No. SC19-1266 & SC19-1601 (Consolidated)

In the Supreme Court of Florida

IN RE ADVISORY OPINION TO THE ATTORNEY GENERAL RE: PROHIBITS POSSESSION OF DEFINED ASSAULT WEAPONS

and

ADVISORY OPINION TO THE ATTORNEY GENERAL RE: PROHIBITS POSSESSION OF DEFINED ASSAULT WEAPONS (FIS)

ANSWER BRIEF OF INTERESTED PARTIES CITY OF WESTON, CITY OF COCONUT CREEK, CITY OF CORAL GABLES, CITY OF FORT LAUDERDALE, CITY OF LAUDERHILL, CITY OF MIAMI BEACH, CITY OF MIRAMAR, CITY OF NORTH BAY VILLAGE, CITY OF PEMBROKE PINES, CITY OF SAFETY HARBOR, CITY OF SOUTH MIAMI, VILLAGE OF PINECREST, AND TOWN OF SURFSIDE

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INTRODUCTION

The City of Weston, City of Coconut Creek, City of Coral Gables, City of Fort Lauderdale, City of Lauderhill, City of Miami Beach, City of Miramar, City of North Bay Village, City of Pembroke Pines, City of Safety Harbor, City of South Miami, Village of Pinecrest, and Town of Surfside (collectively, the "Municipalities"), as interested parties, hereby submit their Answer Brief in response to the November 1, 2019 Initial Briefs filed by the Attorney General of Florida, the National Rifle Association, and the National Shooting Sports Foundation.

The Municipalities contend that the proposed amendment entitled "Prohibits Possession of Defined Assault Weapons" ("Proposed Amendment") is valid and complies with all legal requirements to be placed upon a ballot, including the single-subject requirement of the Florida Constitution, Art. XI, § 3, Fla. Const., and the substantive and technical requirements of section 101.161(1), Florida Statutes. The Municipalities, however, do not take any position on the merits of the Proposed Amendment, which should be determined by the voters.

THE MUNICIPALITIES' INTERESTS

The Proposed Amendment seeks to prohibit the possession of "assault weapons," as defined in the Proposed Amendment. A violation of this provision would constitute a third-degree felony. The prohibition is self-executing and contains exemptions.

Local law enforcement agencies in the Municipalities will be responsible for enforcement of the Proposed Amendment's general prohibition. *See* § 790.33(2)(a),

Fla. Stat. (requiring local jurisdictions to enforce state firearms laws). Following the effective date of the Proposed Amendment, local law enforcement agencies will specifically be tasked with determining whether an individual's possession of a firearm meets the definition of "assault weapon" in the Proposed Amendment and, if so, whether an exemption applies.[1] As such, the Municipalities have a clear interest in the enforceability and clarity of the Proposed Amendment.

Additionally, local governments incur substantial expenses associated with responding to gun violence, and in particular, mass shootings. The Municipalities, therefore, have both a financial and political interest in any regulation of weapons commonly used in mass shootings. On September 18, 2019, the U.S. Congress Joint Economic Committee released a report entitled, "A State-by-State Examination of the Economic Costs of Gun Violence."[2] In that report, the Committee estimated that in Florida, approximately $14 billion in costs were incurred as a result of gun violence, including costs associated with 827 homicides. JEC Report 15. Of those costs, in excess of $5 billion represented directly measurable costs, including $383

[1] Under the Proposed Amendment, local law enforcement agencies are expressly given access to registration records that are otherwise confidential. *See* Art. I, § 8(e)(2)d., Fla. Const. (Proposed) ("Registration records shall be available on a permanent basis to *local*, state and federal law enforcement agencies for valid law enforcement purposes but shall otherwise be confidential." (emphasis added)).

