

Florida Voter  
League of Women Voters  
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# SPECIAL ELECTION EDITION

Fall, 2008

# The Florida Voter



The League  
of Women  
Voters of  
Florida

Education  
Fund

Includes Information on Amendments to the Constitution

## Vote November 4, 2008

### Florida State Supreme Court

#### About the office....

**Term:** Six years

**Salary:** \$161,000

The highest court in the state, Supreme Court is composed of seven justices who choose their own chief justice. Justices do not compete in elections; instead the question on the ballot is: Shall Justice (name) be retained in office? If a majority of votes are not cast in favor of retaining the incumbent, the governor appoints another person to fill the vacancy. This person is chosen from a list of individuals whose applications have been reviewed and who have been found qualified by the Judicial Nominating Commission.

At least five Justices must participate in every case and at least four must agree for a decision to be reached.

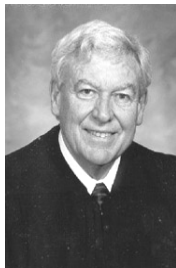
The Supreme Court decides the most important legal issues in the state but as constitutionally limited jurisdiction. The Florida Constitution, Art. V, Sec. 3 (b) distinguishes between the high court's mandatory and discretionary jurisdiction.

The issues that form the court's mandatory jurisdiction are:

1. Judgments of the circuit court imposing the death penalty.
2. Decisions of the district courts of appeal declaring invalid a provision of the state constitution or a statute.
3. Final judgments on bond validation or certificates of indebtedness.
4. State agency actions relative to utility rates for electricity, gas or telephone service.

**Note:** This issue contains Amendments that were to be voted on November 4, but were struck down by the Florida Supreme Court on September 3, 2008. We have left them in this issue for your reference.

### Justice Charles T. Wells



Justice Charles T. Wells assumed his duties as Justice of the Supreme Court on June 16, 1994, after being appointed by Governor Lawton Chiles. He

served the Court as Chief Justice from June 2000 through June 2002.

He is a native Floridian, who was born in Orlando on March 4, 1939, the son of Julia Talley Wells and J.R. Wells. In 1957, he graduated from William R. Boone High School in Orlando. He received his bachelor's degree from the University of Florida in 1961 and his juris doctor degree from the University of Florida in 1964. He is a member of Phi Beta Kappa, Florida Blue Key, and the University of Florida Hall of Fame. He was honored by being awarded recognition as a Distinguished Alumnus of the University of Florida in 2001.

Upon graduation from law school, Justice Wells entered private practice in Orlando with the law firm of Maguire, Voorhis, and Wells, P.A. He remained with that firm until 1969, when he served for one year as a trial attorney with the United States Department of Justice

in Washington, D.C. He returned to the firm in 1970 and remained there until 1976. He then formed the firm of Wells, Gattis, Hallows, and Carpenter, P.A., in Orlando, where Justice Wells practiced law until his appointment to the Supreme Court.

During his twenty-eight years in the private practice of law, he was a certified mediator of the Florida Circuit Court and United States District Court, and was admitted to practice law by all Florida courts in addition to the United States District Court, Middle District of Florida; United States Court of Appeals, Fifth Circuit (now Eleventh Circuit); United States District Court, Southern District of Florida; United States Court of Claims; and the Supreme Court of the United States.

He actively participated in the Orange County Bar Association while residing in Orlando, serving as president of that association from 1989 through 1990. Justice Wells was also actively involved in the Orange County Legal Aid Society from 1968 until 1994, and sat on the Society's Board of Trustees from 1988 through 1989. From 1985 through 1994, he participated in the Guardian Ad Litem Program, representing dependent and abused children in juvenile and domestic court proceedings. The Society awarded him its Award of

Excellence in 1989, in recognition of his outstanding pro bono service. He also served on the Board of Governors of The Florida Bar.

Justice Wells became Chief Justice of the Florida Supreme Court in July 2000. He presided over the election cases which came to the Florida Supreme Court concerning the 2000 presidential election. He served on the Board of Directors of the Conference of Chief Justices and as a member of several of the Conference's committees.

