was placed in the constitution by the people to allow the citizens, by initiative petition, to propose and vote on singular changes in the functions of our government structure.

Advisory Opinion to the Attorney General Re: Florida Transportation Initiative for Statewide High Speed Monorail, Fixed Guideway or Magnetic Levitation System, supra at 369. *See, also Advisory Opinion to the Attorney General Re: Prohibiting Public Funding of Political Candidates' Campaigns, supra* at 975.

B. Historical Context

This initiative petition to amend the State Constitution arises in the context of litigation which alleged that the State of Florida had failed to allocate adequate resources for its system of free education as provided for in Article IX, Section 1, Florida Constitution (1968); an effort to amend Article IX, Section 1, Florida Constitution, by initiative entitled "Requirement for Adequate Public Education Funding" in response to that litigation; and the 1998 amendment of Article IX, Section 1, Florida Constitution, by the electorate's approval of Revision 6 proposed by the Constitution Revision Commission.

Article IX, Section 1, Florida Constitution (1968), provided as follows:

> Adequate provision shall be made by law for a uniform system of free public schools and for the establishment, maintenance and operation of institutions of higher learning and other public education programs that the needs of the people may require.

In *Coalition for Adequacy and Fairness in School Funding v. Chiles,* 680 So.2d 400 (Fla. 1996), this Court concluded that Article IX, Section 1, Florida Constitution (1968), "committed the determination of 'adequacy' to the legislature, and that there is a 'lack of judicially discoverable and manageable standards' to apply to the question of 'adequacy.'" 680 So.2d at 408. This Court held that "the Legislature has been vested with enormous discretion by the Florida Constitution to determine what provision to make for an *adequate* and uniform system of free public education." (emphasis added) 680 So.2d at 408. One commentary has concluded that the Court's decision effectively made the issue of whether "adequate provision" has been made for public education a nonjusticiable political issue. Buzzett, William A. and Kearney, Deborah K., "Commentary to 1998 Amendment" of Article IX, Section 1, Florida Constitution, 26A *Fla. Jur.* p. 15 (2001 Cumulative Annual Pocket Part).

In *Advisory Opinion to the Attorney General Re: Requirement for Adequate Public Education Funding,* 703 So.2d 446 (Fla. 1997), this Court considered an initiative petition requiring that a minimum of forty percent

of total state appropriations, not including lottery proceeds or federal funds, be directed to public education. While the Court concluded that the initiative violated the single-subject requirement by substantially affecting separate, distinct functions of government and multiple provisions of the State Constitution, Justice Anstead, writing in dissent, noted that the Court, in its consideration of the *Coalition for Adequacy and Fairness in School Funding v. Chiles* case, "would have been greatly aided if there had been express statement in the constitution defining 'adequate provision' to guide us." *Advisory Opinion to the Attorney General Re: Requirement for Adequate Public Education Funding, supra* at 450 (Anstead, J., dissenting).

In 1998, the Constitution Revision Commission placed before the electorate Revision 6, which amended Article IX, Section 1, Florida Constitution (1968), by

> (1) making education a "fundamental value; (2) making it a paramount duty of the state to make adequate provision for the education of children, and (3) defining "adequate provision" by requiring that the public school system be "efficient, safe, secure, and high quality."

Buzzett, William A. and Kearney, Deborah K. *supra.* The establishment of the "efficient, safe, secure and high quality standards" was an effort by the Constitution Revision Commission in direct response to the *Coalition for*

Adequacy and Fairness in School Funding v. Chiles and the *Advisory Opinion to the Attorney General Re: Requirement for Adequate Public Education Funding* cases. Buzzett, William A. and Kearney, Deborah K. *supra.*

As amended by the electorate in 1998, the Article IX, Section 1, Florida Constitution, provides as follows:

> Section 1. Public Education. - -
>
> The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.

