



STATE OF FLORIDA

CHARLIE CRIST
ATTORNEY GENERAL

November 30, 2006

The Honorable R. Fred Lewis
Chief Justice, and Justices of
The Supreme Court of Florida
The Supreme Court Building
Tallahassee, Florida 32399-1925

FILED
THOMAS D. HALL
2006 NOV 30 3:06
CLERK, SUPREME COURT

SC06-2286

Dear Chief Justice Lewis and Justices:

In accordance with the provisions of Article IV, section 10, Florida Constitution, and section 16.061, Florida Statutes, it is the responsibility of the Attorney General 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 November 9, 2006, this office received from the Secretary of State an initiative petition seeking to amend the Florida Constitution to prohibit state spending for experimentation that involves the destruction of a live human embryo.¹ Pursuant to section 16.061(1), Florida Statutes, "[t]he Attorney General shall, within 30 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State, petition the Supreme Court, requesting an advisory opinion regarding the compliance of the text of the proposed amendment or revision with s. 3, Art. XI of the State Constitution and the compliance of the proposed ballot title and substance with s. 101.161."

The full text of the proposed amendment states:

"Be it enacted by the people of Florida that a new section for Article X of the Constitution is created to add the following:

No revenue of the state shall be spent on experimentation that involves the destruction of a live human embryo."

The ballot title for the proposed amendment is "Prohibiting state spending for experimentation that involves the destruction of a live human embryo." The summary for the proposed amendment states:

No revenue of the state shall be spent on experimentation that involves the destruction of a live human embryo.

Single Subject

Article XI, section 3, Florida Constitution, requires that a constitutional amendment proposed by citizens' initiative "embrace but one subject and matter directly connected therewith." As this Court stated in *Fine v. Firestone*, 448 So. 2d 984, 993 (Fla. 1984), this limitation protects the State Constitution from "precipitous" and "spasmodic" changes by preventing logrolling. In addition, the single subject rule "prevent[s] a single constitutional amendment from substantially altering or performing the functions of multiple aspects of government." *Advisory Opinion to the Attorney General--Florida Transportation Initiative for Statewide High Speed Monorail, Fixed Guideway or Magnetic Levitation System*, 769 So. 2d 367, 369 (Fla. 2000).

To comply with the single-subject requirement, an initiative must manifest a "logical and natural oneness of purpose." *Fine v. Firestone, supra*. 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 has recognized that "a proposal that affects several branches of government will not automatically fail; rather, it is when a proposal substantially alters or performs the functions of multiple branches that it violates the single-subject test." *Advisory Opinion to the Attorney General--Patients' Right to Know About Adverse Medical Incidents*, 880 So. 2d 617, 620 (Fla. 2004) (*quoting Fine*, 448 So. 2d at 990). Thus, the single-subject rule ensures that the impact of a constitutional amendment proposed by a citizens' initiative is limited and accurately disclosed.

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.

Ballot Title and Summary

Section 101.161(1), Florida Statutes, sets forth substantive and technical requirements for the ballot title and summary, stating:

Whenever a constitutional amendment . . . is submitted to the vote of the people, the substance of such amendment . . . shall be printed in clear

and unambiguous language on the ballot The wording of 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 "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, they need not explain every detail or ramification of the proposed amendment. *Carroll v. Firestone*, 497 So. 2d 1204, 1206 (Fla. 1986). The ballot, however, must give the voter fair notice of the decision he must make. *Askew v. Firestone*, *supra* at 155. This Court has stated that the purpose of section 101.161, Florida Statutes, is to ensure that voters are advised of the amendment's true meaning.

Therefore, I respectfully request this Honorable Court's opinion as to whether the amendment's ballot title and summary comply with section 101.161, Florida Statutes.

Rule 9.510

Rule 9.510(b), Florida Rules of Appellate Procedure, provides that a request for an advisory opinion of this Honorable Court contain certain information.² In compliance with Rule 9.510(b), this office would note the following:

The name and address of the sponsor of the initiative petition: Citizens for Science and Ethics, Inc., 95 South Federal Highway, Suite 200-205, Boca Raton, Florida 33432. The name and address of the sponsor's attorney: Mr. Stephen C. Emmanuel, Ausley & McMullen, 227 South Calhoun Street, Tallahassee, Florida 32301.

The Division of Elections has informed this office that as of November 13, 2006, the sponsor had not obtained the requisite number of signatures to have the proposed amendment placed on the ballot; the supervisors of elections, however, had certified a total of 61,608 valid petition signatures. The division has advised that 611,009 signatures are required for placement on the 2008 general election, the election during which the sponsor is planning to submit the proposed amendment to the voters.³ The division has further advised this office that the last possible date that the ballot for the general election in 2008 can be printed in order to be ready for the election is unknown at this time. Pursuant to Article XI, section 5(b), Florida Constitution, however, a proposed amendment to the Constitution by initiative shall be submitted to the electors

at the general election provided the initiative petition is filed with the custodian of state records no later than February 1 of the year in which the general election is held.