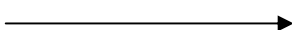
He was a member of the Federal Judicial Conference Standing Committee on Rules of Practice and Procedure from 2000 through 2006.

Justice Wells is a frequent lecturer on a variety of legal subjects. Since the 2000 election, he has lectured throughout the United States on the Florida Court's processing and administration of the election cases.

He is a member of Trinity United Methodist Church in Tallahassee. Justice Wells is a veteran, having served in the United States Army.

Justice Wells and his wife Linda Fischer Wells. They have three children and six grandchildren. Mrs. Wells is an attorney who, prior to Justice Wells' appointment to the Court, was a partner in the Orlando office of Carlton, Fields.

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# The Constitutional Amendments

## AMENDMENT #1: RELATING TO PROPERTY RIGHTS/ INELIGIBLE ALIENS

**Reference:** Article I, Section 2

**Summary:** Proposing an amendment to the State Constitution to delete provisions authorizing the Legislature to regulate or prohibit the ownership, inheritance, disposition, and possession of real property by aliens ineligible for citizenship.

**Sponsor:** The Florida Legislature

**Background:** Article I, Section 2 of the Florida Constitution provides that equal rights are for all in Florida, but creates a glaring exception for “aliens ineligible for citizenship,” who can be stripped of the right to own property by the Legislature. The exception dates to the early 1900’s and is common to many states’ law, and was directed at Asian-American immigrants (the “Yellow Peril”). Senate Joint Resolution 166, filed in 2007, proposed this amendment. Only New Mexico and Florida still have these provisions in their constitutions, and both states’ leaders are asking voters to remove the language this year.

**PRO:**  
The amendment would remove outdated and discriminatory passage from our Declaration of Rights.

**CON:**  
Constitutional action is not necessary at this time because there is no present Florida statute prohibiting ownership of property by aliens ineligible for citizenship.

## AMENDMENT #2: FLORIDA MARRIAGE PROTECTION AMENDMENT

**Reference:** Article I, newly proposed section

**Summary:** This amendment protects marriage as the legal union of only one man and one woman as husband and wife and provides that no other legal union that is treated as marriage or the substantial equivalent thereof shall be valid or recognized.

**Sponsor:** Florida4Marriage.org

**Background:** A Florida statute already provides that marriage is only recognized between a man and a woman. An Orlando activist, John Stemberger, organized this ballot initiative, which is the only citizens’ initiative on the ballot.

**PRO:**  
The amendment would protect children by ensuring that only one form of marriage, between a man and a woman, would ever be celebrated in Florida.

The Florida statute that already provides for a single form of marriage could be overturned by a court on constitutional grounds.

**CON:**  
A statute already provides for a single form of marriage in Florida.

Health care and pension benefit plans which cover unmarried couples living together and which are now legally valid may be adversely affected.

Article I of the Florida Constitution, known as the Declaration of Rights, establishes rights, but this amendment would instead limit the right to marry.

## AMENDMENT #3: CHANGES AND IMPROVEMENTS NOT AFFECTING THE ASSESSED VALUE OF RESI- DENTIAL REAL PROPERTY

**Reference:** Article VII, sections 3, 4, and a new section

**Summary:** Authorizes the Legislature, by general law, to prohibit consideration of changes or improvements to residential real property which increase resistance to wind damage and installation of renewable energy source devices as factors in assessing the property’s value for ad valorem taxation purposes. Effective upon adoption, repeals the existing renewable energy source device exemption.

**Sponsor:** Florida Budget and Taxation Reform Commission

**Background:** Increased value of residential property based on improvements designed to improve hurricane safety could not be assessed as taxable increased value.

**PRO:**  
Hurricane safety may be improved in residential property.

Residential property values may be increased.

The amendment may relieve the burden on non-renewable energy sources.

**CON:**  
Local revenues could suffer.

Individuals’ savings may be minimal.

The amendment does not apply to new construction.

