

**Constitution Revision Commission
Executive Committee
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: P 14

Relating to: EXECUTIVE, Secretary of State

Introducer(s): Commissioner Gaetz

Article/Section affected: Article IV, sections 3 and 4; Article XII, section 24

Date: January 5, 2018

	REFERENCE	ACTION
1.	<u>EX</u>	<u>Pre-meeting</u>
2.	<u>EE</u>	<u></u>

I. SUMMARY:

“Currently, there are three publicly elected officials that comprise the Florida Cabinet: the Commissioner of Agriculture, the Attorney General, and the Chief Financial Officer. The Secretary of State is the state’s chief election officer, chief cultural officer, custodian of state records, and head of the Department of State. The Secretary of State is appointed by the Governor, subject to confirmation by the Senate.”¹

Proposal 14 makes the Secretary of State a statewide elected office as of January 3, 2023, and makes the Secretary of State a member of the Florida Cabinet. “Beginning in 2022, and every four years thereafter, the Secretary of State will be elected concurrently with the other members of the Florida Cabinet.”² The proposal directs the Legislature to enact implementing legislation by January 3, 2023.

¹ Florida House of Representatives Staff Analysis, HJR 811 (2017), March 13, 2017, p. 1, <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0811a.OTA.DOCX&DocumentType=Analysis&BillNumber=0811&Session=2017> (last visited 1/3/2018). Proposal 14 is similar to previously filed legislation in the Florida Senate and Florida House of Representatives, including SJR 882 (2017) and HJR 811 (2017). Legislative staff analyses of the above joint resolutions have been utilized in the CRC staff analysis, where appropriate.

² *Id.*

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Secretary of State

“The Secretary of State is the state’s chief election officer,³ chief cultural officer,⁴ custodian of state records,⁵ and head of the Department of State (DOS).⁶ DOS consists of the Office of the Secretary and the Divisions of Administration, Corporations, Cultural Affairs, Elections, Historical Resources, and Library and Information Services.⁷ The Secretary of State is appointed by the Governor and serves at his or her pleasure, subject to confirmation by the Senate.^{8,9}”

Secretaries of State in Other States

Thirty-five states have an elected Secretary of State.¹⁰ The Secretary of State is appointed by the Governor in eight states and selected by the Legislature in three states.¹¹ Four states have an elected Lieutenant Governor whose role may include similar duties.¹²

Twenty-four states have an elected Secretary of State who serves as the chief election official.¹³ The chief election official is appointed by the Governor in five states and selected by the Legislature in three states.¹⁴ Two states have an elected Lieutenant Governor as the chief election official.¹⁵ The remaining 16 states have a board or commission, or a combination of chief election official and a board or commission, with authority over elections in the state.¹⁶

³ Section 97.012, F.S.

⁴ Section 265.284, F.S.

⁵ Article XII, s. 24(b), FLA. CONST.; *see also* s. 20.10(1), F.S.

⁶ Section 20.10(1), F.S.

⁷ Section 20.10(2), F.S.

⁸ Section 20.10(1), F.S.

⁹ Florida House of Representatives Staff Analysis, HJR 811 (2017), March 13, 2017, p. 2,

<http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0811a.OTA.DOCX&DocumentType=Analysis&BillNumber=0811&Session=2017> (last visited 1/3/2018).

¹⁰ *See* National Association of Secretaries of State, *Roster of Secretaries of State/Lieutenant Governors*, <http://www.nass.org/index.php/membership> (last visited 1/5/2018).

