

# 2020 FLORIDA AMENDMENT GUIDE





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## OUTLINE OF FLORIDA'S CONSTITUTIONAL AMENDMENTS (2020)

Florida's history with state constitutions is storied. We have had six different constitutions over our 175 years. Our most recent constitution was ratified just 52 years ago, and we possess more ways to amend the constitution than any other state.

In most election years, ballot initiatives are fairly clear and straightforward. The 2018 election cycle was a notable exception, as Florida's Constitution Revision Commission placed more than a dozen initiatives on the ballot, most of which were multiple subject amendments. For the 2020 election cycle, there are just six amendments on the ballot for consideration, all from either citizen initiatives or legislative action. Per requirements, every ballot initiative proposed is a single-subject proposal.

It is our pleasure to provide this 2020 Amendment Guide. We hope it is of value to Floridians as they begin to unpack the six constitutional amendments that will be presented to them on November 3. Each amendment is unique and each should be weighed seriously because repealing any amendment that has passed would require a new ballot initiative garnering 60 percent of the vote in a subsequent election.

As always, the mission of The James Madison Institute is to inform citizens so that, together, we may chart the course of making Florida an even more prosperous state. It is in that context that we offer this analysis.

## INTRODUCTION

On November 3, 2020, Floridians will march to the ballot box to cast their votes. In addition to electing a President, 27 members of Congress, 120 members of the State House and 20 members of the Florida Senate, the ballot tasks Floridians with passing judgment on six proposed constitutional amendments. Constitutional initiatives play a pivotal role in the governance of the State, and thus warrant a heightened level of scrutiny.

Proposed constitutional amendments on the November ballot originate from two specific sources: the Florida Legislature and the citizens of Florida. Regardless of how a measure makes it to the ballot, all amendments require a 60 percent voting majority to pass. Additionally, each source establishes different hurdles before an amendment can reach the ballot. In the legislature, 60 percent of the Florida House of Representatives and Florida Senate each must agree to put the proposed amendment on the ballot. This year, the Florida Legislature passed two Amendments (5 and 6) to the ballot.

The Florida Constitution also has a mechanism for a citizen initiative petition. Floridians can place proposed amendments on the ballot by gaining at least 766,200 signatures from 14 of the State's 27 congressional districts (the requirement is eight percent of the total number of votes cast in the last presidential election). Four measures made it to the ballot in this method: Amendments 1 through 4.

As voters and engaged citizens of Florida, it is our civic duty to responsibly educate ourselves on important changes to the Florida Constitution. On the pages that follow, readers can find an analysis of each ballot initiative.

<b>TYPE</b>	<b>TITLE</b>	<b>SUBJECT</b>	<b>DESCRIPTION</b>
Citizen Initiated	Amendment 1	Suffrage	States in the state Constitution that only U.S. citizens can vote in federal, state, local, or school elections
Citizen Initiated	Amendment 2	Minimum Wage	Increases the state minimum wage to \$15 by 2026
Citizen Initiated	Amendment 3	Elections	Establishes a top-two open primary system for state office primary elections
Citizen Initiated	Amendment 4	Direct Democracy	Requires voter-approved constitutional amendments to be approved by voters at a second general election
Legislatively-Referred	Amendment 5	Taxes	Increases the period during which a person may transfer "Save Our Homes" benefits to a new homestead property from two years to three years
Legislatively-Referred	Amendment 6	Taxes	Allows a homestead property tax discount to be transferred to the surviving spouse of a deceased veteran

## AMENDMENT 1

# Citizen Requirement to Vote in Florida Elections

**Ballot Language:** “This amendment provides that only United States Citizens who are at least eighteen years of age, permanent residents of Florida, and registered to vote, as provided by law, shall be qualified to vote in a Florida election.”

**How the Amendment Reached the Ballot:** Citizen Initiative

### What Your Vote Means:

 A **YES** vote on this amendment: Would limit voting in Florida elections to only United States citizens who are at least eighteen years old, permanent Florida residents, and registered to vote in the state.

 A **NO** vote on this amendment: Would keep the current language in the Florida Constitution that every citizen of the United States who is at least eighteen years old, a permanent resident of the state, and registered to vote in the state can vote.

**Pros:** Supporters of this amendment make the argument that there needs to be language that clearly articulates who can and cannot vote in Florida elections. The current Florida constitutional language is considered inclusive; that is, it says who can vote in elections. However, it does not make a clear distinction about who cannot vote. Some contend that this inclusionary language could lead to state and local governments allowing illegal residents or non-citizens to vote in state and local elections. While it is a federal crime for non-citizens to vote in elections for federal office, some cities have been pushing to allow non-citizens to vote in local elections. This amendment is attempting to create a clear distinction between who can and cannot vote in federal, state, and local elections throughout the State of Florida.