The proposed initiative, by express statement, defines, in part, what is required "by law" to satisfy the "high quality" prong of the "adequacy" standard set forth in Article IX, Section 1, Florida Constitution (1998). The proposed initiative further defines what is required by the Legislature to carry out the "paramount duty of the state to make adequate provision for the education of all children residing within the its borders," in the limited area of funding all needed costs associated with lowering the number of students

in Florida classrooms to levels prescribed in the amendment. Although the proposed initiative may have broad ramifications, it only deals with one subject and does not alter or perform multiple functions of government. As such, it complies with the single subject requirement of Article XI, Section 3, Florida Constitution. The the sole and exclusive purpose of the proposed amendment is to place a duty on the Legislature to provide for funding public school classrooms at certain levels, measured by standards set forth in the proposed initiative.

The sponsors of the initiative amendment believe that specific levels for public school classroom funding need to be established in the State Constitution. Smaller classes lead to better education. Smaller classes mean more individual attention for students, more orderly classrooms, and a better learning environment. Smaller classes result in students receiving more individual attention; fewer disciplinary problems; greater and deeper coverage of academic content; and increased teacher morale. Establishment of class size funding levels in the State Constitution will assist in fleshing-out Florida's constitutional guarantees "for a uniform, efficient, safe, secure, and high quality system of system of free public schools that allows students to obtain a high quality education." Article IX, Section 1, Florida Constitution.

C. Governor's Veto Power and Balanced Budget Requirements

In his petition forwarding the proposed initiative amendment to the Court, the Attorney General has argued that the initiative

> would affect the Governor's veto power by preventing the Governor from vetoing any appropriation that furthers this mandate. It would likewise affect the ability of the Governor and Cabinet to reduce the state budget in compliance with Article VII, Section 1(d), Florida Constitution, in the event of any revenue shortfall.

Letter to The Honorable Charles T. Wells from Robert A. Butterworth, November 7, 2001, p. 6.

The Governor's veto power over appropriations is set out in Article III, Section 8, Florida Constitution, as follows:

> The governor may veto any specific appropriation in a general appropriation bill, but may not veto any qualification or restriction without also vetoing the appropriation to which it relates.

Article VII, Section 1(d), Florida Constitution, provides: "Provision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period." When revenues are insufficient to defray the expenses of the state, Article IV, Section 13, Florida Constitution, provides, in pertinent part, as follows:

> In the event of revenue shortfalls, as defined by general law, the governor and cabinet may establish all necessary reductions in the state budget in order to comply with the provisions of Article VII, Section 1(d).

The Attorney General's initial concern appears to be rooted in this Court's decision in *Advisory Opinion to the Attorney General Re: Requirement for Adequate Public Education Funding, supra.* In that case, the proposed initiative defined "adequate provision for funding in public education" as the "appropriation of at least a minimum percentage (40%) for public education from the total appropriations under Article III in each fiscal year, not excluding lottery proceeds or fiscal funds." *Advisory Opinion to the Attorney General Re: Requirement for Adequate Public Education Funding, supra* at 447. This Court concluded that under the proposed amendment,

> the Governor would be unable to veto any specific appropriation within the forty-percent educational appropriation if the veto would reduce the education appropriation to less than the required forty percent.

Advisory Opinion to the Attorney General Re: Requirement for Adequate Public Education Funding, supra at 449. Likewise, this Court concluded that the proposed amendment

> would affect the function of the Governor and the Cabinet pursuant to article IV, section 13 of the Florida

> Constitution, as to reducing the State budget in compliance with the provisions of article VII, section 1(d) of the Florida Constitution, in the event of a revenue shortfall.

Advisory Opinion to the Attorney General Re: Requirement for Adequate Public Education Funding, supra at pp. 449-450.

The proposed initiative before the Court maintains complete separation between legislative and executive functions of the appropriations process. The proposed initiative only requires legislative action: "To assure that children attending public schools obtain a high quality education, the legislature shall make adequate provision to ensure that…" there is funding for sufficient classrooms so that there be a maximum number of students in public school classes for various grade levels. The proposed initiative does not limit the Governor's veto power in any way.