Pursuant to section 100.371(5)(a), Florida Statutes, the Financial Impact Estimating Conference shall complete an analysis and financial impact statement of an initiative within 45 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State. This office has been advised that a letter was sent to the conference on November 8, 2006, and was received on November 8, 2006. Since the 45th day after receipt is December 23, 2006, a Saturday, it appears that the statement must be completed by December 26, 2006.⁴

Rule 9.510(b)(8), Florida Rules of Appellate Procedure, requires that this office provide the names and complete mailing addresses of all of the parties who are to be served. The following are the names and addresses of interested persons who are known by the Attorney General's Office at this time:

The Honorable Jeb Bush
Governor
The Capitol PL-05
400 South Monroe Street
Tallahassee, Florida 32399-0001

Ms. Sue E. Cobb
Secretary of State
The R.A. Building
500 South Bronough Street
Tallahassee, Florida 32399-0250

The Honorable Charlie Crist
Attorney General
The Capitol PL-01
400 South Monroe Street
Tallahassee, FL 32399-1050

The Honorable Ken Pruitt
President, Florida Senate
409 The Capitol
404 South Monroe Street
Tallahassee, Florida 32399-1100

The Honorable Marco Rubio
Speaker, Florida House of Representatives
420 The Capitol
402 South Monroe Street
Tallahassee, FL 32399-1300

Citizens for Science and Ethics, Inc.
95 South Federal Highway
Suite 200-205
Boca Raton, Florida 33432

Mr. Louis Hubener
Solicitor General
The Capitol PL-01
400 South Monroe Street
Tallahassee, FL 32399-1050

Mr. Stephen C. Emmanuel
Ausley & McMullen
227 South Calhoun Street
Tallahassee, Florida 32301

The Honorable R. Fred Lewis
Page Five

Ms. Dawn Roberts
Division of Elections
The R.A. Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Financial Impact Estimating Conference
The Florida Legislature
Attention: Amy Baker
111 West Madison, Suite 574
Tallahassee, Florida 32399-1400

Sincerely,

A handwritten signature in black ink, appearing to read "Charlie Crist". The signature is fluid and cursive, with a large initial "C" and a stylized "A" at the end.

Charlie Crist
Attorney General

CC/tfl

¹ This office would note that on November 7, 2006, this office submitted an initiative petition to this Honorable Court providing for the funding of embryonic stem cell research. The sponsors of that initiative, as do the sponsors of this initiative, plan to submit the proposed amendment to the voters during the November 2008 general election.

² The Rule was adopted by the Court in *In Re: Florida Rules of Appellate Procedure Rule 9.510, Advisory Opinions to the Attorney General*, Case No. SC06-1264 (Fla. November 9, 2006).

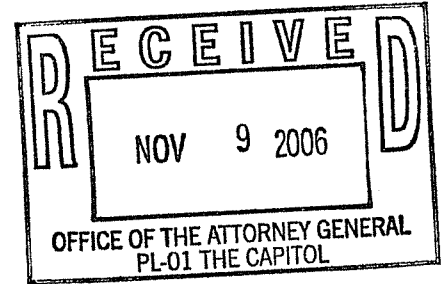
³ See s. 15.21, Fla. Stat., which requires verified forms signed and dated equal to 10 percent of the number of electors statewide and in at least one-fourth of the congressional districts required by Art. XI, s. 3, Fla. Const., in order for the Secretary of State's Office to submit an initiative petition to the Attorney General and to the Financial Impact Estimating Conference.

⁴ Rule 1.090(a), Fla. R. Civil P. December 26, 2006, appears to be the next day after December 23, 2006, which is not a Saturday, Sunday, or legal holiday.

FILED
THOMAS D. HALL



2006 NOV 30 P 3:06
FLORIDA DEPARTMENT OF STATE
Sue M. Cobb
Secretary of State
DIVISION OF ELECTIONS
CLERK, SUPREME COURT
BY _____



November 8, 2006

The Honorable Charlie Crist
Attorney General
State of Florida
PL 01, The Capitol
Tallahassee, Florida 32399-1050

Dear Attorney General Crist:

Section 15.21, Florida Statutes, provides that the Secretary of State shall submit an initiative petition to the Attorney General when a political committee has obtained ten percent of the signatures in one fourth of the Congressional Districts as required by Article XI of the Florida Constitution.

Section 16.061, Florida Statutes, provides that the Attorney General must then petition the Supreme Court for an advisory opinion regarding the compliance of the text of the proposed amendment, ballot title and substance of the amendment to the State Constitution.

Citizens for Science and Ethics, Inc. has successfully met the signature requirements for the initiative petition titled *Prohibiting state spending for experimentation that involves the destruction of a live human embryo*, Serial Number 05-21. Therefore, I am submitting the proposed constitutional amendment, ballot title and substance of the amendment.

Sincerely,

Sue M. Cobb

Sue M. Cobb

Enclosures

cc: Ms. Susan Cutaia, Chairperson
Citizens for Science and Ethics, Inc.

