

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
INTERIM BRIEF**



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DAILY INTERIM LEGISLATIVE BRIEF FOR JANUARY 5, 2004

CONSTITUTIONAL AMENDMENTS

The Senate Select Committee on Constitutional Amendment Reform met on Monday to hear testimony about perceived problems with the citizen initiative process and possible solutions to cure those ills.

Of the five presenters, four spoke against the current system, arguing that it undermines our system of government and trivializes the constitution. The only proponent of the status quo was John Sowinski, an Orlando-based member of the so-called political-industrial complex, a relatively small group of operatives with the know-how to enact or to defeat a ballot initiative — for a fee. Sowinski and his ilk toil in a goldmine. As he informed the committee members, supporters of casino gambling spent \$16 million on their unsuccessful 1978 effort to give a constitutional imprimatur to Las Vegas-style gambling parlors. In 1996, the opposing sides spent a combined \$35 million in an unsuccessful effort fund Everglades restoration with a newly created tax on sugar producers.

Arthur Simon, AIF's senior vice president for governmental affairs, testified about the association's concern over the ease with which interest groups can manipulate the state's constitution to their own narrow advantage. Simon told the panel that AIF supports reforms that will raise the barrier to placing initiatives on the ballot and getting them enacted. These measures would apply to the process a series of checks and balances that are a hallmark of our form of government.

One reform that AIF opposes is the exchange of a constitutional initiative process for one that would allow voters to adopt statutes. According to Simon, a statutory initiative process, comparable to the one that exists in California, had the "real potential to privatize the legislative process." Rather than negotiating with each other to reach equitable answers to thorny questions of public policy, private parties could simply gather money for a statutory initiative drive.

Wade Hopping, speaking on behalf of the Association of Florida Community Developers, outlined his research on California's statutory initiative process. Hopping referred to the process as sound-bite legislating, citing the example of a 25,000-word transportation package that was placed on the California ballot as a statutory initiative. "Someone knows what was in the package," said Hopping, "but it wasn't the California voters."

AIF does support requiring supermajority approval of constitutional amendments by voters, as long as the higher barrier is restricted to voter initiatives. Simon argued that placing a supermajority requirement on amendments proposed by lawmakers would make it too hard to amend the constitution by formal means, thereby transferring a surfeit of power to the state supreme court, which can amend the constitution by informal means.

Questioning by Senator Paula Dockery (R-Lakeland) focused in on the 32-year history of the initiative process during which a mere 20 petitions have appeared on the ballot and only 15 have been approved by the voters. Six of those, however, were enacted in the last two general elections. In other words, the problems with the initiative process are new and worsening.

This second meeting of the select committee provided a number of ideas for reform. Doug Bailey, an AIF consultant speaking on behalf of the James Madison Institute, explained the Nevada initiative system, which requires approval of an initiative in two subsequent elections. Barry Richard, a noted constitutional scholar and appellate attorney, critiqued the process, stating that voters are poorly situated to gather the data, weigh the evidence, and make reasoned decisions on matters that appear on the ballot via the initiative process.

Sifting through all the proposals to determine which hold the most promise and — perhaps most importantly — are the most politically viable is the challenge.

Please send your comments or suggestions to us at aif@aif.com or call the Governmental Affairs department at (850)224-7173.

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