[2] U.S. Congress Joint Economic Committee Democratic Staff, *A State-by-State Examination of the Economic Costs of Gun Violence*, September 18, 2019, *available at* https://www.jec.senate.gov/public/_cache/files/9872b4d4-4151-4d3e-8df9-bc565743d990/economic-costs-of-gun-violence---jec-report.pdf ["JEC Report"].

million in police and criminal justice costs, and $228 million in healthcare costs. *Id.* Furthermore, it has been estimated that the law enforcement costs of responding to just the Marjory Stoneman Douglas High School shooting in Parkland, Florida were several million dollars, for which the U.S. Department of Justice awarded a $1 million grant to help defray some of those costs.[3] By way of further example, the overall costs associated with the Pulse Night Club shooting in Orlando, Florida have been estimated to be approximately $400 million, and growing, inclusive of local enforcement efforts, healthcare, counseling and lost opportunity costs arising from fear of such recurring events.[4]

Accordingly, the Municipalities are "interested" parties within the meaning of Rule 9.510, and respectfully request that the Court consider the arguments set forth in this brief and permit them to be heard at oral argument. *See* Fla. R. App. P. 9.510(c)(1) ("The court shall permit, subject to its rules of procedure, interested

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[3] *See* Avery Anapol, *DOJ announces $1M grant to cover costs associated with Parkland shooting*, The Hill, April 23, 2018, *available at* https://thehill.com/homenews/state-watch/384473-florida-law-enforcement-given-1-million-to-pay-parkland-first-responders; Paul Scicchitano, *Parkland School Shooting Cost Several Million Dollars*, Patch, April 23, 2018, *available at* https://patch.com/florida/palmettobay-cutler/parkland-school-shooting-cost-several-million-dollars.

[4] *See* Abe Aboraya*, The Costs of the Pulse Nightclub Shooting,* npr, July 30, 2016, *available at* https://www.npr.org/sections/health-shots/2016/07/30/486491527/the-costs-of-the-pulse-nightclub-shooting. The local overtime and administrative costs alone as of mid-2016 were estimated at more than $2 million. *See* Jeff Weiner, *Pulse Cost Estimates Top $2 Million So Far*, Orlando Sentinel, July 25, 2016, *available at* http://www.orlandosentinel.com/news/pulse-orlando-nightclub-shooting/os-orlando-city-council-pulse-costs-20160725-story.html.

persons to be heard on the questions presented through briefs, oral argument, or both.").

STATEMENT OF THE FACTS

The Proposed Amendment seeks to amend article I, section 8, of the Florida Constitution concerning the right of the people to keep and bear arms. The ballot title of the Proposed Amendment is "Prohibits possession of defined assault weapons." The ballot summary reads as follows:

> Prohibits possession of assault weapons, defined as semiautomatic rifles and shotguns capable of holding more than 10 rounds of ammunition at once, either in fixed or detachable magazine, or any other ammunition feeding device. Possession of handguns is not prohibited. Exempts military and law enforcement personnel in their official duties. Exempts and requires registration of assault weapons lawfully possessed prior to this provision's effective date. Creates criminal penalties for violations of this amendment.

On July 26, 2019, the Attorney General petitioned this Court for a written opinion as to the validity of the initiative petition. In particular, the Attorney General requested an advisory opinion as to whether the Proposed Amendment complies with the single-subject requirement of article XI, section 3, of the Florida Constitution. Additionally, the Attorney General requested an opportunity to present argument in opposition to the placement of the Proposed Amendment on a ballot. According to the Attorney General, the ballot title and summary "are not clear and unambiguous and do not comply with the requirements of section 101.161(1), Florida Statutes."

Subsequently, the Attorney General also requested an advisory opinion as to whether the financial impact statement (FIS) prepared by the Financial Impact Estimating Conference is in accordance with section 100.371, Florida Statutes. The Attorney General did not take any position as to the validity of the FIS, however.

