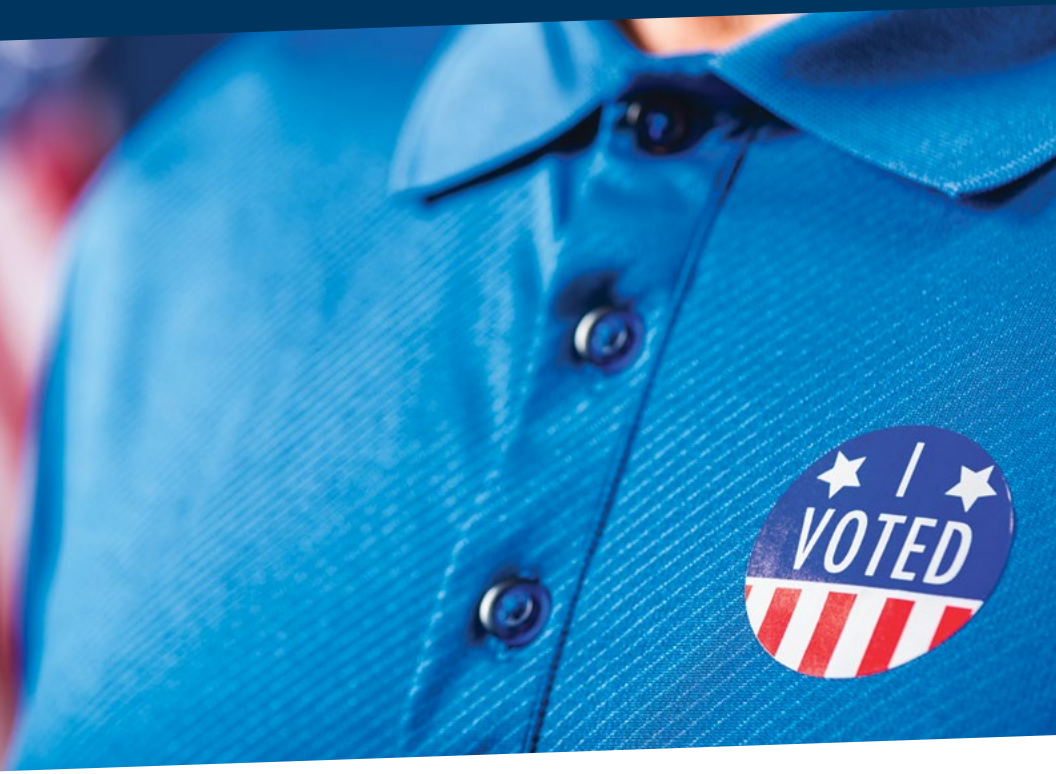
2018 FLORIDA AMENDMENT GUIDE



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A MESSAGE FROM THE PRESIDENT

Florida's history with state constitutions is storied. We have had six different constitutions over our 173 years. Our most recent constitution was ratified just 50 years ago, and we possess more ways to amend the constitution than any other state.

In most election years, ballot initiatives are fairly clear and straightforward. Not so with 2018. The actions and process of Florida's Constitution Revision Commission have resulted in a series of ballot initiatives that are more complex and require more discernment.

It is our pleasure to provide this 2018 Amendment Guide. We hope it is of value to Floridians as they begin to unpack the 13 different constitutional amendments that will be presented to them on November 6. Each amendment is unique and each should be weighed seriously because repealing any amendment that has passed would require a new ballot initiative garnering 60 percent of the vote in a subsequent election.

As always, the mission of The James Madison Institute is to inform citizens so that, together, we may chart the course of making Florida an even more prosperous state. It is in that context that we offer this analysis.

J. Robert McClure, Ph.D.
President and CEO
The James Madison Institute

INTRODUCTION

On November 6, 2018, Floridians will march to the ballot box to cast their votes. In addition to electing the next crop of public officials, the ballot tasks Floridians with passing judgment on 13 proposed constitutional amendments. The 13 amendments found on the 2018 ballot represent the highest total in 20 years. Constitutional initiatives play a pivotal role in the governance of the State, and thus warrant a heightened level of scrutiny.

Proposed constitutional amendments on the November ballot originate from three specific sources: the Florida Legislature, the citizens of Florida, and the Constitution Revision Commission (CRC). Regardless of how a measure makes it to the ballot, all amendments require a 60 percent voting majority to pass. Additionally, each source establishes different hurdles before an amendment can reach the ballot. In the legislature, 60 percent of the Florida House of Representatives and Florida Senate must agree to put the proposed amendment on the ballot. This year, the Florida Legislature passed three Amendments (1, 2, and 5) to the ballot.