**Cons:** Opponents of the measure would contend that neither the State of Florida nor any counties in the state currently allow non-citizens to vote. The state constitution itself says that you must be a citizen of the United States to vote. There is also a federal law that says non-citizens are not allowed to vote in federal elections for Members of Congress,

Senator, or President. There is currently no movement in Florida to allow non-citizens to vote in elections at any level. The issue is not with the language in the state constitution but with the voter registration by the supervisor of elections in certain counties. Those who are opposed to this amendment argue that it does not solve the main reason that non-citizens can find a way to vote.

**Constitutional Merit:** This measure is not a reform that can be addressed by the State Legislature and thus requires a constitutional ballot initiative in order to be implemented.

**In Sum:** This amendment would make it clear who can and cannot vote in elections throughout the State of Florida. The effect of this measure would be the change of one word in the constitution. Supporters believe that this change is necessary to draw a firm line on who can vote, while those who oppose the measure believe that the constitution is clear enough, as is, on who can vote.

## AMENDMENT 2

# Raising Florida's Minimum Wage

**Ballot Language:** “Raises minimum wage to \$10.00 per hour effective September 30th, 2021. Each September 30th thereafter, minimum wage shall increase by \$1.00 per hour until the minimum wage reaches \$15.00 per hour on September 30th, 2026. From that point forward, future minimum wage increases shall revert to being adjusted annually for inflation starting September 30th, 2027.”

Amendment 2 would increase the minimum wage from \$8.56 in 2020 to \$15.00 in 2026. Under Amendment 2, the state minimum wage would increase each year as follows:

NEW MINIMUM WAGE	INCREASE FROM PREVIOUS YEAR	EFFECTIVE DATE OF INCREASE
\$10.00	\$1.46	September 30, 2021
\$11.00	\$1.00	September 30, 2022
\$12.00	\$1.00	September 30, 2023
\$13.00	\$1.00	September 30, 2024
\$14.00	\$1.00	September 30, 2025
\$15.00	\$1.00	September 30, 2026

**How the Amendment Reached the Ballot:** Citizen Initiative

### What Your Vote Means:

 A **YES** vote would increase the minimum wage to \$15 by 2026, with a \$1.46 increase in 2021 to \$10. The tipped minimum wage would also increase to \$12 by 2026.

 A **NO** vote would keep the current \$8.56 minimum wage in place, while continuing to increase with inflation.

**Pros:** The implementation of a \$15 minimum wage would substantially raise the wages of lower-wage workers. Advocates argue that this kind of raise would stimulate growth within their communities because these workers would have more money to spend. There have been many studies that have shown that rent and housing prices have consistently risen, while wages have been stagnant in real dollar terms for nearly 40

years. Supporters say that the Fair Wage Amendment is the only way to raise workers' wages to a living wage in the State of Florida. In addition, supporters say that \$15 an hour is what workers around the state need to support a family. Additionally, proponents claim that this will lower workers' dependence on public assistance and would allow the state to spend taxpayer dollars elsewhere.

**Cons:** Opponents of this measure will make several claims regarding the measure. First, the basic tenet of economics – supply and demand – absolutely applies to wages. Any attempt by government to set a price floor for wages (a minimum wage) will result in greater unemployment, particularly in communities more in need of help. Additionally, opponents say that statistics clearly show that the vast majority of those in minimum wage jobs are youth, who are using this as a first opportunity for work. Raising the minimum wage will lock them out of jobs. Third, according to the measure's opponents, is the inevitable inflationary effects of increasing the cost of production. Higher wages mean higher costs – and consumers ultimately pay that increase. Most statistical research bears out these claims.

Seattle was the first city to pass a bill that would raise the minimum wage to \$15 by 2021. There have been studies of multiple industries, including one that looked at childcare businesses in the city. As a result of the minimum wage increase to \$15, businesses raised prices, reduced hours of workers, and eliminated some jobs altogether. The Congressional Budget Office (CBO) also released a report detailing what would happen if a \$15 minimum wage were enacted across the country. The report states that the median job loss would be 1.3 million jobs. Passage of this amendment would also adversely affect the availability of lower-wage jobs. Many companies will be more likely to increase automation where possible and eliminate certain low-wage jobs altogether. This scenario would lead to a massive layoff of lower-wage workers who are the same people that this measure is designed to help.

**Constitutional Merit:** This measure can be enacted in statute by the Florida Legislature. It does not require a constitutional amendment to address. If passed, it would require a separate constitutional amendment and 60 percent voter approval to modify.