On November 1, 2019, the Attorney General, the National Rifle Association (NRA), and the National Shooting Sports Foundation (NSSF) (collectively, the "Opponents") each filed an initial brief in opposition to the Proposed Amendment and its placement on a future ballot.[5]

SUMMARY OF ARGUMENT

The title and ballot summary provide fair notice of the chief purpose of the Proposed Amendment, which is to prohibit the possession of "assault weapons" with certain exceptions. By using the identical definition of "assault weapons" in both the ballot summary and the Proposed Amendment, the ballot summary specifically informs voters of the exact scope of the prohibition—nothing more and nothing less. The Opponents may dislike the potential effect of the prohibition, but this is not a valid reason to strike the proposal from a ballot. This Court has a duty to uphold the proposal unless it can be shown to be *clearly and conclusively defective*, which has not been shown here. *Advisory Opinion to Attorney General re Tax Limitation*, 673 So. 2d 864, 867 (Fla. 1996).

The Opponents object to the ballot summary because it does not contain an exhaustive explanation reflecting their interpretation (or, more accurately,

[5] The Municipalities will cite to the brief of the Attorney General as "AG __," the brief of the NRA as "NRA __," and the brief of the NSSF as "NSSF __."

misinterpretation) of the Proposed Amendment and its possible future effects. But, again, this is not the test. The ballot summary is not required (or able) to include every detail or ramification of the Proposed Amendment in merely seventy-five words. The ballot summary complies with section 101.161(1), Florida Statutes, because it sufficiently informs voters of the content of the Proposed Amendment and is not affirmatively misleading, allowing voters to each cast an intelligent and informed ballot.

Additionally, the Proposed Amendment does not violate the single-subject requirement of article XI, section 3, of the Florida Constitution. Each of the subparts of the Proposed Amendment is directly related to and furthers its chief purpose.

Finally, the FIS complies with the requirements of section 100.371(13), Florida Statutes, because it is precisely 150 words in length and very clearly sets forth the anticipated financial consequences of adoption of the Proposed Amendment. The Proposed Amendment, therefore, complies with all legal requirements to be placed on a ballot.

ARGUMENT

I. THE TITLE AND BALLOT SUMMARY ARE NOT "CLEARLY AND CONCLUSIVELY DEFECTIVE."

A. The law governing review of ballot titles and summaries generally.

Section 101.161(1), Florida Statutes, provides that "[t]he ballot summary of the amendment or other public measure shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure," and "[t]he ballot

title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of." § 101.161(1), Fla. Stat. (2019). The same statute requires that the ballot summary "be printed in clear and unambiguous language." *Id.* This Court has held that the purpose of section 101.161 is "to provide *fair notice* of the content of the proposed amendment so that the voter will not be misled as to its purpose, and can cast an intelligent and informed ballot." *Advisory Op. to Att'y Gen. re Rights of Electricity Consumers re: Solar Energy Choice* (*Solar Energy Choice*), 188 So. 3d 822, 831 (Fla. 2016) (emphasis added) (quoting *Advisory Op. to Att'y Gen.—Fee on Everglades Sugar Prod.*, 681 So. 2d 1124, 1127 (Fla. 1996)).

In determining whether the title and summary of the proposed ballot are legally sufficient, the Court's review is limited to two questions: (1) whether the ballot title and summary fairly inform the voters of the chief purpose of the amendment; and (2) whether the language of the ballot title and summary misleads the public. *In re Advisory Op. to Att'y Gen. re Use of Marijuana for Certain Med. Conditions*, 132 So. 3d 786, 797 (Fla. 2014).

The Court's review of any proposed ballot language is also circumscribed by the recognition of the importance of allowing citizens to shape their constitution:

> "This Court has traditionally applied ***a deferential standard*** of review to the validity of a citizen initiative petition and 'has been ***reluctant to interfere***' with 'the right of self-determination for *all* Florida's citizens' to formulate 'their own organic law.' " *In re Advisory Op. to Att'y Gen. re Use of Marijuana for Certain Med. Conditions (Medical Marijuana I),* 132 So. 3d 786, 794 (Fla. 2014) (quoting *Advisory Op. to Att'y Gen. re Right to Treatment & Rehab. for Non–Violent Drug Offenses,* 818 So. 2d 491, 494 (Fla. 2002)). This Court does "not consider or address

