

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

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

Prepared By: Governmental Operations Committee

BILL: CS/CS/SJR 388

INTRODUCER: Governmental Operations Committee, Education Pre-K - 12 Committee and Senators Wilson and Bullard

SUBJECT: Commissioner of Education/Cabinet

DATE: March 8, 2007                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	Fav/CS
2.	Rhea	Wilson	GO	Fav/CS
3.			EA	
4.			RC	
5.				
6.				

**I. Summary:**

This Joint Resolution would place before the electorate the option to amend the State Constitution so that the commissioner of education would become an elected member of the state cabinet. The commissioner’s duties would be to supervise the free public education system in the manner prescribed by law. If approved, the provision would take effect January 4, 2011, with the office of Commissioner of Education filled initially at the 2010 general election.

This bill amends s. 4 of Art. IV and s. 2 of Art. IX of the State Constitution.

**II. Present Situation:**

Article IV of the State Constitution establishes the executive branch of state government and provides that the “. . . supreme executive power shall be vested in a governor.” Nevertheless, the State Constitution subdivides the executive power by providing for three elected cabinet officers, an Attorney General, a Chief Financial Officer, and the Commissioner of Agriculture.

Prior to 2003, there were six elected members on the state cabinet, which were the: (1) Attorney General; (2) Commissioner of Agriculture; (3) Comptroller; (4) Secretary of State; (5) Treasurer; and (6) Commissioner of Education. In 1998, Florida voters approved a ballot initiative that was effective January 7, 2003. This initiative retained the Commissioner of Agriculture and the Attorney General, merged the Treasurer and Comptroller into one state cabinet office called the

“Chief Financial Officer,” and removed the Secretary of State and the Commissioner of Education from the state cabinet.<sup>1</sup>

Article IX, s. 2 of the State Constitution establishes the State Board of Education and provides it with the power to supervise the system of free public education as provided by law. The board consists of seven members appointed by the Governor to staggered 4-year terms, subject to confirmation by the Senate. The board is required to appoint a commissioner of education.

Under s. 2, Art. IX of the State Constitution, the Commissioner of Education is appointed by the State Board of Education.<sup>2</sup> The Commissioner of Education serves as chief executive officer of the K-20 education system and operates in a support capacity to the State Board of Education.<sup>3</sup> Section 2 of Article IX of the State Constitution additionally grants the State Board of Education supervision over the system of free public education as provided by law.

### **III. Effect of Proposed Changes:**

This Joint Resolution would place before the electorate the option to amend the State Constitution so that a Commissioner of Education would be elected to the state cabinet. The commissioner’s duties would be to supervise the free public education system in the manner prescribed by law. Further, the Commissioner of Education would become part of the collegial head of the Florida Department of Law Enforcement.

If approved, the provision would take effect January 4, 2011, with the office of Commissioner of Education filled initially at the 2010 general election.

As required by s. 101.161, F.S., this bill provides a ballot statement, including a ballot title.

### **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:**

Under s. 1, Art. XI, of the State Constitution, constitutional amendments may be proposed by joint resolution agreed to by three-fifths of the membership of each house of

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<sup>1</sup> Ballot Initiative Number 8, Passed Nov. 3, 1998.

<sup>2</sup> Section 2, Article IX of the State Constitution.

<sup>3</sup> Section 1000.03(2)(c), F.S.

the Legislature. The proposed amendment must then be submitted to the electors at the next general election held more than 90 days after the joint resolution is filed with the custodian of state records. Submission of the amendment at an earlier special election requires both affirmative vote of three-fourths of the membership of each house of the Legislature and limitation to a single amendment or revision, pursuant to s. 5 of Art. XI of the State Constitution.

Regarding the standard of review for amendments that are proposed by the Legislature, the Florida Supreme Court has typically applied a presumption of validity to these amendments.<sup>4</sup>

Paragraph (e) of s. 5, Art. XI, of the State Constitution, requires 60 percent voter approval for a constitutional amendment to pass.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>4</sup> Thomas R. Rutherford, *The People Drunk Or The People Sober? Direct Democracy Meets the Supreme Court of Florida*, 15 STTLR 61, 75 (2002).



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## **VIII. Summary of Amendments:**

None.

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