## AMENDMENT #4: PROPERTY TAX EXEMPTION OF PERPETUALLY PRESERVED LAND; CLASSIFICA- TION AND ASSESSMENT OF LAND USED FOR CONSERVATION

**Reference:** Article VII, sections 3, 4, and Article XII, a new section

**Summary:** Requires Legislature to provide a property tax exemption for real property encumbered by perpetual conservation easements or other perpetual conservation protections, defined by general law. Requires Legislature to provide for classification and assessment of land used for conservation purposes, and not perpetually encumbered, solely on the basis of character or use. Subjects assessment benefit to conditions, limitations, and reasonable definitions established by general law. Applies to property taxes beginning in 2010.

**Sponsor:** Florida Budget and Taxation Reform Commission

**Background:** Numerous provisions of federal estate and tax law favor landowners who preserve their property in its natural state. This provision would provide further tax benefits to those landowners.

**PRO:**  
The amendment may encourage further conservation of land in its natural state.

**CON:**  
Local revenue will be decreased.

Existing policies already favor those who preserve their land.

The amendment would not require public access to the lands to which it applies.

### **The League Women Voters of Florida Education Fund Inc.**

Is a non-profit public foundation dedicated to strengthening citizen knowledge of an involvement in representative government. It is organized as described in Section 501(c)(3) of the Internal Revenue Code.

**League’s Purpose:** The League of Women Voters of Florida Education Fund, a non-partisan organization providing election information through its voters’ service program, presents this guide to candidates and ballot issues to be voted upon at the November 4, 2008 general election. The League believes that the strength of the American system of government lies in the ability of the people to grasp the issues in an election and to judge fairly the records and qualifications of candidates.

**Non-Partisanship Statement:** The League of Women Voters does not support or oppose individual candidates for political office, nor does the League of Women Voters favor, endorse, or support any political party.

**Additional copies:** A limited number of additional copies of this Special Election are available from a local League in your area or from the League of Women Voters of Florida Education Fund, 504 Beverly Court, Tallahassee, FL 32301-2506, (850) 224-2545.

# The Constitutional Amendments...continued

## AMENDMENT #5: ELIMINATING STATE REQUIRED SCHOOL PROPERTY TAX AND REPLACING WITH EQUIVALENT STATE REVENUES TO FUND EDUCATION

**Reference:** Article VII, sections 4, 9 and a new section; Article XII, section 28

**Summary:** Replacing state required school property taxes with state revenues generating an equivalent hold harmless amount for schools through one or more of the following options: repealing sales tax exemptions not specifically excluded; increasing sales tax rate up to one percentage point; spending reductions; other revenue options created by the legislature. Limiting subject matter of laws granting future exemptions. Limiting annual increases in assessment of non-homestead real property. Lowering property tax millage rate for schools.

**Sponsor:** Florida Budget and Taxation Reform Commission

**Background:** The tax reform commission has proposed that property taxes be lowered 25%, with the Legislature required to raise the 2010 sales tax by 1% to make up part of the shortfall that would result to school funding, and with the Legislature encouraged to make up the rest of the shortfall by other means, including more sales tax expansion, closing of sales tax loopholes, a possible services tax, and potential budget cuts.

**PRO:** The change would result in lower residential property taxes, along with higher sales taxes.

The amendment might result in closing of some sales tax loop holes.

**CON:** The amendment increases sales tax, which is a less stable income source than property tax.

The amendment makes no provision for adequate school funding after 2010.

The amendment increases the tax burden on lower-income families.

## AMENDMENT #6 : ASSESSMENT OF WORKING WATERFRONT PROPERTY BASED UPON CURRENT USE

**Reference:** Article VII, Section 4, and Article XII, new section

**Summary:** Provides for assessment based upon use of land used predominantly for commercial fishing purposes; land used for vessel launches into waters that are navigable and accessible to the public; marinas and drystackes that are open to the public; and water-dependent marine manufacturing facilities, commercial fishing facilities, and marine vessel construction and repair facilities and their support activities, subject to conditions, limitations, and reasonable definitions specified by general law.

