



Elections in the Sunshine

Florida Fair Elections Coalition¹

Position Paper on Proposed Amendment to the Florida Constitution Guaranteeing the Right to Vote by Secret Ballot

House Joint Resolution HJR 1013 and identical Senate Joint Resolution SJR 1908 read as follows:

ARTICLE I DECLARATION OF RIGHTS SECTION 28. Fundamental right to vote by secret ballot.--The right of individuals to vote by secret ballot is fundamental. Where local, state, or federal law requires elections for public office, requires public votes on initiatives or referenda, or requires designations or authorizations of employee representation, the right of individuals to vote by secret ballot shall be guaranteed. BE IT FURTHER RESOLVED that the following statement be placed on the ballot: CONSTITUTIONAL AMENDMENT ARTICLE I, SECTION GUARANTEEING THE RIGHT TO VOTE BY SECRET BALLOT.--Proposing an amendment to the State Constitution to declare that the right of individuals to vote by secret ballot is fundamental and where local, state, or federal law requires elections for public office, requires public votes on initiatives or referenda, or requires designations or authorizations of employee representation, to guarantee the right of individuals to vote by secret ballot.

While we unequivocally support the right of every voter to cast a secret ballot, we oppose this joint resolution to amend the Florida Constitution because it is ***unnecessary and dishonest***.

The Joint Resolution is unnecessary because the right to a secret vote is already in the Florida Constitution: *ARTICLE VI, SECTION 1. Regulation of elections.--All elections by the people shall be by direct and secret vote. General elections shall be determined by a plurality of votes cast. Registration and elections shall, and political party functions may, be regulated by law; however, the requirements for a candidate with no party affiliation or for a candidate of a minor party for placement of the candidate's name on the ballot shall be no greater than the requirements for a candidate of the party having the largest number of registered voters.*

In addition, Florida Statute 101.041 already provides for a secret ballot:

101.041 Secret voting.--In all elections held on any subject which may be submitted to a vote, and for all or any state, county, district, or municipal officers, the voting shall be by secret, official ballot as provided by this code, and no vote shall be received or counted in any election, except as prescribed by this code.

And Florida Statute 101.5606(1) requires that all voting systems require voting in secrecy:

101.5606 Requirements for approval of systems.--No electronic or electromechanical voting system shall be approved by the Department of State unless it is so constructed that:

(1) It permits and requires voting in secrecy.

The Joint Resolution is dishonest because the real intent of the proposed amendment has nothing to do with guaranteeing voters' rights to a secret ballot but is instead intended to make it more difficult for employees to

¹ Florida Fair Elections Coalition is a grassroots organization founded in 2004 to fight for fair, accurate, secure, and accessible elections in Florida. You may find out more about our organization by visiting our website at www.ffec.org

unionize their workplace, as is explicitly stated in the March 18th meeting packet for the Senate Ethics and Elections Committee (page 10, Section III, “Effect of Proposed Changes”):

The resolution seeks to eliminate the right under the current National Labor Relations Act (and future amendments thereto) to form a labor union by an open, public, majority sign-up signature drive (or “card check” process) without a secret-ballot election.

The above statement, which makes it clear that a right is being eliminated instead of added, should be placed on the ballot so that voters know the true purpose of this initiative.

We understand that there is a difference of opinion regarding employees’ right to unionize. ***This does not justify the Florida Legislature sponsoring a misleading and dishonest resolution. We expect all legislators to require the highest standard of honesty in the presentation of all legislation to Florida citizens.*** In fact, we would argue that the intent of Florida law is to require just that. Florida Statute 101.161(1) begins with the following sentence:

101.161(1) Whenever a constitutional amendment or other public measure is submitted to the vote of the people, the substance of such amendment or other public measure shall be printed in clear and unambiguous language on the ballot.

Since a secret vote is already guaranteed in Florida’s Constitution, the proposed amendment clearly has a different purpose. If the Legislature proceeds with its Joint Resolution, it should do so with an accurate description of the intent and effect of the proposed Constitutional Amendment as explained in the March 18th packet of the Senate Ethics and Elections Committee.

The proposed amendment is also dishonest because, as we have been pointing out for several years, the Department of State has not enforced the “secret vote” laws that already exist. The DOS has, in fact, broken those laws by approving voting systems and procedures that routinely reveal the way that citizens vote. The DOS approved the “blended” voting system (an optical scanner in each precinct and a touchscreen in each precinct for voters with disabilities) that inherently compromises the secret ballot for disabled voters: If only one person uses the touchscreen in a precinct, or if several people use a touchscreen but vote the same way, their votes are known because there is a separate “results tape” for each touchscreen. Similarly, because of the requirement for precinct reporting for Early Voting, if only one voter from a particular precinct votes at an early voting site, that individual’s right to a secret vote is also compromised. ***These violations are not theoretical but occur regularly in all elections.***

To add the regulation and enforcement of employee elections for private corporations would be an expensive and demanding addition to the responsibilities of the Department of State. Instead, the DOS should concentrate its efforts on conducting federal, state, and local elections that conform to existing law. The DOS does not need to take on the additional responsibility – at taxpayer expense – of interfering in elections conducted by private entities.

Summary

This Joint Resolution is dishonest because it does not state the true intent of the proposed Constitutional Amendment. It is unnecessary because it is redundant – the right to a secret vote is already guaranteed in the Florida Constitution and in the Florida Statutes.