The Florida Constitution also has a mechanism for a citizen initiative petition. Floridians can place proposed amendments on the ballot by gaining at least 766,200 signatures from 14 of the State's 27 congressional districts (the requirement is eight percent of the total number of votes cast in the last presidential election). Two measures made it to the ballot in this method: Amendments 3 and 4. The final source of ballot initiatives comes courtesy of a group unique to the State of Florida – the Constitution Revision Commission. The CRC meets every 20 years to examine Florida's Constitution and propose amendments. The 37-member commission spends roughly a year identifying crucial issues across the state. These issues make their way to the ballot via a committee process similar to the method in which the legislature operates. This year, the CRC proposed eight ballot initiatives (Amendments 6 through 13). However, as opposed to other methods, the CRC is not required to have single-subject amendments. Consequently, the Commission chose to combine several initiatives into "bundled" amendments.

As voters and engaged citizens of Florida, it is our civic duty to responsibly educate ourselves on important changes to the Florida Constitution. On the pages that follow, readers can find an analysis of each ballot initiative.

AMENDMENT 1

Increased Homestead Property Tax Exemption

Ballot Language: Proposing an amendment to the State Constitution to increase the homestead exemption by exempting the assessed valuation of homestead property greater than $100,000 and up to $125,000 for all levies other than school district levies. The amendment shall take effect January 1, 2019.

How The Amendment Reached The Ballot: Florida State Legislature

What Your Vote Means: A **Yes** vote on this measure: exempts home values between $100,000 through $125,000 from property taxes—other than school taxes—which increases the maximum homestead exemption to $75,000.

A **No** vote on this measure: keeps the current homestead exemption structure and retains the $50,000 exemption rather than raising it to $75,000.

Pro: Simply put, a **Yes** vote on Amendment 1 lowers taxes and puts more money back in the pockets of Floridians. The average homeowner would see $230 in annual property tax savings. An analysis projects the cumulative tax reduction across the state at approximately $645 million. Any act that allows taxpayers to keep more of their money will, in turn, put that money into the private market and create economic activity. The increase in the homestead property tax exemption also limits the role of local government by providing more restraint on their ability to generate additional revenue – local officials would have to raise millage rates. Local leaders would need to exhibit greater fiscal responsibility if Amendment 1 were to pass. If this measure passes, taxpayers should feel that their money is being spent with accountability and restraint. Finally, it should also be noted that, to benefit from the measure, your home needs to exceed $125,000 in value and public schools are exempt from the tax cut.

Con: To give money back to the taxpayers, local leaders must adjust to a lower revenue stream. Opponents argue that property taxes act as the main source of revenue for local governments that need the funds to provide necessary public services. Aside from the funding issue embedded in tax breaks, opponents claim that Amendment 1 is misleading. Rather than the homestead exemption applying to all homeowners, the measure would benefit half of the homeowners across the state. However, this argument only matters if you view taxes as a taxpayer versus taxpayer dynamic. Ultimately, the amendment cuts taxes for Floridians. Lastly, some opponents believe that tax policy should not be executed through a constitutional referendum.

AMENDMENT 2

Limitations on Property Tax Exemptions

Ballot Language: Proposing an amendment to the state constitution to permanently retain provisions currently in effect which limit property tax assessment increases on specified non-homestead real property, except for school district taxes, to 10 percent each year. If approved, the amendment removes the scheduled repeal of such provisions in 2019 and shall take effect January 1, 2019.

How The Amendment Reached The Ballot: Florida State Legislature

What Your Vote Means: A **Yes** vote on this measure: removes the January 1, 2019 sunset provision on the property tax assessment limitation of 10 percent each year forreal property.

A **No** vote on this measure: maintains the January 1, 2019 expiration date for the 10 percent property tax limitation.

Pro: The non-homestead real property limitation caps the year-to-year increase at 10 percent. This means that, regardless of the market value increase, the taxable value can only increase by 10 percent. The failure to pass this measure would put jobs and small business development at risk. With this vote, Floridians have an opportunity to avoid a major property tax increase. Studies predict that the failure to pass this amendment would disproportionately affect renters, seniors on fixed incomes, businesses, owners of undeveloped land, and part-time residents. Renters remain especially wary of the potential failure to pass Amendment 2. Landlords claim that taxes will rise and the cost will be shifted onto the renter. Renters represent a growing portion of the population, and this measure guards their interests. According to the non-partisan group, Floridians would see a $700 million tax increase if Amendment 2 fails. This amendment recognizes and protects the value of private tax dollars.

Con: Currently, the measure does not claim any vocal opponents. However, opponents of the amendment could argue that the funds stemming from property taxes are vital to the well-being of the state. Ultimately, this would serve as a shortsighted view of the Florida economy. Opponents could claim that local governments would benefit from added revenue streams and a greater ability to provide for necessary services. However, Amendment 2 merely maintains the status quo rather than further trimming the government budget. Opponents could also claim that Amendment 2 could help serve alternative communities rather than providing tax breaks to individuals. As a final potential argument, there are questions related to whether this language needs to be present in the Florida Constitution. Tax issues could be addressed by the legislature.

