

The Constitution Revision Commission
COMMITTEE MEETING EXPANDED AGENDA

ETHICS AND ELECTIONS
Commissioner Coxe, Chair
Commissioner Kruppenbacher, Vice Chair

MEETING DATE: Wednesday, October 4, 2017
TIME: 9:00—11:00 a.m.
PLACE: 110 Senate Office Building, Tallahassee, Florida

MEMBERS: Commissioner Coxe, Chair; Commissioner Kruppenbacher, Vice Chair; Commissioners Gaetz, Heuchan, Joyner, Newsome, Plymale, Schifino, and Smith

TAB	PROPOSAL NO. and INTRODUCER	PROPOSAL DESCRIPTION and COMMITTEE ACTIONS	COMMITTEE ACTION
1		Presentation on Florida's Primary Election System by Lori Edwards, Florida State Association of Supervisors of Elections	Presented



FLORIDA STATE ASSOCIATION OF SUPERVISORS OF ELECTIONS

PO Box 350 | Tallahassee, FL 32302 | Telephone: (850) 599-9120

PRIMARY ELECTIONS IN FLORIDA

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2017 -2018

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Ronald Labasky, Esq.

I. Recent History of Florida's Primary Election

Article VI, Section 1 of the Constitution of the State of Florida provides in part that "Registration and elections, and political party functions may, be regulated by law". Pursuant to that authority the Florida Legislature has provided in section 100.061, Florida Statutes (2017), that Florida will have a primary election in each year in which a general election is held on the Tuesday 10 weeks prior to the general election. Article VI, Section 5 of the Florida Constitution requires that a general election will be held in each county on the first Tuesday after the first Monday in November of each numbered year to choose a successor to elective state and county officers whose term will expire before the next general election.

The primary election in Florida has not always been in August and there has not always been one primary. In 1960, Florida had a first primary election on the first Tuesday after the first Monday in May of each year in which a general election was held for nomination of candidates of political parties. A second primary was to be held on the fourth Tuesday after the first Monday in May of each year in which a general election was held for nominations of candidates of political parties where nominations are not made in the first primary (see, Chapter 59-4, Laws of Florida). The Florida Supreme Court in the case of Wagner v. Gray, 74 So.2d 89 (Fla. 1954), stated a primary election is a selective mechanism by which members of political parties express preference of a party's candidate for public office and is not an election.

Florida, of course, was a much different state in 1960. In 1969, the Florida Legislature amended section 100.061, Florida Statutes, to provide that the first primary would be held on the first Tuesday that falls on the sixth day or later in September of each year in which a general election is held for nomination of candidates of political parties. In the same bill the second primary election was required to be held on the third Tuesday after the first primary where

nominations were not made in the first primary. (see, Chapter 69-1745, Laws of Florida).

Florida's population continued to grow and in 1983 another change of date was made and the first primary election was required to be held on the Tuesday 9 weeks prior to the general election and the second primary was to be held on the Tuesday 5 weeks prior to the general election (see, Chapter 83-251, Laws of Florida). The limited time provided between the first primary and second primary and the second primary and general election made it procedurally difficult, if not impossible, to timely provide absentee/vote-by-mail ballots to overseas and military voters.

In part because of that procedural issue, in 2005, the Florida Legislature repealed section 100.091, Florida Statutes, and eliminated the second primary election and provided in section 100.061, Florida Statutes, that the primary election would be held on the Tuesday 9 weeks prior to the general election (see, Chapter 2005-286, Laws of Florida). In 2007, the Legislature moved the primary election for nomination of candidates and provided it to be held on the Tuesday 10 weeks before the general election. Current section 100.061, Florida Statutes, provides that the primary election will be held 10 weeks prior to the general election.

In Wagner, supra, the Florida Supreme Court pointed out that primary election is not an election but a selective mechanism for political parties. Florida has closed primary elections which means only those electors who are registered in that particular party may vote in the primary election.

