

Initiative, Everglades water pollution abatement

Number: PETITION

Date: June 27, 1996

The Honorable Gerald Kogan
Chief Justice, and
Justices of The Supreme Court
of Florida
The Supreme Court Building
Tallahassee, Florida 32399-1925

Dear Chief Justice Kogan and Justices:

In accordance with the provisions of Article IV, section 10, Florida Constitution, and section 16.061, Florida Statutes, it is my responsibility to petition this Honorable Court for a written opinion as to the validity of an initiative petition circulated pursuant to Article XI, section 3, Florida Constitution.

On June 18, 1996, the Secretary of State, as required by section 15.21, Florida Statutes, submitted to this office an initiative petition seeking to amend the State Constitution to provide responsibility for paying costs of water pollution abatement in the Everglades Protection Area and the Everglades Agricultural Area. The full text of the proposed amendment states:

"(a) The Constitution currently provides, in Article II, Section 7, the authority for the abatement of water pollution. It is the intent of this amendment that those who cause water pollution within the Everglades Agricultural Area or the Everglades Protection Area shall be primarily responsible for paying the costs of abatement of that pollution.

(b) Article II, Section 7 is amended by inserting (a) immediately before the current text, and adding a new subsection (b) at the end thereof, to read:

(b) Those in the Everglades Agricultural Area who cause water pollution within the Everglades Protection Area or the Everglades Agricultural Area shall be primarily responsible for paying the costs of the abatement of that pollution. For the purposes of this subsection, the terms 'Everglades Protection Area' and 'Everglades Agricultural Area' shall have the meanings as defined in statutes in effect on January 1, 1996."

The ballot title for the proposed amendment is "Responsibility for Paying Costs of Water Pollution Abatement in the Everglades."

The summary for the proposed amendment provides:

"The Constitution currently provides the authority for the abatement of water pollution. This proposal adds a provision to provide that those in the Everglades Agricultural Area who cause water pollution within the Everglades Protection Area or the Everglades Agricultural Area shall

be primarily responsible for paying the costs of the abatement of that pollution."

BALLOT TITLE AND SUMMARY

Section 16.061, Florida Statutes, requires the Attorney General to petition this Honorable Court for an advisory opinion as to whether the proposed ballot title and summary comply with section 101.161, Florida Statutes.

Section 101.161, Florida Statutes, provides in relevant part:

"Whenever a constitutional amendment . . . 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 The substance of the amendment . . . shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of."

This Court has stated on several occasions "that the ballot [must] be fair and advise the voter sufficiently to enable him intelligently to cast his ballot." *Askew v. Firestone*, 421 So. 2d 151, 155 (Fla. 1982), *quoting*, *Hill v. Milander*, 72 So. 2d 796, 798 (Fla. 1954). While the ballot title and summary must state in clear and unambiguous language the chief purpose of the measure, it need not explain every detail or ramification of the proposed amendment. *Carroll v. Firestone*, 497 So. 2d 1204, 1206 (Fla. 1986); *Advisory Opinion to the Attorney General--Limited Political Terms in Certain Elective Offices*, 592 So. 2d 225, 228 (Fla. 1991).

The chief purpose of the amendment is to provide that those in the Everglades Agricultural Area who cause water pollution in either the Everglades Agricultural Area or the Everglades Protection Area are primarily responsible for payment of the costs of abating such pollution. While the proposal does not indicate how this will be accomplished, the ballot title and summary of the amendment do reflect the language of the proposal, stating that those within the specified area will be primarily responsible for dealing with the pollution they cause in the Everglades Agricultural Area or Everglades Protection Area. The ballot title and summary advises the voters of the chief purpose of the proposed amendment and, thus, appears to satisfy the requirements of section 101.161, Florida Statutes.

I respectfully request this Honorable Court's opinion as to whether the ballot title and substance of the constitutional amendment, proposed by initiative petition, comply with section 101.161, Florida Statutes.

SINGLE SUBJECT LIMITATION

Section 16.061, Florida Statutes, requires the Attorney General, within 30 days after receipt of the proposed amendment to the Florida Constitution by citizens' initiative, to petition this Honorable Court for an advisory opinion as to whether the text of the proposed amendment complies with Article XI, section 3, Florida Constitution.

Article XI, section 3, Florida Constitution, provides in relevant part:

"The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those limiting the power of government to raise revenue, shall embrace but one subject and matter directly connected therewith."

This Court stated in *Advisory Opinion to the Attorney General--Restricts Laws Related to Discrimination*, 632 So. 2d 1018, 1020 (Fla. 1994), that "[t]o ascertain whether the necessary oneness of purpose' exists, we must consider whether the proposal affects separate functions of government and how the proposal affects other provisions of the constitution."

This Court in *Advisory Opinion to the Attorney General--Save Our Everglades*, 636 So. 2d 1336 (Fla. 1994), concluded that the Save Our Everglades initiative performed a judicial function in stating that the sugarcane industry polluted the Everglades. The proposal, in the Court's opinion, rendered a judgment of wrongdoing and de facto liability and thus, performed "a quintessential judicial function." 636 So. 2d at 1340.

The instant initiative, however, merely provides that those within the Everglades Agricultural Area who cause pollution shall be primarily responsible for paying the costs of abating such pollution. The initiative does not make any finding or conclusion as to who those individuals or businesses may be. Thus, the proposed amendment does not appear violative of the single subject requirement.

Therefore, I respectfully request this Honorable Court's opinion as to whether the constitutional amendment, proposed by initiative petition, complies with Article XI, section 3, Florida Constitution.

Respectfully submitted,

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RAB/tgk

Enclosures

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