

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SJR 2392

SPONSOR: Judiciary Committee, Senators Atwater and Smith

SUBJECT: Constitutional Amendments or Revisions; Passage Requirements

DATE: March 16, 2004      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fox</u>	<u>Rubinas</u>	<u>EE</u>	<u>Fav/1 amendment</u>
2.	<u>Lang</u>	<u>Lang</u>	<u>JU</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>RC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Committee Substitute for Senate Joint Resolution 2392 increases the current affirmative vote requirement for approval of a proposed constitutional amendment or revision, however proposed, from a simple majority of those voting on the amendment to a 3/5, or 60 percent, affirmative vote.

The committee substitute for the joint resolution also adds a new section to the Schedule in the state constitution to provide that the change to a supermajority vote requirement shall take effect upon approval by the electors and shall apply only to an amendment filed after 12 p.m., July 16, 2004.

The committee substitute for the joint resolution is accompanied by an implementing bill, SB 2398. Senate Bill 2398 would place the proposed supermajority amendment on the August 31 primary election ballot. Senate Bill 2398 must pass each house of the legislature by a 3/4 majority. If SB 2398 is enacted and CS/SJR 2392 is approved by the electors, the supermajority requirement would apply to proposed amendments on the November general election ballot except those filed on or before 12 p.m., July 16, 2004.

If SB 2398 is not enacted by the Legislature, but the Legislature enacts CS/SJR 2392, then the proposed amendment would appear on the November general election ballot. In this case, CS/SJR 2398 would have no effect on any other proposed amendments on the ballot with it.

The committee substitute for the joint resolution embodies a recommendation of the Senate Select Committee on Constitutional Amendment Reform.

The committee substitute for the joint resolution amends or creates the following sections of the Florida Constitution: section 5, Article XI; section 26, Article XII.

## II. Present Situation:

Article XI of the Florida Constitution provides for five methods amending the Constitution. They are: 1) proposal by the Legislature; 2) revision commission; 3) initiative; 4) constitutional convention; and 5) taxation and budget reform commission.

Article XI, s. 1 of the Florida Constitution provides for proposed changes to the Constitution originating with the Legislature:

**SECTION 1. Proposal by legislature.**--Amendment of a section or revision of one or more articles, or the whole, of this constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the legislature. The full text of the joint resolution and the vote of each member voting shall be entered on the journal of each house.

### Margin of Approval by Electors

The Constitution provides that a proposed amendment or revision must pass by a simple majority of electors voting on the measure.<sup>1</sup>

### Submission to Electors

A proposed amendment to the Constitution may be submitted to the electors at two different times. The default provision is that a proposed amendment is submitted to the electors at the next general election more than 90 days after the proposed amendment is filed.<sup>2</sup> However, the Legislature can move up the date of submission to the electors of a single amendment by enacting a law providing for submission at an earlier special election more than 90 days after the proposed amendment is filed.<sup>3</sup>

### Effective Date of Amendment

An amendment approved by the electors may take effect at two different times. The default provision is that an approved amendment is effective on the first Tuesday after the first Monday in January following the election.<sup>4</sup> An amendment also may be effective on another date specified in the amendment.<sup>5</sup>

Under s 101.161(1), F.S., the ballot statement for a joint resolution is not limited to 75 words, but the ballot title may not exceed 15 words.

<sup>1</sup> The actual language in the Constitution provides that a proposed amendment or revision must be approved by “vote of the electors,” defined as “... the majority of those voting on the matter in the election, general or special ...”. Art. XI, s. 5(d); Art. X, s. 12(d), FLA CONST.

<sup>2</sup> Art XI, s. 5(a)

<sup>3</sup> *Id.*

<sup>4</sup> Art XI, s. 5(d)

<sup>5</sup> *Id.*

**III. Effect of Proposed Changes:**

Committee Substitute for Senate Joint Resolution 2392 amends Art. XI, s. 5(d), to increase the required vote to approve a proposed constitutional amendment or revision, however proposed, from a simple majority of those voting on the proposal, 50 percent plus one vote, to 3/5, i.e., 60 percent.

Committee Substitute for Senate Joint Resolution 2392 creates s. 26 in Art. XII, the Schedule of the constitution. Under the new section in the Schedule, the supermajority amendment takes effect upon approval of the electors, but applies only to those amendments or revisions filed for ballot placement after 12 p.m., July 16, 2004.

Unless CS/SJR 2392 is adopted by the electors at a special election preceding the November 2004 general election, the requirement of supermajority for passage would not apply to any other constitutional amendment or revision on the November 2004 general election ballot simultaneously with CS/SJR 2392, regardless of when the other measure was filed.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

Each constitutional amendment is required to be published in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week preceding the general election. Costs for advertising vary depending upon the length of the amendment. However, the publication cost per amendment is estimated to be approximately \$35,000.

**VI. Technical Deficiencies:**

None. See Amendment #1 traveling with the SJR.

**VII. Related Issues:**

As noted above, CS/SJR 2392 is linked to SB 2398. Passage of SB 2398 would place CS/SJR 2392 on the August 2004 primary election ballot for consideration by the voters. If SB 2398 fails to pass, CS/SJR 2392 would still appear on the November 2004 general election ballot. If CS/SJR 2392 appears on the November 2004 general election ballot, all constitutional amendments on the November ballot simultaneously with it would only need a simple majority for adoption, irrespective of whether such other measure was certified for ballot placement after 12 p.m., July 16, 2004.

**VIII. Amendments:**

None.