In contrast, the language of the education funding amendment in *Advisory Opinion to the Attorney General Re: Requirement for Adequate Public Education Funding, supra* "actually performed the appropriation function of the Legislature and removed entirely the Governor's ability to veto any portion of that appropriation." *Advisory Opinion to the Attorney General Re: Florida Transportation Initiative for Statewide High Speed Monorail, Fixed Guideway or Magnetic Levitation System, supra* at p. 370.

If a Governor chooses to veto the funds appropriated by the Legislature to reduce class size, the remedy for the actions of the Governor will lie in a political forum, not in a judicial forum.

The provisions of the proposed initiative do not exist in isolation. If adopted by the people, its provisions must be read *in pari materia* with other provisions of the State Constitution to ensure that a consistent and logical meaning be given to each provision. *See, Advisory Opinion to the Governor – 1996 Amendment 5 (Everglades),* 706 So.2d 278, 281 (Fla. 1997). Currently, Article III, Section 8, Florida Constitution, sets forth the Governor's power to veto appropriation items. Article IV, Section 13, Florida Constitution, and Article VII, Section 1(d), Florida Constitution, sets forth the power of the Governor and Cabinet to make budget reductions in the event of a budget shortfall. None of these provisions are expressly repealed or modified by the provisions of the proposed initiative amendment. The possibility that an amendment might interact with other parts of the State Constitution is not a sufficient reason to invalidate a proposed amendment. *Advisory Opinion to the Attorney General English – The Official Language of Florida,* 706 So.2d 11, 12-13 (Fla. 1988). As such, the provisions of the proposed initiative do not limit or otherwise restrict the ability of a Governor to veto appropriations of the Legislature to reduce

class size nor do they limit the powers of the Governor and Cabinet to make budget reductions in the event of a budget shortfall.

Finally, even in the event the Court concludes that the proposed initiative would place some restrictions or limits as on the veto power regarding the budget for monies necessary to reduce class size as argued by the Attorney General, such restriction is not

> the type of "precipitous" or cataclysmic" change prohibited by the single subject restriction. Such a restriction, unlike the adequate public funding amendment, would not in any event "*substantially* alter" the Governor's powers or "perform multiple functions of government."

Advisory Opinion to the Attorney General Re: Florida Transportation Initiative for Statewide High Speed Monorail, Fixed Guideway or Magnetic Levitation System, supra at p. 371.

D. Effect on Government Functions of District School Boards

The Attorney General has argued that the initiative "would substantially affect the functions historically carried out by the district school boards." Letter to The Honorable Charles T. Wells from Robert A. Butterworth, November 7, 2001, p. 7. In support of this argument, the Attorney General states

> [t]he lowering of class sizes will necessitate an increase in the number of classes, thereby requiring in some cases the construction of new classrooms and schools. Such decisions which are normally within the discretion of the local school would now be effectively dictated by the amendment.

Letter to The Honorable Charles T. Wells from Robert A. Butterworth, November 7, 2001, p. 6.

This Court has held that "a proposed amendment can meet the single-subject requirement even though it affects multiple branches of government." *Advisory Opinion to the Attorney General – Limited Casinos, supra* at 74. In fact, this Court has stated that it is "difficult to conceive of a constitutional amendment that would not affect other aspects of government to some extent." *Advisory Opinion to the Attorney General – Limited Casinos, supra* at 74. This Court has approved initiative proposals that have affected multiple branches of government. *See, for example, Weber v. Smathers,* 338 So.2d 819 (Fla. 1976) and *Advisory Opinions to the Attorney General – Limited Political Terms in Certain Elective Offices, supra*. "Although a proposal may *affect* several branches of government and still pass muster, no single proposal can substantially *alter* or *perform* the functions of multiple branches." (footnote omitted) *Advisory Opinion to the*

Attorney General – Save our Everglades, supra at 1340.

Notwithstanding the Attorney General assertions, the proposed initiative in no way substantially alters or performs a function of the district school boards. Rather, it furthers the already established statutory goal of the Legislature and each school district that

> each elementary school in the school district beginning with kindergarten through grade three class sizes not to exceed 20 students, with a ratio of one full-time equivalent teacher per 20 students; except that only in the case of critically low-performing schools as identified by the Commissioner of Education, the goal in kindergarten through grade three shall be a ratio of one full-time equivalent teacher per 15 students.