AMENDMENT 3
Voter Control of Gambling in Florida

Ballot Language: This amendment ensures that Florida voters shall have the exclusive right to decide whether to authorize casino gambling by requiring that, in order for casino gambling to be authorized under Florida law, it must be approved by Florida voters pursuant to Article XI, Section 3 of the Florida Constitution. Affects articles X and XI. Defines casino gambling and clarifies that this amendment does not conflict with federal law regarding state/tribal compacts.

How The Amendment Reached The Ballot: Citizen Initiative

What Your Vote Means: A **Yes** vote on this measure: gives Floridians the exclusive right to authorize casino gambling within the state.

A **No** vote on this measure: keeps the right to authorize casino gambling withthe legislature.

Pro: Amendment 3 gives Florida voters the ability to authorize any expansion of casino gambling. To pass any form of expansion, a 60 percent majority vote must exist. This measure shifts the policy decision from those elected to the voters directly. It also adds language to the Florida Constitution that limits "casino gambling" to: card games, casino games, slot machines, and other similar games. This citizen initiative does not apply to dog racing, horse racing, jai alai, etc. Supporters claim that Floridians should have the final word on casino gambling in the state. By putting the power in the hands of voters directly, Amendment 3 makes it less likely that special interests would be able to influence policy decisions regarding gambling. Advocates of the measure see this as an opportunity to preserve Florida's "family friendly" culture. This effort comes at a crucial time after the Supreme Court legalized sports betting earlier this spring.

Con: Citizens elect representatives to serve on their behalf. If elected officials do not adequately execute the core functions of the job description, citizens have avenues to replace them. Holding a vote for any expansion of casino gambling leads to unnecessary referendums. The policy and lawmaking function has been delegated to our legislative branch of government. Further, this amendment severely regulates the gaming industry, an industry that could ultimately provide revenue streams to government. Skeptics claim that traditional gambling outlets know expansion would be more difficult via the populace at large. Therefore, it crystalizes the current gambling outlook in Florida for the foreseeable future. Any expansion of gambling would require a 60 percent approval from the voters—a difficult threshold to overcome. Putting the decision in the hands of Florida voters severely limits the potential gambling developments after the recent Supreme Court decision. Gambling already faces a litany of regulations, and this would create another hurdle.

AMENDMENT 4
Voting Restoration Amendment

Ballot Language: This amendment restores the voting rights of Floridians with felony convictions after they complete all terms of their sentence including parole or probation. The amendment would not apply to those convicted of murder or sexual offenses, who would continue to be permanently barred from voting unless the Governor and Cabinet vote to restore their voting rights on a case by case basis.

How The Amendment Reached The Ballot: Citizen Initiative

What Your Vote Means: A **Yes** vote on this measure: restores the right to vote for people who have committed felony crimes. There are some exceptions for individuals who have committed murder or a felony sexual offense.

A **No** vote on this measure: continues the practice of requiring former felons to petition the state for restoration of voting rights.

Pro: Amendment 4 re-enfranchises individuals who have paid their debt to society in full. The current system is a bottleneck that has disparate impacts on felons who are unable to navigate the system. Felons must wait 5-10 years before fully regaining their voting rights. Currently, Floridians can only regain the ability to vote by applying to the state Office of Executive Clemency. Then they must be granted a hearing and successfully plead their case. It appears that this ability comes without clear guidelines or standards, but rather at the behest of those members of the Clemency Board. In February, the United States District Court declared the current voter restoration process unconstitutional. The court held that Florida's system is arbitrary and tramples on the rights of citizens. The case is making its way through the appeals process, but the issue is unlikely to be resolved by the November election. This measure would mean an estimated 1.5 million Floridians regain their right to vote. Moreover, this step would reintegrate these individuals back into both the Florida society and economy. A study conducted by the Washington Economics Group found that Florida's annual economy could see a boost of $365 million, and an increase of 3,400 jobs if Amendment 4 were to pass.

Con: A process to award felons their voting rights already exists in Florida. The system approved by the State in 2011 created an avenue for those who committed nonviolent crimes to restore their rights. In order to apply, these individuals must wait a minimum of five years before the restoration process takes place. Opponents argue that Amendment 4 is an all or nothing proposal that does not consider the nature of the crime committed. For opponents, the nature of the crime plays a crucial role in restoring the right to vote. Amendment 4 only makes exceptions for murder and sexual offenses.

