

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 61 Percentage of Elector Votes Required to Approve Constitutional Amendment or Revision

SPONSOR(S): Roth

TIED BILLS: **IDEN./SIM. BILLS:** SJR 1238

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Public Integrity & Elections Committee		Pardo	Rubottom
2) Judiciary Committee			

SUMMARY ANALYSIS

Florida voters can amend the State Constitution by approving an amendment or revision originating from one of five sources: the Legislature, the Constitution Revision Commission, the Taxation and Budget Reform Commission, a citizen initiative, or a constitutional convention. For an amendment or revision to become effective, at least sixty percent of the voters voting on the measure must approve it.

HJR 61 changes the vote threshold required to approve an amendment or revision from sixty to sixty-six and two-thirds percent.

The joint resolution has a nonrecurring fiscal impact on the Department of State for the publication of the proposed constitutional amendment in newspapers of general circulation in each county and for publication of booklets or posters with the amendment language for use in polling places.

The joint resolution, if passed by the Legislature, would be considered by the electorate at the next general election on November 8, 2022. If adopted at the 2022 general election, the resolution would take effect January 3, 2023.

A joint resolution proposing an amendment to the Florida Constitution must be passed by three-fifths of the membership of each house of the Legislature to appear on the next general election ballot. If placed on the ballot, the Constitution requires sixty percent voter approval for passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Constitution is the charter of the liberties of Floridians.¹ It may be amended only if the voters approve an amendment or revision originating from the Legislature, the Constitution Revision Commission (CRC), the Taxation and Budget Reform Commission (TBRC), a citizen initiative, or a constitutional convention.² Any initiative proposed by the people must embrace only one subject,³ but proposals that originate from the other sources are not so limited.⁴

After the Legislature, CRC, TBRC, citizen initiative, or constitutional convention successfully proposes an amendment or revision, the measure is placed on the ballot at the next general election,⁵ which occurs every even-numbered year on the first Tuesday after the first Monday in November.⁶ The proposed amendment or revision must be published twice in newspapers of general circulation, once in the tenth week preceding the election and once in the sixth week, to notify the voters of the measure.⁷

If at least sixty percent of the voters⁸ voting on the measure approve it, the measure passes and becomes part of the state Constitution.⁹ Since adopting the 60% threshold in 2006, electors have voted on 50 proposed amendments.¹⁰ Voters have approved 31 and rejected 19.¹¹

An approved amendment or revision becomes effective the first Tuesday after the first Monday in January following the election, unless otherwise specified.¹²

Effect of Proposed Changes

HJR 61 changes the vote threshold required for approving a Constitutional amendment or revision from sixty percent of the voters voting on the measure to sixty-six and two-thirds percent of the voters voting on the measure. Of the 31 measures that have passed since the 60% threshold was implemented in 2006, only 14 would have been passed under the sixty-six and two thirds requirement.

In addition, HJR 61 carves out an exception and provides that the repeal of an amendment only requires the approval by vote of at least the same percent of such electors as was required at the time of passage of such amendment or revision. So for example, any amendment and revision passed prior to 2006 can be repealed by a simple majority of electors voting on the measure. Any amendment passed from 2006-2020 would require a 60% threshold requirement.

The joint resolution must pass each chamber with a three-fifths vote before it may be placed on the ballot. The joint resolution, if passed by the Legislature, would be considered by the electorate at the

¹ *Browning v. Florida Hometown Democracy, Inc., PAC*, 29 So. 3d 1053, 1064 (Fla. 2010) (internal citations omitted).

² Art. XI, Fla. Const.

³ Art. XI, s. 3, Fla. Const.

⁴ Art. XI, ss. 1, 2, 4, and 6, Fla. Const.

⁵ Art. XI, s. 5(a), Fla. Const.

⁶ Art. VI, s. 5(a), Fla. Const.

⁷ Art. XI, s. 5(d), Fla. Const.

⁸ In 2005, the Legislature passed HJR 1723, which proposed a constitutional amendment raising the vote threshold for the approval of a constitutional amendment from a majority of voters voting on an amendment to sixty percent of voters voting on an amendment. The amendment was placed on the ballot in the 2006 general election and passed with 57.8 percent of the vote. See 2006 Election Results, DEPARTMENT OF STATE, available at <https://results.elections.myflorida.com/Index.asp?ElectionDate=11/7/2006&DATAMODE=> (last visited March 24, 2021).

⁹ Art. XI, s. 5(e), Fla. Const.

¹⁰ Am. HJR 1723, 2005, was adopted by the voters in 2006.

¹¹ Florida Div. of Elections, Initiatives/Amendments/Revisions Database, available at <https://dos.elections.myflorida.com/initiatives/> (last accessed March 24, 2021).

¹² *Id.*

next general election on November 8, 2022, where sixty percent of the electors voting must approve it. If approved, the amendment will take effect January 3, 2023.

B. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, s. 5(d) of the Florida Constitution requires publication of a proposed amendment in a newspaper of general circulation in each county. The Division of Elections (Division) within the Department of State must advertise the full text of the amendment twice in a newspaper of general circulation in each county where the amendment will appear on the ballot. The Division must also provide each supervisor of elections with either booklets or posters displaying the full text of each proposed amendment,¹³ regardless of whether the amendment passes.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

¹³ S. 101.171, F.S.
STORAGE NAME: h0061.PIE
DATE: 3/26/2021

Not applicable. The mandates provision applies only to a general law, not to a joint resolution to amend the Constitution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES