

FSBA Issue Brief: Amending the Florida Constitution

Florida provides more pathways than any other state for amending the state constitution but requires that any amendment must be approved by 60% of voters in order to be enacted. . Article XI of the Florida Constitution sets forth the 5 different mechanisms by which the state constitution may be amended.

Constitutional Convention

This method of constitutional amendment is available in 44 states. In Florida, only the public has the power to call a constitutional convention. The process is lengthy and requires several steps. To begin, a petition declaring that a constitutional convention is desired must be signed by 15% of the electors in half of Florida's 27 congressional districts (14 of the 27 districts) and of the state as a whole and then must be submitted. Then, at the next general election, a question must be placed on the ballot asking "Shall a constitutional convention be held?" If a majority votes in the affirmative, at the next general election, a representative from each congressional district must be elected to serve at the constitutional convention. Once elected, the representatives meet for approximately 18 months to consider possible revision(s) to all or part of the constitution. At the next general election, the convention's proposed constitutional revision(s) are placed on the ballot for consideration by the electors.

Citizen Initiative

This method of constitutional amendment is available in 24 states. In Florida, the citizen initiative process is subject to several restrictions and involves several steps. First, the individual or group wishing to propose an amendment must register as a political committee. The political committee then must submit the proposed amendment petition to the Division of Elections for review to ensure that the amendment and petition meet specified criteria for format and wording. After passing this hurdle, the petition containing the proposed amendment must be signed by 8% of the electors in each of one half of Florida's 27 congressional districts and of the state as a whole. Once a certain threshold of signatures have been obtained, the proposed amendment must be reviewed by the Florida Supreme Court to ensure that it meets several requirements, including the requirement that the proposal addresses a single subject. In addition, a fiscal impact statement must be prepared by the Florida Financial Impact Estimating Conference. Once these requirements are met, at the next general election, the proposed constitutional revision is placed on the ballot for consideration by the electors.

Proposal by the Legislature

This method of constitutional amendment is available in 49 states. In Florida, amendment of all or part of the constitution may be proposed by joint resolution agreed to by three-fifths of the membership in each chamber of the legislature. At the next general election, any proposed revision(s) are placed on the ballot for consideration by the electors.

Proposal by the Taxation and Budget Reform Commission

This method of constitutional amendment is available only in Florida. The Commission meets every 20 years (next meeting in 2027) and is comprised of 25 members appointed by the Governor, Speaker of the House, and President of the Senate (none of whom may be members of the Florida Legislature), and 4 non-voting ex officio members (all of whom

must be members of the Florida Legislature). The Commission has approximately 18 months to examine a variety of budget, tax, revenue, and expenditure issues, hold public hearings, and develop any proposed statutory and constitutional revisions. At the next general election, any proposed constitutional revision(s) are placed on the ballot for consideration by the electors.

Proposal by the Constitution Revision Commission

This method of constitutional amendment is available only in Florida. The Commission meets every 20 years (next meeting in 2017) and is comprised of the Florida Attorney General and 36 members appointed by the Governor, Speaker of the House, President of the Senate, and Florida Supreme Court. The Commission has approximately 18 months to examine the constitution, hold public hearings, and develop any revisions. At the next general election, any proposed revision(s) are placed on the ballot for consideration by the electors.

Additional Notes on Constitutional Amendments

Regardless of the method by which an amendment is proposed, any revision may be challenged in court by any individual or group that believes that the title, summary, or content of a proposed amendment is unclear, misleading, or otherwise questionable. If the court(s) agree with the challengers, the proposed amendment is not placed on the general election ballot, or, in a case where ballots have already been printed prior to the court's decision, any votes cast on the measure are not counted.

Also, unless otherwise specified, an approved amendment to the Florida Constitution goes into effect on the first Tuesday after the first Monday in January following the election in which it was adopted.

There are many that might complain that Florida's constitution is littered with a variety of provisions that are the result of citizen initiatives that might be placed more appropriately in state statutes rather than in the state constitution. Unfortunately, Florida is among 28 states that do not provide a citizen initiative process for creating or amending state statutes. As a result, the Florida Constitution provides the only means by which the public can enact law.