AMENDMENT 5

Supermajority Vote Required to Impose, Authorize, or Raise State Taxes or Fees

Ballot Language: Prohibits the legislature from imposing, authorizing, or raising a state tax or fee except through legislation approved by a two-thirds vote of each house of the legislature in a bill containing no other subject. This proposal does not authorize a state tax or fee otherwise prohibited by the Constitution and does not apply to fees or taxes imposed or authorized to be imposed by a county, municipality, school board, or special district.

How The Amendment Reached The Ballot: Florida State Legislature

What Your Vote Means: A **Yes** vote on this measure: mandates a two-thirds vote by each chamber of the legislature in order to enact new taxes or raise an existing tax/fee.

A **No** vote on this measure: retains the current simple majority required to enact new taxes or raise existing ones.

Pro: Many attribute Florida's prosperity to the state's low-tax and business-friendly environment. Taxes imposed on businesses and the citizens of Florida should be handled with the highest degree of discernment; requiring more than a simple majority affords this decision a greater consensus. Currently, raising or enacting new taxes requires a simple majority in both chambers and the Governor's signature. A **Yes** vote would replace this threshold with a higher standard—two-thirds approval in both houses. A higher threshold would have two valuable consequences – it would ensure that future tax increases are bi-partisan in nature, and it would create a greater level of consistency for individuals and businesses in the state. This measure would make it more challenging to raise taxes than to cut taxes, a wise and common-sense policy, and would preserve one of Florida's most attractive assets: our low-tax climate.

Con: While making it more difficult to raise taxes might initially seem like a prudent move, it could restrict the government's ability to raise funds. In that sense, it could be argued that this is a shortsighted initiative. In the future, this could hamper government's functioning through a "ratchet effect" in which revenue declines via a business cycle and elected officials are unable to make up the difference to balance the budget. Opponents argue that raising the threshold to enact new taxes can cause future policy challenges. The state may not be able to expand programs even if there is public support. Amendment 5 places a microscope on the legislature, which could lead to unintended consequences.

AMENDMENT 6
Rights of Crime Victims and Judges

Ballot Language: Creates constitutional rights for victims of crime; requires courts to facilitate victims' rights; authorizes victims to enforce their rights throughout criminal and juvenile justice processes. Requires judges and hearing officers to independently interpret statutes and rules rather than deferring to a government agency's interpretation. Raises mandatory retirement age of state justices and judges from seventy to seventy-five years; deletes authorization to complete judicial term if one-half of term has been served by retirement age.

How The Amendment Reached The Ballot:
Constitution Revision Commission

What Your Vote Means: A **Yes** vote on this measure: (1) adds rights for crime victims, collectively known as Marsy's Law, to the Florida Constitution; (2) requires that state courts independently interpret statutes rather than deferring to administrative agencies; and (3) raises the retirement age for judges from 70 to 75.

A **No** vote on this measure: (1) retains the status quo on constitutional rights of crime victims; (2) allows judges to continue the pattern of deference shown towards agencies; and (3) maintains the current mandatory retirement age for judges.

Pro: Marsy's Law supplies crime victims—and their families—with a series of rights. Currently, the Florida Constitution does not enumerate specific rights for crime victims or their families. If the amendment were to pass, crime victims would benefit from: the right to due process and fairness; the right to be free from intimidation; and the right to be reasonably protected from the accused. A **Yes** vote respects the importance of victim's rights throughout a criminal proceeding. Marsy's Law is a nationwide push to strengthen victim's rights, and six states have passed the legislation since 2009. In addition to the provisions contained in Marsy's Law, the measure encourages judges to independently interpret statutes. The Florida Supreme Court often defers to agency interpretations, and a **Yes** vote would curtail this trend. Administrative law judges face mounting questions as their role in the judiciary grows. This amendment would ensure that authority over legal questions rests with appointed judges rather than administrative agencies. Finally, Amendment 6 raises the retirement age for judges from 70 to 75. This effort recognizes increases in life spans and accommodates for a longer working career.

Con: Florida's Constitution already offers a subsection that details victim's rights—albeit unclearly. Additionally, the legislature guarantees a certain set of rights and safeguards for crime victims. Instead of adding additional (and potentially excessive) language to the Constitution, the issues present in Amendment 6 could be handled through the legislative process. Opponents argue that the approval of Marsy's Law would overwhelm and overburden the courts with a litany of "unfunded mandates." Critics also contend that providing more rights to victims would have a wide range of unintended consequences. For example, the legislation does not define a handful of relevant terms. Some claim this amendment is good politics, but bad policy. Apart from the concerns present in Marsy's Law, Amendment 6 upends a functioning and orderly system in administrative agencies. Judges outsource many decisions to administrative law judges because they have a better understanding of the issues. Although this amendment would stress the importance of traditional judges, it risks the progress made in administrative law.