Section 236.687, Florida Statutes (2001).

Article IX, Section 4(a), Florida Constitution, provides that each county shall constitute a school district and that in each school district there shall be a school board. Article IX, Section 4(b), Florida Constitution, provides for the constitutional duties of the school boards as follows:

> The school board shall operate, control and supervise all free public schools within the school district and determine the rate of school district taxes within the limits prescribed herein.

The proposed initiative will not alter or perform the function of the school board to "operate, control or supervise all free public schools within the school district." District school boards, as a function of the amendment, will not be compelled to construct new classrooms or schools in accordance with

any particular model or educational theory. District school boards will remain free, within legislatively prescribed guidelines currently in effect, to operate, control and supervise public education within their districts. Only the Legislature, in the manner, in which it provides funding for school classrooms will be affected.

The proposed initiative amendment addresses only portion of the myriad of factors considered by the Legislature in funding public education in this state. Day to day operation, control and supervision of the public schools by the district school boards is not affected by the amendment. The role and function of the district school boards within the current constitutional and statutory framework will not be changed. The Legislature, likewise will remain free, to enact educational reforms as it sees fit.

II.The Proposed Ballot Title and Summary Comply with Section 106.161, Florida Statutes

1. Nature and Scope of Review

Section 101.161, Florida Statutes (2001), provides as follows:

> (1) Whenever a constitutional amendment or other public measure is submitted to the vote of the people, the substance of such amendment or other public measure shall be printed in clear and unambiguous language on the ballot after the list of candidates…Except for amendments and ballot language proposed by joint resolution, the substance of the amendment or other public measure shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of.

Section 101.161, Florida Statutes, requires that the ballot title and ballot summary state in clear and unambiguous language the primary purpose of the amendment. *Advisory Opinion to the Attorney General Re: People's Property Rights Amendments Providing Compensation for Restricting Real Property Use May Cover Multiple Subjects,* 699 So.2d 1304, 1307 (Fla. 1997). "[T]he title and summary need not explain every detail or ramification of the proposed amendment." *Advisory Opinion to the Attorney General Re: Prohibiting Public Funding of Political Candidates' Campaigns, supra* at 975. "[T]he ballot summary is not required to include all possible effects … nor 'to explain in detail what the proponents hope to accomplish.' *Advisory Opinion to the Attorney General English – The Official Language of Florida, supra* at 13. ." *Advisory Opinion to the Attorney General Re: Tax Limitation,* 673 So.2d 864, 868 (Fla. 1996). As stated by this Court:

> [I]t is sufficient that the ballot summary clearly and accurately sets forth the general rule to be applied and

> informs the voters of the chief purpose of the proposal so that an informed decision is possible.

Advisory Opinion to the Attorney General Re: Tax Limitation, supra at 868.

The Court has distilled the statutory language to its essence: "[T]he ballot title and summary…must state in clear and unambiguous language the chief purpose of the amendment." *Advisory Opinion to the Attorney General – Save our Everglades, supra* at 1341. *See, also Advisory Opinion to the Attorney General Re: Stop Early Release of Prisoners,* 661 So.2d 1204, 1206 (Fla. 1995). "This is so the voters will have fair notice of the content of the proposed amendment, will not be misled as to its purpose, and can cast an intelligent and informed ballot." *Advisory Opinion to the Attorney General – Save our Everglades, supra* at 1341. *See, also Advisory Opinion to the Attorney General Re: Stop Early Release of Prisoners, supra* at 1206.

B.Alleged Deficiencies

The Attorney General questions whether the ballot summary is defective in two respects. First, he suggests that the ballot summary could be misleading:

> The ballot summary states that the amendment proposes to require the Legislature to provide funding for sufficient classrooms "so that there be a maximum

> number of students in public school classes for various grade levels." This language could lead voters to believe that the amendment requires certain number of students in each class ("so that there be a maximum number of students"), rather than seeking to reduce the number of students to a certain level.