**In Sum:** While the passage of the initiative would increase some worker wages throughout the state, it would also increase the price for goods, reduce the availability of lower-wage jobs, and result in the layoff of many workers. A **NO** vote would keep the current minimum wage tied to inflation, while a **YES** vote would incrementally increase the minimum wage until it reaches \$15 in 2026.

## AMENDMENT 3

# All Voters Vote in Primary Elections for State Legislature, Governor, and Cabinet

**Ballot Language:** “Allows all registered voters to vote in primaries for State Legislature, Governor, and Cabinet regardless of political party affiliation. All candidates for an office, including party nominated candidates, appear on the same primary ballot. Two highest vote getters advance to general election. If only two candidates qualify, no primary is held and winner is determined in general election. Candidate’s party affiliation may appear on ballot as provided by law. Effective January 1, 2024.”

**How the Amendment Reached the Ballot:** Citizen Initiative

### What Your Vote Means:

 A **YES** vote would make primaries in the State of Florida open to all candidates, with the top two advancing to a runoff in the general election, regardless of party.

 A **NO** vote would keep the current primary system in which each party nominates a candidate for the general election.

**Pros:** Supporters of the initiative would state that, simply put, open primaries would allow independent voters to take part in the candidate selection process. Currently, Florida is a closed primary state where only voters within a political party can vote and decide the party’s candidate. An open primary system would allow more choices to all voters as there are typically more candidates in open primaries. This is important in Florida because independents make up over a quarter of all voters. Currently, 21 states use the open primary system for congressional and state-level offices (according to Ballotpedia). Supporters have also argued that “crossover” voting is not a real issue that states have to worry about because if a voter does cross over that means that the candidate is building a broad coalition necessary to win in the general election. The open primary system would allow more voters’ voices to be heard and keep party power brokers from being able to hand-pick a party nominee.

**Cons:** Opponents of the measure will cite that this amendment would create a government regulation needlessly impacting private organizations. Individual members of a political party should be the ones deciding who their candidate for office is. Another issue that those opposed to the open primary system cite is “crossover” voting. That is where someone who is registered with one party will vote for a candidate in another party, typically in an attempt to select a candidate they feel can be beaten more easily, or a candidate that is closer to the center of the political spectrum and may not represent the full beliefs of the party to which they belong. The concern is that the party, and voters registered with the party, do not have their voices heard effectively or their voices will be diluted. This would open the primary system up to manipulation. If there was tampering by one of the major parties, it would shake Floridians’ trust in the electoral process.

**Constitutional Merit:** This measure is not a reform that can be addressed by the State Legislature and thus requires a constitutional ballot initiative in order to be implemented.

**In Sum:** The implementation of this measure would allow more voters to vote in the candidate selection process. It would also make candidates form a broad coalition of support. However, an open primary system would effectively serve as government intrusion into private organizations and could result in a system in which primary elections are manipulated by non-members of the party seeking to select a candidate that would be more easily defeated.

## AMENDMENT 4

# Voter Approval of Constitutional Amendments

**Ballot Language:** “Requires all proposed amendments or revisions to the State Constitution to be approved by the voters in two elections, instead of one, in order to take effect. The proposal applies the current thresholds for passage to each of the two elections.”

**How the Amendment Reached the Ballot:** Citizen Initiative

### What Your Vote Means:

 A **YES** vote would mean that a voter-approved constitutional amendment would have to be approved by voters at a second general election to become effective.

 A **NO** vote would mean that the current system with voter-approved constitutional amendments becoming effective after one general election would stay in place.

**Pros:** Proponents of this measure believe that the current process for amending Florida’s Constitution is too easy, and too many constitutional amendments pass without sufficient scrutiny – measures that could either be handled legislatively or which do not have a place in a foundational governing document. There have been 140 amendments to the constitution since it was last ratified in 1968, with an average of four to five amendments every cycle since 2006. This measure would allow more time for arguments to be made for and against a particular proposed amendment. Nevada is the only state that currently has a pass-it-twice requirement for constitutional amendments. A total of 12 of 14 constitutional amendments passed during the second general election after having passed the first in Nevada. Supporters cite that Amendment 4 would limit the amount of frivolous amendments that get brought forth and are ultimately passed.

**Cons:** Opponents of the initiative cite that Florida already requires a super-majority (60%) of voters to approve an amendment for it to pass. This means that a substantial number of the electorate must agree with a measure for it to gain enough support. Opponents say that adding a

requirement for the amendment to be placed on another ballot in four years would not significantly change the number of amendments that ultimately get passed. It would, however, slow down the process and keep important measures that a large portion of Floridians agree with from being implemented in a timely fashion. Also, as can be seen in Nevada, nearly all amendments that pass the first time on the ballot will pass the second time as well. This means that this amendment would not significantly change the number of amendments that get brought forth and would only slow down the process.