AMENDMENT 7

First Responder and Military Member Survivor Benefits; Public Colleges and Universities

Ballot Language: Grants mandatory payment of death benefits and waiver of certain educational expenses to qualifying survivors of certain first responders and military members who die performing official duties. Requires supermajority votes by university trustees and state university system board of governors to raise or impose all legislatively-authorized fees if law requires approval by those bodies. Establishes existing state college system as constitutional entity; provides governance structure.

How The Amendment Reached The Ballot:
Constitution Revision Commission

What Your Vote Means: A **Yes** vote on this measure: (1) provides mandatory death benefits to the surviving spouses of qualifying first responders and military personnel who die in the course of duty; (2) requires an affirmative supermajority vote in order to raise university fees; and (3) cements the current governance structure of Florida's higher education system into the Constitution.

A **No** vote on this measure: (1) does not establish mandatory death benefits to first responders and other military personnel; (2) retains the simple majority necessary to raise college fees; and (3) does not add language regarding the structure of state colleges to the Constitution.

Pro: The measure serves to increase financial transparency in educational institutions across the state. Universities often cloak hikes in tuition prices through nebulous fees. Amendment 7 would require a supermajority vote by the board of trustees to raise the cost of tuition and other fees. This effort ensures that universities cannot spike fees haphazardly or discreetly. Any university board of trustees would require a truly compelling reason to raise tuition. Finally, the amendment assists the families of first responders and military members in a time of need. This gives Floridians the opportunity to provide for those who protect our country. The measure would require the state to provide funds to the families of first responders and military members who die in the line of duty. Family members of the deceased would also receive education expenses. The death benefits would be provided from the general revenue fund and support the qualifying survivors; these survivors are defined by statute.

Con: Opponents of the measure could claim that the language inserted into the Florida Constitution is too vague. Particularly, the language does not define what specific death benefits would be conferred upon the aggrieved groups. Opponents may not dispute the value of providing financial assistance to our fallen veterans but would prefer more clarity before etching language into the state's constitution. Aside from providing for our veterans, the initiative places hurdles on university leaders seeking to ensure that they can address the real costs of education in their tuition rates. Opponents believe the inability to easily raise tuition or fees could lead to gaps in educational services in the future.

AMENDMENT 8

School Board Term Limits and Duties; Public Schools

AMENDMENT 8 WAS STRUCK DOWN BY THE FLORIDA SUPREME COURT AND WILL NO LONGER BE ON THE NOVEMBER BALLOT.

Ballot Language: Creates a term limit of eight consecutive years for school board members and requires the legislature to provide for the establishment of civic literacy in public schools. Currently, district school boards have a constitutional duty to operate, control, and supervise public schools. The amendment also maintains a school board's duties to public schools it establishes, but permits the state to operate, control, and supervise public schools not established by the school board.

How The Amendment Reached The Ballot: Constitution Revision Commission

What Your Vote Means: A **Yes** vote on this measure: (1) establishes an eight-year term limit for school board members; (2) requires civic literacy in public schools; and (3) permits the state to "operate, control, and supervise" public schools that were not created by the school board.

A **No** vote on this measure: preserves the status quo. A **No** vote allows school board members to run for reelection in perpetuity, maintains the current civic literacy education in public schools, and rejects alternative methods of control over public schools not created by the school board.

Pro: The amendment would restrict school board members to two consecutive four-year terms. Currently, Florida law does not limit the amount of terms a person could serve on the school board. Amendment 8 is a CRC initiative, and a current county school board member sponsored its arrival on the ballot. Many in education feel that a restriction on term limits benefits the school system at large. The term limit allows new perspectives to enter the dialogue on school system governance on a more regular basis. These perspectives come in the form of fresh ideas and diverse viewpoints. Political climate advantages create a more student-friendly public school environment. Additionally, the measure recognizes the particular importance of civic literacy education in public schools. This prepares students to recognize their rights and responsibilities as citizens. The contentious nature of our current political climate illustrates that civic literacy can be a vital tool in improving the political climate for the next generation. Finally, Amendment 8 provides for an additional channel of authority and limits a school board's ability to stifle competition in schooling. The initiative would permit the legislature to develop policy that would allow schools to be established in a district but not governed by the school board. Innovative and competitive schools such as charters, magnets, and collegiate high schools would provide new alternatives to parents, should the legislature establish new approval methods.

AMENDMENT 8 WAS STRUCK DOWN BY THE FLORIDA SUPREME COURT AND WILL NO LONGER BE ON THE NOVEMBER BALLOT.