II. FSASE Comments and Observations Concerning the Primary Election Process – Lori Edwards, Polk County Supervisor of Elections

- Primary election process in other states
- Primary elections and voter turnout in Florida

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD
(Deliver completed form to Commission staff)

Meeting Date _____

Proposal Number (if applicable) _____

*Topic Primary Elections

Amendment Barcode (if applicable) _____

*Name Ron Labasky

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? Florida State Association of Superintendents of Elections

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

10/4/17

Meeting Date

Proposal Number (if applicable)

*Topic Primary Elections

Amendment Barcode (if applicable)

*Name Sam Edwards, FSASE, Polk County Supervisor of Elections

Address Phone

Street

City

State

Zip

Email

*Speaking: For Against Information Only

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? Florida State Association of Supervisors of Elections

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

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CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

10/4/17
Meeting Date

Proposal Number (if applicable)

*Topic Primary Elections

Amendment Barcode (if applicable)

*Name Brenda Snipes, FSASE, Broward County Supervisor of Elections

Address _____
Street

Phone _____

City State Zip

Email _____

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? Florida State Association of Supervisors of Elections

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

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CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

Meeting Date _____

Proposal Number (if applicable) _____

*Topic Primary Elections

Amendment Barcode (if applicable) _____

*Name David Stafford, FSASE, Escambia County Supervisor of Elections

Address _____
Street

Phone _____

City

State

Zip

Email _____

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? Florida State Association of Supervisors of Elections

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

10/4/17

Meeting Date

700575

Proposal Number (if applicable)

*Topic Open Primary

Amendment Barcode (if applicable)

*Name Jason Olson

Address _____

Phone 415-606-4130

Street

NY _____ NY _____

City

State

Zip

Email jolson@openprimaries.org

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? _____

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

***Required**

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

10-4-17

Meeting Date

700575

Proposal Number (if applicable)

*Topic Open Primaries

Amendment Barcode (if applicable)

*Name Steve Hough

Address 9701 Rosota Beach Rd

Phone 850-265-9073

Street
Southport FL 32409
City State Zip

Email shough195@gmail.com

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? Florida Fair and Open Primaries

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

October 4, 2017

To: Constitution Revision Commission Members

From: Steve Hough, Director of Florida Fair and Open Primaries

RE: Submission of Petition Signatures and Public Proposal for Open Primaries

Commissioners:

On behalf of a coalition of organizations including Florida Fair and Open Primaries, Progress for All, and the national organization Open Primaries, as well as thousands of Floridians, please find the attached petition requesting that the Constitution Revision Commission place an open primaries amendment on the 2018 ballot, as well as a copy of public submission 700575 detailing our recommend version of an open primary.

In 2016 Florida taxpayers spent more than \$13 million conducting closed party primaries which locked out 3.4 million independent voters, and limited the choices for millions more Democratic and Republican voters to only those that appeared on their party ballots. This took place against a national backdrop that saw 26.3 million independents locked out of primaries in 2016. Voters across the country, including right here in Florida, were rightly angered at a process that disenfranchises so many and creates a hyper partisan political environment that is hurting America.

Earlier this year, the Commission heard from 77 Floridians who provided more than two hours of testimony detailing their dissatisfaction with closed primaries and advocating for open primaries. In a poll conducted earlier this year, 73% of Floridians — including supermajorities of Republican, Democratic, and independent voters — said they want the Constitution Revision Commission to put an open primaries initiative before the voters. To this we now add the names of 6,090 Floridians who have signed a petition asking the Commission put an open primaries measure on the ballot, and let the voters decide.

Closing the “write-in loophole” is a positive step. But Floridians want more than half measures. We want a system that treats all voters equally and lets all voters vote in taxpayer funded elections.

Our proposal (#700575) for an open primary provides a clear and constitutional path forward to give all voters a voice. Rather than run in party primaries, all candidates would be listed on a single ballot. All voters would receive that ballot and vote for any candidate. The two most popular candidates would then move on to the general election, regardless of party. We would be happy to respond to any questions you might have about the proposal, which is based on the systems in use for all state offices in Washington State and California, as well as the Nebraska State Legislature.

Through the Constitution Revision Commission process, Florida has an opportunity to lead the country in a new direction by instituting a truly open primary. We ask that you place an open primaries measure on the ballot in 2018, and let the voters decide.

Respectfully yours,

Steve Hough
Director
Florida Fair and Open Primaries

**Attachments on file
with committee staff.**