**Constitutional Merit:** This measure is not a reform that can be addressed by the State Legislature and thus requires a ballot initiative in order to be implemented.

**In Sum:** This measure would force constitutional amendments to pass in two consecutive general elections. If this amendment were passed it would take much longer for future amendments to pass and be implemented.

## AMENDMENT 5

# Extend “Save-Our-Homes” Portability Period for Homestead Property Tax Assessment

**Ballot Language:** “Proposing an amendment to the State Constitution, effective January 1, 2021, to increase, from 2 years to 3 years, the period of time during which accrued Save-Our-Homes benefits may be transferred from a prior homestead to a new homestead.”

**How the Amendment Reached the Ballot:** Florida State Legislature

### What Your Vote Means:

 A **YES** vote would extend the period in which someone may transfer Save-Our-Homes benefits to a new homestead property from two years to three years.

 A **NO** vote would keep the current Save-Our-Homes benefits transfer period to two years.

**Pros:** The current language of the law says that to transfer Save-Our-Homes benefits to another home, the resident must have received a homestead exemption as of January 1 of either of the previous two years. As the Tampa Bay Times pointed out in an editorial, this could cause an issue for some homeowners if they sell their house towards the end of one calendar year and their new home is not built by January 1 of the year after the next. In other words, they would have a little over a year to finish their new house to receive the homestead exemption by January 1. This was not the original intent of the exemption when it was passed and thus needs to be amended to better reflect the intentions of the voters. Proponents argue that a three-year timetable would give ample time for a homeowner to transfer their Save-Our-Homes benefits.

**Cons:** Opponents of this amendment could argue that it would decrease local property taxes when they are especially needed right now. The Florida Revenue Estimating Commission has estimated that this measure would decrease local property taxes by an annual \$1.8 million in the next fiscal year and would eventually grow to \$10.2 million annually. This is

money that would go directly to local governments, who best understand the needs of the local communities, and allow them to invest in them. An argument could also be made that two years is an acceptable time period to move from one home to another and to transfer those homestead property savings.

**Constitutional Merit:** This measure is not a reform that can be addressed by the State Legislature and thus requires a constitutional ballot initiative in order to be implemented.

**In Sum:** If this amendment were to pass it would better represent the intent of the original Save-Our-Homes Amendment which passed in 1992. It would allow residents to transfer their benefits in a true two to three-year window, instead of the current window which can be as small as a year and a few days.

## AMENDMENT 6

# Homestead Property Tax Discount for Surviving Spouses of Deceased Veterans

**Ballot Language:** “Provides that the homestead property tax discount for certain veterans with permanent combat-related disabilities carries over to such veteran’s surviving spouse who holds legal or beneficial title to, and who permanently resides on, the homestead property, until he or she remarries or sells or otherwise disposes of the property. The discount may be transferred to a new homestead property of the surviving spouse under certain conditions. The amendment takes effect January 1, 2021.”

**How the Amendment Reached the Ballot:** Florida State Legislature

### What Your Vote Means:

 A **YES** vote would mean that a homestead property tax discount may be transferred to the spouse of a deceased veteran.

 A **NO** vote would mean that the homestead property tax discount may not be transferred to the spouse of a deceased veteran.

**Pros:** The Florida homestead property tax discount has been in the State Constitution since 1934. In 2006, an amendment passed that allowed veterans 65 or older to have a discount on their homestead property tax exemption in proportion to the amount of disability they receive. This was later extended to include active duty military personnel for time served outside of the U.S. The homestead property tax discount was most recently extended to disabled veterans in 2012. Currently, the exemption ends upon their death and does not extend to the spouse. Proponents argue that this amendment would transfer these savings to the surviving spouse until they remarry, sell, or otherwise do away with the property—and better reflects the intent of the policy when enacted.

**Cons:** Opponents may claim that this amendment would result in less property tax revenue—especially during a time where property tax revenue is needed in local communities throughout the state. Many local governments are tasked with maintaining many public services with less

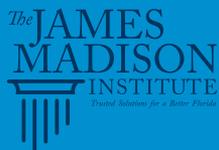
money being brought in through tax revenue. Opponents could claim that this is another measure that would leave local government with less money to spend for their communities.

**Constitutional Merit:** This measure is not a reform that can be addressed by the State Legislature and thus requires a constitutional ballot initiative in order to be implemented.

**In Sum:** This amendment would extend homestead property tax discounts to the spouse of a deceased veteran and allow them to keep the discounts that they are already receiving.







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