Cons: Those opposed to the amendment would claim that, although the measure admirably attempts to increase the civic literacy of Florida's youth, this goal could be pursued via different avenues. Civic literacy plays a vital role in the education of Florida's youth, but many feel uncomfortable that the issue is bundled with other initiatives. Moreover, critics of this amendment may argue that the Florida Constitution does not need additional language regarding term limits or education; this could be achieved legislatively. In addition, some would contend that experience in the position trumps new perspectives and fresh ideas. In addition to these concerns, opponents feel that term limits sever important relationships. They claim that two, four-year terms are not adequate to serve as a school board member. Lastly, opponents will claim that the measure could potentially give more power to the state at the expense of the local school board. This power shift would allow the state to shift the overview of alternative forms of schooling to another branch. Students will still have access to school choice, but the measure would limit the county school board's authority.

AMENDMENT 9

Prohibits Offshore Oil and Gas Drilling; Prohibits Vaping in Enclosed Indoor Workplaces

Ballot Language: Prohibits drilling for the exploration or extraction of oil and natural gas beneath all state-owned waters between the mean high water line and the state's outermost territorial boundaries. Adds use of vapor-generating electronic devices to current prohibition of tobacco smoking in enclosed indoor workplaces with exceptions; permits more restrictive local vapor ordinances.

How The Amendment Reached The Ballot:
Constitution Revision Commission

What Your Vote Means: A **Yes** vote on this measure: (1) forbids offshore drilling for oil and natural gas in Florida waters and (2) bans the use of vapor-generating electronic devices in indoor workplaces.

A **No** vote on this measure: (1) does not actively forbid offshore drilling and (2) does not add language to the Florida Constitution that prohibits vaping in the workplace.

Pro: Acknowledging the importance of beaches and tourism to our economy, Floridians seeking to protect one of our most marketable resources – our beaches – could be in favor of this portion of the measure. The prohibition on drilling would extend from the coast to the edge of the state's territorial waters. It does not restrict the movement of oil and gas across coastal waters; rather, it solely restricts drilling. This measure attempts to conserve the abundant natural resources found here in Florida. However, environmental preservation is not the only aim of the initiative. Florida heavily relies on tourism, and our coastal waters function as a catalyst to the state economy. This initiative seeks to balance economic and environmental endeavors. In January 2018, the federal government expanded offshore drilling in the Atlantic and Pacific Oceans. However, the Department of the Interior granted an exemption to Florida. Interior Secretary Ryan Zinke pointed to the unique makeup of Florida's geography and economy as a reason for the exemption. In addition to protecting Florida's waters, the amendment also addresses the updates in smoking technology. The current language of the Constitution places a ban on traditional forms of smoking, and this measure would add vaping to the list. The initiative falls in line with the desire to curtail the effects of second-hand smoke.

Con: Those opposed to this measure would make the argument that this is perhaps the most egregious example of the bundling of issues on the ballot. The CRC, which authored the measure, claims that the policy of oil drilling and vaping are connected by a "clean air; clean water" theme. However, this assertion is tenuous at best. Neither those in favor of oil-drilling nor vaping seem pleased with this pairing. Meanwhile, many proponents rightly point to the fact that oil and gas exploration provide positive economic impacts to the state and help keep our retail electricity rates much lower than most other places. Opponents view vaping as a public health issue and oil drilling as an economic one. This nuanced distinction should prevent the two issues from being on the same initiative. On the issue of the vaping ban, opponents point to the fact that vaping has been proven to be a safer alternative to traditional tobacco products and has been shown to aid in getting smokers to quit. Carrying the smoking ban to vaping would potentially hurt this effort. Finally, regardless of one's view on the actual policy decisions contained in this amendment, opponents rightly point to the fact that these are issues best handled legislatively as opposed to a constitutional measure.

AMENDMENT 10
State and Local Government Structure and Operation

Ballot Language: Requires legislature to retain department of veterans' affairs. Ensures election of sheriffs, property appraisers, supervisors of elections, tax collectors, and clerks of court in all counties; removes county charters' ability to abolish, change term, transfer duties, or eliminate election of these offices. Changes annual legislative session commencement date in even-numbered years from March to January; removes legislature's authorization to fix another date. Creates office of domestic security and counterterrorism within department of law enforcement.

How The Amendment Reached The Ballot:
Constitution Revision Commission

What Your Vote Means: A **Yes** vote on this measure: (1) requires that the legislature provide for a Department of Veteran Affairs; (2) creates an Office of Domestic Security and Counter-Terrorism; (3) holds that the legislature meet on the second Tuesday of January in even-numbered years; and (4) prevents counties from abolishing certain offices—and requires elections for those offices.

A **No** vote on this measure: (1) simply authorizes the legislature to provide for a Department of Veteran Affairs; (2) does not create an Office of Domestic Security and Counter-Terrorism; (3) keeps the current meeting dates of the legislature; and (4) refrains from adding language that prevents the abolition of certain offices.