¹¹ *Id.*

¹² *Id.*

¹³ National Conference of State Legislatures, *Election Administration at State and Local Levels*, June 15, 2016, <http://www.ncsl.org/research/elections-and-campaigns/election-administration-at-state-and-local-levels.aspx> (last visited 1/5/2018).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

Florida Cabinet

“Currently, there are three publicly elected members of the Florida Cabinet: the Commissioner of Agriculture, the Attorney General, and the Chief Financial Officer. Prior to 2003, there were six publicly elected members of the Florida Cabinet: the Secretary of State, the Attorney General, the Comptroller, the Treasurer, the Commissioner of Agriculture, and the Commissioner of Education.^{17,18}

“The 2003 change was the result of a 1998 amendment to the Florida Constitution that restructured the Cabinet from 6 to 3 officers¹⁹...as well as making other governmental operations changes²⁰; the amendment was one of several proposed by the Constitution Revision Commission.”²¹

The Governor as chair, the Chief Financial Officer, the Attorney General, and the Commissioner of Agriculture are the trustees of the Internal Improvement Trust Fund and the Land Acquisition Trust Fund.²² Additionally, the Governor as chair, the Chief Financial Officer, the Attorney General, and the Commissioner of Agriculture are the agency head of the Department of Law Enforcement.²³ The State Board of Administration is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.²⁴

B. EFFECT OF PROPOSED CHANGES:

Proposal 14 increases the size of the Florida Cabinet to four members. The proposal makes the Secretary of State a statewide elected office and member of the Florida Cabinet. The proposal provides that the Secretary of State serves as the chief election officer of the state and the chief cultural affairs, protocol, and historical resource officer of the state. Additionally, the proposal provides that the Secretary of State must keep the records of the official acts of the legislative and executive departments. The proposal substitutes Secretary of State for custodian of state records throughout the Florida Constitution.

The proposal increases the size of the State Board of Administration to 4 members to include the Secretary of State. In instances of a tie vote, the side on which the Governor voted prevails.

¹⁷ Article IV, s. 4, FLA. CONST. (1998).

¹⁸ Florida House of Representatives Staff Analysis, HJR 811 (2017), March 13, 2017, p. 2, <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0811a.OTA.DOCX&DocumentType=Analysis&BillNumber=0811&Session=2017> (last visited 1/3/2018).

¹⁹ Florida’s Attorney General, Chief Financial Officer, and the Commissioner of Agriculture.

²⁰ Constitution Revision Commission Amendment 8 (1998), *Restructuring the State Cabinet*, available at the Florida Secretary of State’s web site at: <http://dos.elections.myflorida.com/initiatives/fulltext/pdf/11-4.pdf> (last visited 1/3/2018).

²¹ Florida Senate Bill Analysis and Fiscal Impact Statement, SJR 882 (2017), March 28, 2017, p. 2, <http://www.flsenate.gov/Session/Bill/2017/882/Analyses/2017s00882.rc.PDF> (last visited 1/3/2018).

²² Article IV, s. 4(f), FLA. CONST. See also Art. X, s. 28, FLA. CONST. and s. 253.01, F.S.

²³ Article IV, s. 4(g), FLA. CONST. See also ch. 943, F.S.

²⁴ Article IV, s. 4(e), FLA. CONST.

The proposal expands the number of trustees of the Internal Improvement Trust Fund and the Land Acquisition Trust Fund to include the Secretary of State. The proposal expands the agency head of the Department of Law Enforcement to include the Secretary of State.

The proposal takes effect on January 3, 2023, but applies to the qualifying for and holding of the primary and general elections for the office of Secretary of State in 2022. “Beginning with the 2022 general election, the Secretary of State will be elected concurrently with the other members of the Florida Cabinet. As is the case with all members of the Florida Cabinet, the Secretary of State will be subject to an eight-year term limit.”^{25,26}

The proposal “requires the Legislature to enact implementing legislation that includes any conforming changes to the Florida Statutes made necessary by the reorganization of the Florida Cabinet by the amendment’s effective date.”²⁷

C. FISCAL IMPACT:

None known.

III. Additional Information:

A. Statement of Changes:

(Summarizing differences between the current version and the prior version of the proposal.)

None.

B. Amendments:

None.

C. Technical Deficiencies:

None.

D. Related Issues:

None.

²⁵ Article VI, s. 4, FLA. CONST.

²⁶ Florida House of Representatives Staff Analysis, HJR 811 (2017), March 13, 2017, p. 2, <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0811a.OTA.DOCX&DocumentType=Analysis&BillNumber=0811&Session=2017> (last visited 1/3/2018).

²⁷ *Id.*