



**Sneak Preview of Policy Report #39
*Florida's Constitutional Ballot Initiatives:
Is This Any Way to Run a Government?***

By Douglas S. Bailey, Executive Vice President, The Windsor Group

Next week, The James Madison Institute will release Policy Report #39, "Florida's Constitutional Ballot Initiatives: Is This Any Way to Run a Government?" by Douglas S. Bailey.

The report will examine the history of the ballot initiative process and outline its fundamental issues: constitutional supremacy, money and interest group influence, minority rights, the "unprepared voter," and fiscal and social responsibility.

The report will recommend that Florida amend its process by creating a two-election system for all direct ballot initiatives. This model would allow for a "cool-down" period of state-driven cost and implementation analysis after an amendment is passed on the first ballot. The amendment would be submitted for voters' final approval at the next succeeding general election.

What follows is the Executive Summary of Policy Report #39. To obtain an advance copy of the Report, contact Christie Raniszewski at (800) 376-1119 or christie@jamesmadison.org.

Executive Summary

- Florida's citizen initiative process often sacrifices public interest as well as the sanctity and supremacy of our state's constitution to special interests and the ever-changing winds of popular opinion. The constitution is the people's document and our access to it should not be impeded. However, it cannot be altered to the point that government does not function properly.
- Floridians have used the popular initiative to amend the constitution 16 times since the inception of the process in 1968. The state constitution should be brief and limited to fundamental rights, free of legislative matters such as marine fishing net bans, the creation of a high-speed rail system, the reduction of class sizes, prohibitions and limitations on taxes, and protection for pregnant pigs.
- There is too much money and special-interest group influence in the state's initiative process. Voters are often uninformed and, as a result, unable to make responsible decisions at the voting booth. Minority rights are at risk, and harmful fiscal and social implications are often left unexamined.

- Amending the constitution to address the problems with the current initiative process will be a politically challenging endeavor. Floridians indicate no willingness to ratify measures sponsored by the legislature that would further restrict citizens' access to the constitution. Reforms proposed by the legislature that are aimed at increasing petition requirements or at raising the bar for ratification will only fuel the claims that elected governments are elite, self-serving, and undemocratic assemblies.
- Initiative reform aimed at creating a more responsible process and protecting the integrity and supremacy of the constitution while maintaining the citizens' access to the constitution, may seem more sensible to voters.
- The Florida legislature should consider proposing a constitutional amendment requiring a popular initiative to pass two subsequent general elections before becoming enacted. If an amendment is approved once, the Division of Elections would publish and resubmit the question to the voters at the next succeeding general election in the same manner in which the question was originally submitted.
- The citizens of Nevada overwhelmingly adopted a two-election initiative process in 1958. Since then, the Nevada Constitution has been amended through the popular initiative process eight times. In three separate cases, a ballot initiative passed its first general election and then was defeated two years later during its second general election.
- A two-election initiative process in Florida would allow for a more deliberative and thoughtful analysis of the fiscal and social implications of a proposed constitutional amendment. The voters would not be forced to make policy decisions based on sound bites, interest group or elite endorsements, and slick 30-second commercials. Instead, the interim period between the two elections would allow for legislative preemption, agency implementation and fiscal analysis, and thoughtful debate and reflection. As the potential impact of proposed amendments become apparent to the voters, fewer constitutionally irrelevant issues will meet voter approval, thus making the constitution more sacrosanct and more difficult to amend.
- A two-election system would slow the process, thus lessening the influence of high-financed or popular special interest groups, protecting the interest of minority groups, and eliminating the need for hypothetical considerations during debate. As a result, Florida voters would be better prepared and would make more informed decisions on election day.
- While maintaining the people's access to the constitution, a two-election system would address the principles of our nation's founders, who expressed trepidation over the dangers of direct democracy. American Federalists James Madison, John Jay, and Alexander Hamilton recognized that majority rule did not constitute the most meaningful expression of sovereignty. Instead, dangers associated with heat-of-the-moment popular movements would be checked by exhaustive, deliberative, and careful consideration of policy matters by elected individuals. A two-election popular initiative system would help transfer the wisdom of the Founding Fathers to the process for amending the constitution.

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CONTACT: Christie Raniszewski, (800) 376-1119*