> the merits or wisdom of the proposed amendment" and must "***act with extreme care, caution, and restraint*** before it removes a constitutional amendment from the vote of the people." *In re Advisory Op. to Att'y Gen. re Limits or Prevents Barriers to Local Solar Elec. Supply,* 177 So. 3d 235, 242 (Fla. 2015) (quoting *In re Advisory Op. to Att'y Gen. re Fairness Initiative Requiring Legis. Determination that Sales Tax Exemptions & Exclusions Serve a Pub. Purpose (Fairness Initiative),* 880 So. 2d 630, 633 (Fla. 2004)). Accordingly, ***it is this Court's duty to uphold a proposal unless it can be shown to be clearly and conclusively defective***. *Limits or Prevents Barriers,* 177 So. 3d at 246; *Medical Marijuana I,* 132 So. 3d at 795.

Solar Energy Choice, 188 So. 3d at 827 (bold, italicized emphasis added).

B. The ballot summary fairly informs voters of the chief purpose of the Proposed Amendment.

In seventy-three words, the ballot summary clearly informs voters of the chief purpose of the Proposed Amendment—to prohibit the possession of certain defined assault weapons.

The ballot summary begins by explaining that the Proposed Amendment seeks to "[p]rohibit[] possession of assault weapons, defined as semiautomatic rifles and shotguns capable of holding more than 10 rounds of ammunition at once, either in fixed or detachable magazine, or any other ammunition feeding device." Notably, the definition of "assault weapons" in the ballot summary and the Proposed Amendment is word-for-word identical. *See* Art. I, § 8(e)(1), Fla. Const. (Proposed).

The ballot summary then explains that there are certain exceptions to the general prohibition: "Possession of handguns is not prohibited. Exempts military and law enforcement personnel in their official duties. Exempts and requires registration of assault weapons lawfully possessed prior to this provision's effective date." These

explanations fairly and accurately disclose the exemptions set forth in the Proposed Amendment. *See* Art. I, § 8(e)(2), Fla. Const. (Proposed).

Finally, the ballot summary explains that the Proposed Amendment "[c]reates criminal penalties for violations of this amendment," which is a logical extension of the general prohibition. *See* Art. I, § 8(e)(3), Fla. Const. (Proposed). None of the Opponents takes any issue with this specific language.

The remainder of the provisions in the Proposed Amendment include details that are peripheral to the chief purpose of the Proposed Amendment. *See* Art. I, § 8(e)(3), Fla. Const. (Proposed). The Opponents do not argue that any of these other provisions should have been included in the ballot summary. Nor were they required to be included in the ballot summary because they are not integral to fairly understanding the chief purpose of the Proposed Amendment. *See In re Advisory Opinion to Att'y Gen. re Limits or Prevents Barriers to Local Solar Elec. Supply*, 177 So. 3d 235, 245 (Fla. 2015) ("[T]here is no requirement that the ballot summary explain its complete terms 'at great and undue length.' We have noted that such a requirement would actually hamper rather than aid the intelligent exercise of the voting privilege."); *Miami Dolphins, Ltd. v. Metro. Dade County*, 394 So. 2d 981, 987 (Fla. 1981) ("While there certainly are many details of the plan not explained on the ballot, we do not require that every aspect of a proposal be explained in the voting booth.").

In sum, the ballot language provides fair notice of the content and chief purpose of the Proposed Amendment. Each and every substantive provision in the Proposed Amendment is specifically addressed in the ballot summary—either

through a summary of the language in the Proposed Amendment that provides fair notice, or by using the exact same language of the Proposed Amendment. Especially given the strict word limitations provided by law, the summary is more than sufficient for voters to cast an intelligent and informed ballot.

C. The ballot summary is not misleading.

In their briefs, the Opponents raise a series of scattershot objections to suggest that the ballot summary is somehow misleading. As addressed below, each of these arguments fails on the merits, and many of these arguments are instead directed to the merit or wisdom of the Proposed Amendment, itself, which is outside the scope of this Court's review. *See, e.g.*, *Advisory Opinion to the Atty. Gen. re Right of Citizens to Choose Health Care Providers*, 705 So. 2d 563, 565 (Fla. 1998). In short, the Proposed Amendment does not ban virtually all semi-automatic long guns, and, even if it did, the ballot summary is not clearly and conclusively defective. The Court should decline the Opponents' invitation to deprive Florida voters from considering this important issue. *See Solar Energy Choice*, 188 So. 3d at 827.