**Sponsor:** Florida Budget and Taxation Reform Commission

**Background:** Access to public waterfront has been reduced as marinas and the like cannot afford to resist developers' offers to convert the land into condominium towers or other private buildings. The amendment would require those properties to be taxed based on their current use rather than on their "highest and best" use.

**PRO:** Access to public waterfront areas would more likely remain at current levels rather than continuing to diminish.

This measure may reduce property taxes on working waterfront properties and thereby reduce pressure to sell those properties to developers.

**CON:** Local revenues would suffer.

The measure allows the Legislature to define terms and impose conditions and limitations on any tax break working waterfront owners receive.

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## AMENDMENT #7: RELIGIOUS FREEDOM

**Reference:** Article I, Section 3

**Summary:** Proposing an amendment to the State Constitution to provide that an individual or entity may not be barred from participating in any public program because of religion and to delete the prohibition against using revenues from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.

**Sponsor:** Florida Budget and Taxation Reform Commission

**Background:** The Florida appellate courts held in 2004 and 2006 that religious-school vouchers paid for by tax dollars are unconstitutional under the Florida constitution. This amendment, proposed by former members of Governor Bush's administration who served on the Budget and Taxation Reform Commission, would nullify one of the sections of the Florida Constitution that prevented the voucher system from becoming law; that section provides that state moneys cannot be appropriated to aid religious organizations. This amendment would also add a provision stating that religion cannot be used as a reason to deny participation in a public program.

**PRO:** Publicly funded faith-based programs that support, e.g., drug-addiction rehabilitation could more easily be created and approved.

Religious groups believe they are discriminated against by current law which allows public economic support of public but not private schooling.

**CON:** The amendment "hides the ball;" it affects voucher programs but does not mention them by name.

The amendment would remove money from the public-school system by re-routing tax money earmarked for public education to private schools.

The taxpayers would pay for religious education.

The measure is unnecessary: the law already allows religiously-based individuals and entities to participate in public programs.

## AMENDMENT #8: LOCAL OPTION COMMUNITY COLLEGE FUNDING

**Reference:** Article VII, section 9

**Summary:** Proposing an amendment to the State Constitution to require that the Legislature authorize counties to levy a local option sales tax to supplement community college funding; requiring voter approval to levy the tax; providing that approved taxes will sunset after 5 years and may be reauthorized by the voters.

**Sponsor:** Florida Budget and Taxation Reform Commission

**Background:** The Legislature has allowed Miami-Dade County to levy a local-option sales tax to assist that area's community college.

**PRO:** Community colleges serve as a gateway to the university system and to greater employment opportunities; this amendment could increase their funding.

Voters would have the option of denying any proposed local-option sales tax increase under the proposal.

**CON:** Sales taxes impose a greater burden on lower-income families.

The measure shifts the burden of funding community colleges from state to local authorities.

The amendment could create unequal opportunities for Florida residents based on the economy in their county of residence.

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## And finally....

### AMENDMENT #9: REQUIRING 65 PERCENT OF SCHOOL FUNDING FOR CLASSROOM INSTRUCTION; STATE'S DUTY FOR CHILDREN'S EDUCATION

**Reference:** Article IX, section 8; Article XII, section 28

**Summary:** Requires at least 65 percent of school funding received by school districts be spent on classroom instruction, rather than administration; allows for differences in administrative expenditures by district. Provides the constitutional requirement for the state to provide a "uniform, efficient, safe, secure, and high quality system of free public schools" is a minimum, nonexclusive duty. Reverses legal precedent prohibiting public funding of private school alternatives to public school programs without creating an entitlement.

**Sponsor:** Florida Budget and Taxation Reform Commission

**Background:** The Florida appellate courts held in 2004 and 2006 that religious-school vouchers paid for by tax dollars are unconstitutional under the Florida constitution. This amendment, along with Amendment 7, would nullify one of the sections of the Florida Constitution that prevented the voucher system from becoming law.

**PRO:** Some parents believe they are discriminated against by current law, which allows public economic support of public but not private schooling.