**FLORIDA DEPARTMENT OF STATE
DIVISION OF ELECTIONS**

SUMMARY OF SIGNATURES NEEDED AND CERTIFIED FOR REVIEW
PURSUANT TO SECTION 15.21, FLORIDA STATUTES

Political Committee: **Citizens for Science and Ethics, Inc.**

Amendment Title: **Prohibiting state spending for experimentation that involves the destruction of**

Congressional District	8% Required By Article XI, Section 3 Florida Constitution	10% Required By Section 15.21 Florida Statutes	Signatures Certified
FIRST	25,905	2,591	1,689
SECOND	27,003	2,701	984
THIRD	19,302	1,931	447
FOURTH	26,380	2,638	665
FIFTH	30,652	3,066	1,406
SIXTH	27,821	2,782	2,913
SEVENTH	28,951	2,896	4,855
EIGHTH	24,363	2,437	1,504
NINTH	27,804	2,781	1,308
TENTH	25,395	2,540	1,660
ELEVENTH	20,207	2,021	726
TWELFTH	23,100	2,310	760
THIRTEENTH	28,947	2,895	2,698
FOURTEENTH	29,022	2,903	2,229
FIFTEENTH	27,402	2,741	1,768
SIXTEENTH	26,925	2,693	3,351
SEVENTEENTH	17,361	1,737	7,492
EIGHTEENTH	19,018	1,902	3,169
NINETEENTH	26,347	2,635	3,417
TWENTIETH	23,345	2,335	2,511
TWENTY-FIRST	18,058	1,806	4,806
TWENTY-SECOND	26,183	2,619	3,988
TWENTY-THIRD	16,627	1,663	942
TWENTY-FOURTH	27,285	2,729	1,722
TWENTY-FIFTH	17,606	1,761	4,598
TOTAL:	611,009	61,113	61,608



FILE COPY

Jeb Bush
Governor

STATE OF FLORIDA
DEPARTMENT OF STATE
DIVISION OF ELECTIONS

Glenda E. Hood
Secretary of State

September 22, 2005

Susan Cutaia, Chairperson
Citizens for Science and Ethics, Inc.
95 South Federal Highway
Suite #200-205
Boca Raton, Florida 33432

Re: Prohibiting state spending for experimentation that involves the destruction of a live human embryo, Serial Number 05-21

Dear Ms. Cutaia:

This office is in receipt of the petition form, ballot title, and ballot summary for the following proposed initiative amendment, Prohibiting state spending for experimentation that involves the destruction of a live human embryo, Serial Number 05-21.

The Division of Elections approves this format which you submitted for the above referenced initiative, including the additional materials to be placed on the back of the petition form, and a copy is attached for your files. However, we would like to recommend that you consider revising the language in the fifth point of the instructions to make clear that in order for the petition to be *verified*, it must be signed. According to Florida Administrative Code Rule 1S-2.009(12), the Division of Elections shall assign serial numbers to approved petitions. Your petition's serial number is noted above.

No review of the legal sufficiency of the text of this proposed amendment has been nor will be undertaken by the Division of Elections.

Please let me know if I can assist you further.

Sincerely,

for Dawn K. Roberts, Esq.
Director

Enclosure

cc: Supervisors of Elections

Citizens for Science and Ethics, Inc. Constitutional Amendment Petition Form

104.185—A person who knowingly signs a petition or petitions for a candidate, a minor political party, or an issue more than one time commits a misdemeanor of the first degree, punishable as provided in s.775.082 or s.775.083.

I am a registered voter of Florida and hereby petition the Secretary of State to place the following amendment to the Florida Constitution on the ballot in the general election.

BALLOT TITLE: Prohibiting state spending for experimentation that involves the destruction of a live human embryo.

BALLOT SUMMARY: No revenue of the state shall be spent on experimentation that involves the destruction of a live human embryo.

FULL TEXT: Be it enacted by the people of Florida that a new section for Article X of the Constitution is created to add the following:

**No revenue of the state shall be spent on experimentation
that involves the destruction of a live human embryo.**

Is this a change of address for voter registration? <input type="checkbox"/> Yes <input type="checkbox"/> No	
FIRST NAME and LAST NAME: _____	
STREET ADDRESS: _____	
CITY: _____	ZIP: _____
COUNTY: _____	
DATE OF BIRTH: ____ - ____ - ____ OR VOTER REGISTRATION NUMBER: _____	
(OPTIONAL) E-MAIL ADDRESS: _____	
X _____	_____
SIGNATURE	DATE SIGNED

*POLITICAL ADVERTISEMENT PAID FOR BY
CITIZENS FOR SCIENCE & ETHICS, INC.
95 S. FEDERAL HIGHWAY, SUITE 200
BOCA RATON, FL 33432*

PLEASE MAIL TO:
CITIZENS FOR SCIENCE AND ETHICS, INC.
95 S. FEDERAL HIGHWAY, SUITE 200
BOCA RATON, FL 33432
(WWW.SCIENCEANDETHICS.ORG)

For office use only:

Serial number: 05-21

Date Approved: 9-22-05