

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: SB 2398

SPONSOR: Senators Atwater and Smith

SUBJECT: Constitutional Amendments and Revisions; Passage Requirements; Special Election

DATE: March 9, 2004 REVISED: 03/11/04 _____

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

I. Summary:

Senate Bill 2398 authorizes a special election to be held concurrently with the August 31, 2004 primary election, for the purpose of submitting Senate Joint Resolution 2392 to the voters. That joint resolution increases the threshold for passage of proposed constitutional amendments and revisions from a simple affirmative majority of those voting on a measure (50 percent plus one vote) to 60 percent (3/5ths) of those voting on the measure, excluding those measures certified for ballot placement by June 1, 2004.

The bill embodies a recommendation of the Senate Select Committee on Constitutional Amendment Reform, and takes effect upon becoming law (which requires a three-fourths (3/4ths) vote of each house of the Florida Legislature).

This bill creates unnumbered sections of the Florida Statutes.

II. Present Situation:

Most proposed constitutional amendments or revisions are submitted to the voters at a general election held more than 90 days after the amendment or revision is filed with the Secretary of State.¹ The Constitution authorizes the Legislature, however, to mandate an earlier special election to submit an amendment or revision to the electors for their consideration, provided:

- The law is adopted by a three-fourths (3/4ths) affirmative vote of each house;
- The proposed amendment or revision is limited to a single amendment or revision; and,

¹ Art. XI, s. 5(a), FLA. CONST.

- The date set for the earlier special election is more than 90 days after the proposed amendment or revision is filed with the Secretary of State.²

Staff is aware of at least one other precedential occasion where the Legislature authorized a special election on a joint resolution to coincide with another scheduled election. In 1975, the Legislature authorized Senate Joint Resolution 1061 to be placed before the voters in conjunction with the Presidential Preference Primary of March, 1976.³ That measure sought to establish a limit on local taxes to be used for water management purposes. It passed.

III. Effect of Proposed Changes:

Senate Bill 2398 authorizes a special election to be held concurrently with the August 31, 2004 primary election, for the purpose of submitting Senate Joint Resolution 2392 to the voters. That joint resolution increases the threshold for passage of proposed constitutional amendments and revisions from a simple affirmative majority of those voting on a measure (50 percent plus one vote) to 60 percent (3/5ths) of those voting affirmatively on the measure, excluding those measures certified for ballot placement by June 1, 2004.

Passage of Senate Joint Resolution 2392 at a *special election in August* would mean that any proposed amendment or revision appearing on the 2004 general election ballot or thereafter and certified for ballot placement after June 1, 2004 would require an affirmative vote of 60 percent of electors voting on the measure for passage. Conversely, passage of the Senate Joint Resolution at the *November general election* would mean that all proposed constitutional amendments and revisions appearing on the November 2004 general election ballot will require only a simple affirmative majority vote for passage; proposed amendments appearing on the 2006 general election ballot or thereafter would be required to meet the 60 percent threshold.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Constitution provides that a legislatively-authorized special election on a proposed constitutional amendment or revision must occur at least 90 days after the amendment or revision is filed with the Secretary of State. Art. XI, s. 5 (a). Thus, in order to have the

² *Id.*

³ Ch. 75-245, at 702, Laws of Fla.

special election on August 31, 2004 to coincide with the primary election, Senate Joint Resolution 2392 must be filed with the Secretary of State *no later than June 1, 2004*.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be some additional printing expenses associated with a longer ballot. But, because the special election authorized in the bill is to be run concurrently with the 2004 primary election, the fiscal impact is likely to be minimal. (In the unlikely event that a county does not have to conduct a primary election [no contested legislative primaries and no local elections tied to the primary date], however, the additional localized expense of conducting the special election could be substantial.)

VI. Technical Deficiencies:

On page 1, line 21, the linked joint resolution number “2392” needs to be inserted.

VII. Related Issues:

This bill is linked to Senate Joint Resolution 2392.

VIII. Amendments:

#1 by Ethics and Elections:
Technical; inserts missing bill number.