

BRADENTON HERALD

Seventeen amendments on November ballot? Whoa!

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It's beginning to look like a long day at the polls Nov. 6. If the Constitution Revision Commission doesn't come to its senses, there will be 17 amendments on the ballot, an unenviable record. Some of its members worried aloud the other day about "voter fatigue," as well they should. When there were merely 11 amendments on the 2010 ballot, some people waited more than five hours to vote.

Moreover, there are serious problems with what ought to be the commission's finest achievement, a proposed ethics code that would be the nation's strictest. In working on it last week, members of the Commission's Style and Drafting Committee were confident of nothing except that the full commission will need to amend it in floor debate. That's not the right way to mark up something so consequential, which if done badly would take years to correct.

In some respects, the proposal is too severe. In others, it's too weak.

Since 1976, the Constitution has required ex-legislators, governors and Cabinet officers to wait two years before lobbying their former colleagues. The proposal, sponsored in the commission by former Senate President Don Gaetz, would extend the time to six years and include lobbying other state agencies as well. It would not apply to appearances before judicial tribunals and "administrative" actions subject to judicial review. Those exceptions, intended to benefit lawyers, lets a lot back in.

And if two years is too few, six may be too long. Four would be reasonable.

Moreover, this proposal still allows former legislators to work for lobbyists so long as they don't contact legislators themselves. Nor does it close the ethics gap that lets a lobbyist's law partner serve in the Legislature.

The proposal also extends the anti-lobbying provisions to former agency directors and local officials. It goes too far in prohibiting them from practicing before federal agencies. And for six years? Commission members acknowledged this part needs work.

The most serious omission has to do with the Florida Commission on Ethics, which the Legislature intentionally left weak when it created the agency in the 1970s.

The ethics commission can only act on sworn complaints from the public. It cannot open its own investigation on what it finds in the course of another probe or sees in the media. It's like prohibiting a police officer from pursuing a speeder unless another motorist complains.

The ethics commission has been trying since the 1970s to get that fixed. The Legislature persistently refuses. The Revision Commission should do what the Legislature won't.

The ethics proposal commendably prohibits public officials from using their offices to get "disproportionate" benefits for themselves, their families or their businesses. But rather than attempt to say what that means, it calls on the ethics commission to write the necessary definitions and rules. If the commission is to be trusted with that much discretion, why can't it be empowered to open its own investigations?

The ethics proposal is, however, a clear example of something that's appropriate to the Constitution. That can't be said of everything on the commission's plate.

Twelve of the 17 amendments voters may face Nov. 6 would be the commission's work, assuming it agrees with the decisions the drafting committee reached last week. Five other amendments are already on the ballot, three put there by the Legislature and two by voter initiatives. The five are there to stay. The 12 need more work and pruning. Much of what's proposed doesn't belong in the Constitution.

That's vividly true of a proposal to require employers to confirm their workers' immigration status with a verification system similar to the federal government's deeply flawed E-Verify program. An objection filed by nearly 70 major business and political leaders cited a study by the libertarian-leaning Cato Institute that the federal system delayed filling some 580,000 jobs from 2006 to 2016, and about 130,000 people were turned down in error. This proposal panders to the anti-immigration fervor whipped up by President Trump and has no place — none at all — in the Constitution.

Two other examples deal with veterans' affairs and domestic security. There's already a Department of Veterans Affairs and a division on terrorism in the Department of Law Enforcement. But the Commission wants to put them in the Constitution, for no apparent reason except politics. Now, the drafting committee has packaged them into a single amendment with something that would be the greatest leap backward since the present Constitution was ratified in 1968. It's a proposal to keep voters from approving county charters that change the duties of five constitutional officers or allow them to be appointed rather than elected. To that extent, it would also revoke the voter-approved charters in eight counties, including Broward, Palm Beach and Miami-Dade.

Broward, for example, would have to elect a tax collector once again. And Miami-Dade would have to convert the county's appointed police director to an elected sheriff.

This packaged proposal is a glaring example of the dark political art known as logrolling. It confronts voters with an all-or-nothing choice on unrelated matters. As objectors warned last week, a citizen in Miami who wants to vote in favor of veterans and against terrorism would also have to vote to scrap a form of local government that has stood the test of time — and public

satisfaction — since 1966. If the commission persists in this, the Supreme Court should throw it off the ballot.

There's more logrolling in a package that combines two-term limits for school board members and a requirement to teach "civic literacy," whatever that means, with a scheme to let the state establish charter schools that wouldn't be under a county board's jurisdiction. The entire package, whose real purpose is to create more charter schools run by private corporations, should be scrapped.

Another instance of logrolling packages the popular-but-unnecessary victims' rights proposal known as Marsy's Law with changes in the retirement age for judges and a wholesome requirement that judges make their own decisions on what a law means, rather than defer to an agency's opinion. To approve that reform, voters would needlessly complicate Florida's criminal justice system.

There's also an entirely unnecessary package that combines benefits for first responders and military survivors with a restriction on university fee increases, plus a proposal to put into the constitution the state college board that already exists in law.

The first revision commission, in 1978, put only eight amendments on the ballot. All failed, largely because of a controversial gambling initiative. The 1998 commission settled for 10 and voters ratified all but one.

Today's commission should pay more attention to history and less to special interests who crave new set-asides in Florida's governing document.