

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

**LEAGUE OF WOMEN VOTERS OF
FLORIDA, INC., PATRICIA BRIGHAM,**
individually, and as President of the League of
Women Voters of Florida, Inc., and
SHAWN BARTELT, individually, and as
Second Vice President of the League of
Women Voters of Florida, Inc.,

Plaintiffs,

vs.

authority to authorize new public schools in the first instance. (Defendant's Cross-Motion 14-15, 17-18). Yet Defendant argues that the failure of the ballot title and description for Revision 8 to clearly disclose this intention in terms an ordinary voter could understand is not fatal. In fact, because these intentions are not clearly and unambiguously communicated to voters, Revision 8 must be removed from the ballot.

1. CRC Discussion and Debates are Highly Relevant

As a threshold matter, Defendant's contention that this Court should not consider the

allow charter schools to be authorized by outside groups ñ

ótrue meaning, and ramifications.ô *Florida State Conf. of NAACP Branches*, 43 So. 2d at 667.

Defendant

eliminate the school boards' exclusive authority to authorize new public schools, including charter schools, and to allow such schools to be authorized by some new, undefined entity. As explained more fully in Plaintiffs' Motion for Summary Judgment, this omission renders the ballot summ

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Under either view, Revision 8 would constitute a significant change which voters must understand in order to make an informed vote. If local school boards are deemed *not* to have “established” charter schools, then Revision 8 would remove the school boards’ authority to operate, control and supervise all charter schools in the state. If, on the other hand, local school boards are deemed to have exclusive authority to establish all public schools, including charter schools, then Revision 8 obliquely eliminates that exclusive authority and opens the door for some other unspecified entity to establish new public schools, including charter schools. Neither of these two possible effects is clearly communicated to voters, and worse yet, there is no place voters can go for an answer as to which effect will occur because no answer exists under current law.

In sum, the use of the vague, undefined phrase “established by the school board” renders it impossible for voters to know the revision’s true effect and ramifications, and calls for the revision to be stricken from the ballot. (See Plaintiffs’ MSJ 15) (citing *Advisory Op. to the Atty. Gen. re Amendment to Bar Govt. from Treating People Differently*, 778 So. 2d 888, 898-99 (Fla.

uniform, efficient, safe, secure and high quality system of free public schools in Florida. (Def. Cross-Motion 16).

But this is not a well-founded assumption, as the revision itself is silent on what entity will be given the authority to operate, control and supervise schools not established by the school board. And the discussion and debate of the CRC make clear that it quite intentionally *did not* specify that it would be the state that would undertake the duties of the school board, in order to allow a diverse range of possible overseers. Specifically, the sponsor, Commissioner Donalds

state oversight in the ballot summary adopted by the CRC suffers from the same problem. Because it affirmatively misleads voters by telling them the state will oversee schools no longer overseen by school boards, the revision must be stricken.

6. *Logrolling*

Finally, this Court must reject Defendant's implicit contention that no amount of logrolling by the Constitution Revision Commission could ever render a revision defective. (Def. Cross-Motion 24). Plaintiffs do not contend that the Florida Constitution imposes a single subject requirement on proposals by the CRC. However, Plaintiffs do contend that where, as here, the logrolling rises to the level of rendering the ballot summary deceptive, this violates the Florida Constitution's accuracy requirement which *is* applicable to CRC revisions.

The Florida Supreme Court has explained that the reason citizens' initiatives are subject to a single subject requirement, and the other methods of amending the Florida Constitution are not, is because the initiative method does not provide a "filtering legislative process for the drafting of any specific proposed constitutional amendment or revision." *Fine v. Firestone*, 448 So. 2d 984, 988 (Fla. 1984). In contrast, the "legislative, revision commission, and constitutional convention processes . . . all afford an opportunity for public hearing and debate not only on the proposal itself but also in the drafting of any constitutional proposal." *Id.* According to the Court, "[n]o single-subject requirement is imposed because this process embodies adequate safeguards to protect against logrolling and deception."

CONCLUSION

For the reasons set forth herein as well as those in Plaintiffsö Motion for Summary Judgment, Plaintiffs respectfully submit that they have demonstrated they are entitled to judgment as a matter of law that Revision 8 fails to comply with Article XI, Section 5 of the Florida Constitution, and therefore must be removed from the ballot for the 2018 General Election.

/s/Lynn C. Hearn

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CERTIFICATE OF SERVICE

Pursuant to Rules 2.516(b)(1) and (f) of the Florida Rules of Judicial Administration, I certify that the foregoing document has been furnished to Blaine Winship (blaine.winship@myfloridalegal.com), The Capital, Office of Attorney General, 400 South Monroe Street, Suite PL-01, Tallahassee, FL 32399-6536, by email via the Florida Courts e-filing Portal this 13th day of August, 2018.

/s/Lynn C. Hearn
Attorney