Public money will be used to fund private schools and vouchers.

**CON:** The amendment would remove money from the public-school system by re-routing tax money earmarked for education to private schools.

The 65% figure is arbitrary and has no basis in educational research.

Voters may oppose one of the amendment's goals and approve of the other, and may not know whether to vote for or against the amendment for that reason.

The amendment "hides the ball" it affects voucher programs but does not mention them by name.

## Tidbits...

1. What is the deadline for registering for the November election? *October 6, 2008 is the last day for registering.*

2. How do I register to vote? *You can contact your Supervisor of Elections office. Check your phonebook for the phone number. If you cannot find the number, call your local or state League of Women Voters.*

3. What are the requirements to be eligible to vote in the November election? *You must be a citizen of the United States and 18 years old by November 4, 2008. In Florida, you may not be mentally incapacitated or a convicted felon whose rights have not been restored.*

4. I have trouble writing. What should I do? *Under the National Voter Registration Act, state agencies that provide voter registration opportunities are required to provide assistance in filling out the form if a request is made.*

5. How do I know if I'm registered? *Within a few weeks after registering, you should get a notice in the mail telling you that you are officially registered. If you don't receive the information, call you supervisor of elections.*

6. How will I find out where to go to vote? *Your registration card should include the address of your polling place. This notice will also list your legislative, congressional, senatorial, and school board districts.*

7. Are there other ways to vote besides going to the polls? *You may request an absentee ballot from your supervisor; it must be mailed back by the date of the election.*

8. Do I need identification at the polls? *You must have a photo identification with you. If you don't have a Florida driver's license, you may use a U.S. passport, debit or credit card, military ID, student ID, retirement center ID, neighborhood association ID or public assistance ID.*

9. What if my name isn't on the registration list at my polling place? *You will be allowed to cast a provisional ballot that will be counted once election officials determine if you are eligible to vote in that jurisdiction.*

10. What kind of machine will I be voting on? *Voters who are not visually or hearing impaired will be voting on optical scan machines.*

## How Do We Amend the Florida Constitution ?

**Proposal by legislature:** An amendment of the Florida constitution may be proposed by joint resolution and agreed to by three-fifths of the membership of each house of the legislature.

**Constitutional Revision Commission:** A commission composed of the attorney general of Florida, fifteen members selected by the governor, nine members selected by the speaker of the house, nine members selected by the president of the senate and three members selected by the chief justice of the supreme court of Florida meeting every twenty years may propose revisions of the constitution.

**Citizen Initiative:** Citizens must file a copy of the proposed amendment signed by a number of electors (8% of the total number of ballots cast in the previous presidential election) in each of one-half of the congressional districts of the state (approximately 60,000 signatures at this time) to the Secretary of State. If it meets the standards of the Dept of State, it goes to the Supreme Court. The court then decides whether it meets further criteria, including the addressing of just one subject. If the court rules favorably, citizens must then gather a number of signatures equal to eight percent of the votes cast in the last preceding presidential election (approximately 611,000 signatures at this time). Citizens have four years to gather signatures.

**Constitutional Convention:** Citizens may call for a constitutional convention to address revisions in the state constitution. The procedure followed for citizen initiatives is again followed, but the number of signatures that must be gathered is 15% of the number cast in the previous presidential election.

**Taxation and Budget Reform Commission:** This commission meets every ten years and is composed of eleven members selected by the governor; they may not be members of the legislature when appointed. Seven members are selected by the speaker of the house and seven by the president of the senate (again, they may not be legislators at the time of appointment).

The speaker and the president of the senate then appoint four non-voting ex-officio members who are members of the legislature when appointed; two come from the house representing both political parties and two from the senate, also representing both parties. An affirmative vote of two-thirds of the commission is necessary to put an amendment on the ballot.

There are nine constitutional amendments on the 2008 ballot. Amendment 2 is a citizen initiative. The remaining amendments were proposed by the legislature and the taxation and budget reform commission.

Take a friend to  
**VOTE**  
On November 4, 2008