Pro: This amendment addresses an issue that clearly relates to governance and rises to the level of address in the Florida Constitution. The legislature customarily meets from January to March in even-numbered years, so the amendment codifies the custom. The CRC bundled this legislative procedural effort with a desire to ensure proper care for our veterans. Currently, the Florida Constitution simply allows for a Department of Veteran Affairs. Amendment 10 would guarantee the existence of a Department of Veteran Affairs to meet the needs of veterans in the state – a growing constituency. Lastly, Amendment 10 creates some necessary uniformity among the posts and elections of the state's 67 counties. Nearly all the counties in the state of Florida hold elections for county positions. These positions include tax collectors, property appraisers, supervisor of elections, sheriffs, and others. However, a small number of counties refuse to ensure statewide consistency. For example, Miami-Dade County is the only county in the state that appoints a police director rather than holding an election for a sheriff. Amendment 10 would foster consistency across the state and allow voters to elect officials in vital municipal positions.

Con: Those opposed to the measure would contend that by choosing to combine these initiatives, the CRC bundled relatively straightforward directives with a fairly contentious issue: county governance. Two counties, Broward and Volusia, filed suit and are asking to have Amendment 10 struck from the ballot. The counties allege that the amendment misleads voters and strips counties of their right to govern. Opponents complain that the Commission tied the issue of county governance to more popular or less contentious concepts like the codification of legislature meeting dates. Those opposed to the measure would claim that, although this amendment clearly relates to the governmental matters that have a place in the constitution, Amendment 10 overrides local governments who would otherwise determine their own constitutional offices. This mandate would require that counties hold certain offices and elections for those offices – those not already doing so would incur additional costs.

AMENDMENT 11

Property Rights; Removal of Obsolete Provision; Criminal Statutes

Ballot Language: Removes discriminatory language related to real property rights. Removes obsolete language repealed by voters. Deletes provision that amendment of a criminal statute will not affect prosecution or penalties for a crime committed before the amendment; retains current provision allowing prosecution of a crime committed before the repeal of a criminal statute.

How The Amendment Reached The Ballot:
Constitution Revision Commission

What Your Vote Means: A **Yes** vote on this measure: (1) repeals a provision that prohibits foreign-born people who are not eligible for citizenship from owning, disposing, or inheriting real property; (2) removes obsolete language regarding high-speed transportation in Florida and; (3) clarifies language regarding the repeal of a criminal statute and its prosecution.

A **No** vote on this measure: (1) keeps the language that prevents foreign-born people who are not eligible for citizenship from owning, disposing, or inheriting real property; (2) retains the high-speed transportation language in the constitution; and (3) maintains the current language regarding criminal statutes.

Pro: This amendment organizes some outdated sections of the Florida Constitution in need of cleaning up. The obsolete language that authorizes a high-speed rail in the state unnecessarily clutters the document. Additionally, the measure removes language that restricts the property rights of certain individuals. This restriction—the Alien Land Law—has been struck down by the courts in a number of other states, and this initiative would preemptively remove the language. Perhaps most importantly, Amendment 11 deletes the language of what is known as the Savings Clause, which states that a repeal of a criminal statute does not affect the prosecution of a crime committed before the repeal. Florida is only one of three states that still enforces the Savings Clause. Florida incarcerates at a rate far higher than the national average, and this amendment could alleviate some of those expenditures. Those in favor of repealing the language point out that amending the savings clause means restoring to the legislature a proper power that 49 other state legislatures currently have and use. Leaving the status quo means the legislature can't, under any circumstances, extend sentencing reforms to anyone who's already been convicted of a crime. That means a person who committed a crime on June 30, 2014 would spend five times as long in prison as someone who committed the same crime one day later (due to changes in mandatory minimum thresholds), and the legislature is currently powerless to do anything about it. Lastly, proponents of the repeal claim that the measure would correct some of the costs of legislative overreach

found in the criminal justice system. The new policy could free up legislators to makemeaningful reform.

Con: In 2000, voters approved the addition of high-speed rail to the Florida Constitution. Four years later, voters repealed the amendment, which has left the language in limbo ever since. For opponents, the issue in Amendment 11 arises due to bundling. The irrelevant language sits bundled with an unrelated issue: the Savings Clause. Those opposing the repeal of the Savings Clause would argue that there is a need for consistency in criminal sentencing and in the legal system—despite any shortcomings. Once a verdict applies to a criminal, it should not be subject to changes in the law over time. Opponents would contend that the policy change could potentially have a number of unintended consequences, should any subsequent legislative changes not address retroactivity (even though 47 of the 50 states do not have a version of the Savings Clause). The repeal of the Savings Clause could add further confusion to the obstacles standing in the way of criminal justice reform. Opponents assert that Florida incarcerates its citizens at a higher rate than its contemporaries because of the proper enforcement of the law.