Letter to The Honorable Charles T. Wells from Robert A. Butterworth, November 7, 2001, p. 3. Second, he notes that "the summary does not advise that the voter that its terms do not apply to 'extracurricular classes.'" Letter to The Honorable Charles T. Wells from Robert A. Butterworth, November 7, 2001, p. 4.

The ballot title and ballot summary of the proposed initiative provide voters with fair notice of the content of the proposed amendment, do not mislead as to its purpose, and permit a voter to cast an intelligent and informed ballot. The ballot title "Florida's Amendment to Reduce Class Size" conveys that the purpose of the amendment is to reduce the number of children in Florida's classrooms. The ballot summary advises voters of the ways in which the amendment accomplishes this purpose. It summarizes the four major prongs of the proposed amendment: To require that the Legislature provide funding so that there be a maximum number of students in public school classrooms for various grade levels; to require compliance with these funding requirements by the beginning of the 2010 school year; to

require that the Legislature, and not the local school districts, pay for the costs associated with reducing class size as provided in the amendment; and to provide for phased-in funding to achieve the required maximum class size.

From a reading of the ballot title and ballot summary, there should be no confusion on the part of a voter on what the proposed amendment intends. The proposed amendment places a duty on the Legislature to provide for funding public school classrooms at certain levels, measured by standards set forth in the proposed initiative (in prekindergarten through grade 3, at no more than 18 students; in grades 4 through 8, at no more than 22 students; and in grades 9 through 12, at no more than 25 students). The responsibility for funding public school classrooms at the levels set forth in the amendment is the responsibility of the State Legislature, and not the local school districts. While full compliance with the funding levels set forth in the amendment is not required until the beginning of the 2010 school year, the summary states that there is a schedule for phased-in funding to achieve the public school classroom levels required by the amendment (beginning with the 2003-2004 fiscal year, the Legislature shall provide funding to reduce the average number students in each classroom by two students per year until the levels established in the amendment are

achieved). The ballot title and summary sets forth these purposes in clear and unambiguous language.

The fact that the ballot summary does not advise voters that the proposed initiative does not apply to "extracurricular activities" does not make the ballot summary deceptive or misleading. Section 101.161(1), Florida Statutes(2001), requires an explanatory statement of the "chief purpose" of the proposed amendment, in not more than 75 words. "[T]he title and summary need not explain every detail or ramification of the proposed amendment." *Advisory Opinion to the Attorney General Re: Prohibiting Public Funding of Political Candidates' Campaigns, supra* at 975. Nor are they "required to include all possible effects…, nor to 'explain in detail what the proponents hope to accomplish.'" *Advisory Opinion to the Attorney General Re: Tax Limitation, supra* at 868. "The seventy-five word limit placed on the ballot summary as required by statute does not lend itself to an explanation of all a proposed amendment's details." *Advisory Opinion to the Attorney General – Limited Casinos, supra* at 75.

Reference to this exemption would not otherwise cure the Attorney General's concern that " [a] voter may not be aware that the Legislature could affect the impact of the amendment by redefining what constitutes 'extracurricular classes.'" Letter to The Honorable Charles T. Wells from

Robert A. Butterworth, November 7, 2001, p. 4. The sponsors of the amendment chose not to define "extracurricular classes" out of deference to the single-subject requirement of the State Constitution – the sole and exclusive purpose of the proposed amendment is to place a duty on the Legislature to provide for funding public school classrooms at certain levels, measured by standards set forth in the proposed initiative.

CONCLUSION

For the reasons stated herein, this Court should find that the initiative petition presented to the Court for its review meets the requirements of Article IX, Section 3, Florida Constitution, and Section of Section 101.161, Florida Statutes, for submission to the electorate.

Dated: December 7, 2001.

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CERTIFICATE OF SERVICE

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on this 7th day of December, 2001.

Mark Herron

CERTIFICATE OF COMPLIANCE

I certify that the foregoing Amended Initial Brief of Appellant has been prepared in Times New Roman 14 point font in compliance with Rules 9.210(a)(2) and 9.100(l), Florida Rules of Appellate Procedure.

Mark Herron