AMENDMENT 12
Lobbying and Abuse of Office By Public Officers

Ballot Language: Expands current restrictions on lobbying for compensation by former public officers; creates restrictions on lobbying for compensation by serving public officers and former justices and judges; provides exceptions; prohibits abuse of a public position by public officers and employees to obtain a personal benefit.

How The Amendment Reached The Ballot:
Constitution Revision Commission

What Your Vote Means: A **Yes** vote on this measure: prevents public officers from lobbying for compensation during their term and for six years thereafter.

A **No** vote on this measure: does not create any additional lobbying restrictions forpublic officers.

Pro: This amendment would establish some of the most expansive ethical standards for public servants across the country. Those in favor of this measure would claim that elected officials should fulfill their role as public servants and not be allowed to then capitalize on their elected office. The measure holds public officers to a standard befitting the duty they take on. Officials owe an obligation to their constituents to refrain from reaping a disproportional benefit because of their post. This measure would extend the current limitation on public officials from two years to six years.

Cons: Those opposed to this measure would highlight some shortcomings found in the ballot language. First, that there are a handful of current and recent lawmakers who also serve as attorneys tied to lobbying firms or lobbyists themselves; this measure restricts the ability to find gainful employment. Even some supporters of the amendment find the six-year limitation to be rather excessive. Moreover, the passing of Amendment 12 would not necessarily solve the issue, but rather it would simply force people to become more creative in their lobbying efforts. Instead of becoming a registered lobbyist, individuals might serve as consultants to lobbying firms. If the measure were passed, the Florida Commission on Ethics would potentially experience an unwarranted increase in authority. Additionally, opponents would contend that this is a measure that does not need to be inserted in the Florida Constitution, and its objectives could be accomplished legislatively. If legislators want to set guidelines on ethical behavior, they may do so on their own. Lastly, opponents claim that this amendment does not address the real issue associated with public officials who lobby, which is money in political campaigns.

AMENDMENT 13
Ends Dog Racing

Ballot Language: Phases out commercial dog racing in connection with wagering by 2020. Other gaming activities are not affected.

How The Amendment Reached The Ballot:
Constitution Revision Commission

What Your Vote Means: A **Yes** vote on this measure: establishes a constitutional prohibition on the racing of and gambling on greyhounds or other dogs.

A **No** vote on this measure: maintains the status quo regarding commercial dog racingin Florida.

Pro: Those in favor of this measure highlight the costs associated with regulating the greyhound racing industry, and the numerous concerns regarding the ethical treatment of the animals used in the industry. Proponents claim that the necessary costs of regulation exceed the tax revenue generated by dog tracks. State reports show that the greyhound racing industry saw a 50 percent decrease in revenue from a decade ago. Aside from the economics, many view this purely as an ethical issue. The living conditions of these animals create a toxic environment that can lead to serious harm. For example, animals are often subjected to damaging drugs such as cocaine and opiates (over 400 documented cases in the last decade). For these reasons, advocates of the proposal view greyhound racing as a relic of the past. The amendment phases out dog racing by 2020, but still allows people to bet on races simulcast from other states. These tracks may continue to operate more lucrative revenue streams like poker rooms and slot machines.

Con: The arguments against the measure are varying. Some opponents question the constitutionality and economics associated with shutting down a private industry. There are currently 12 greyhound tracks in Florida which employ roughly 3,000 Floridians. If this measure were to pass, it could threaten the livelihood of many hard-working individuals. Those opposed to this measure would cite the economic consequence – that an approval of the measure would spell dire consequences for the industry. In addition, opponents would argue that the measure is something that does not belong in the constitution – this measure can be enacted legislatively, or the industry could be further regulated by the legislature. Many have compared the current measure to the infamous "Pregnant Pig" amendment from 2002. The Florida Greyhound Association filed a lawsuit against the state alleging that the ballot language misleads voters. The ballot would make betting on dog racing illegal, but these tracks could still theoreticallyrace dogs.

CONCLUSION

The last time Florida convened the Constitution Revision Commission, our state had approximately 15.5 million residents. Since then, we have become the third-most populous state with more than 20 million residents, and our population grows by roughly 1,000 residents every day. This makes governance a moving target, and one that will necessitate modifications to our governing documents from time to time.

Ensuring that we protect our state for generations to come means being vigilant over changes to our most fundamental governing document.

A well-informed voter is the bedrock of our republic, and it is our hope that The James Madison Institute's 2018 Amendment Guide will educate you on the issues present in the upcoming election. Educated voters help ensure that Florida will make prudent decisions for our future, and the importance of this year's election will be examined for generations to come. We thank you for looking to The James Madison Institute as a trusted resource. If you still have questions regarding the 2018 ballot, do not hesitate to contact our policy experts at 850.386.3131 or via email at info@jamesmadison.org.

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