(1) The Proposed Amendment does not ban virtually all semi-automatic long guns.

The Opponents primarily take issue with the definition of "assault weapons" in the Proposed Amendment. They argue that the Proposed Amendment "is, *in practical application*, a ban on virtually all semi-automatic long guns." AG 4 (emphasis added); *see also* NSSF 8; NRA 22–24; NSSF 6. However, this interpretation of the Proposed Amendment is inaccurate and (ironically) misleading.

"In 1989, California lawmakers — horrified by a mass shooting at a Stockton schoolyard — adopted the first assault-weapons ban in the country." Josh Richman, *Assault Weapons: What Are They, and Should They Be Banned?*, The Mercury News, January 17, 2013, https://www.mercurynews.com/2013/01/17/assault-weapons-what-are-they-and-should-they-be-banned/. "They simply named the guns that would be banned, and gunmakers responded by changing their names and model numbers." *Id.* "Since then, California and other states, as well as the proponents of a new federal ban, have incorporated a list of military-style characteristics that seem to make the most popular assault weapons especially deadly." *Id.*

In the instant case, the definition of "assault weapons" in the Proposed Amendment is straightforward and unambiguous. Instead of listing the names of specific firearms that could easily be renamed, the sponsor chose to define the term "assault weapons" by finite characteristics that are commonly associated with firearms that injure or kill humans quickly and efficiently: (1) semiautomatic; (2) rifle or shotgun; and (3) capable of holding more than ten rounds of ammunition at once. To the extent that the Opponents suggest that "assault weapons" should be defined as "virtually every semi-automatic rifle and shotgun," AG 8, such a nebulous definition is far less clear and not suitable for future application.

In *Medical Marijuana I*, cited repeatedly in *Solar Energy Choice*, the former Attorney General raised a similar objection to the breadth of the citizen initiative petition concerning medical marijuana production, possession and use. 132 So. 3d at 798. Specifically, she argued that the proposed amendment "would allow far wider marijuana use than the ballot title and summary reveal." *Id.* at 797. More specifically,

she argued that the ballot summary was misleading "because the phrase 'debilitating diseases' will lead voters to think that the conditions that would qualify for the medical use of marijuana are only very serious ones, when in fact the amendment would permit *virtually* 'limitless' use of marijuana." *Id.* at 798 (emphasis added). However, the Court rejected that expansive interpretation and concluded that the ballot language was not affirmatively misleading. *Id.* at 800.

In this case, the Opponents' broad interpretation of the Proposed Amendment is also incorrect, and the Opponents significantly misconstrue the scope of the Proposed Amendment because of their flawed reading. As an initial matter, the Opponents overlook the fact that the Proposed Amendment includes important exceptions to the general prohibition on assault weapons. *See* Art. I, § 8(e)(2), Fla. Const. (Proposed). The Proposed Amendment does not ban "virtually every semi-automatic rifle and shotgun" for this reason alone.

Additionally, the Opponents' interpretation of the Proposed Amendment depends in part upon a flawed proposition. The Opponents acknowledge that there are a number of semi-automatic shotguns and rifles that have fixed ammunition capacity and are *not* capable of holding more than ten rounds of ammunition at once in the marketplace.[6] *See* AG 9 ("With respect to semi-automatic shotguns, the vast

[6] In regard to semi-automatic rifles or shotguns that accept a detachable magazine, the prohibition is clear and unambiguous. *See Wilson v. County of Cook*, 968 N.E.2d 641, 651 (Ill. 2012) ("[A]ny semiautomatic rifle with the capacity to accept a 10–round magazine is also capable of accepting a large-capacity magazine. Thus, since plaintiffs acknowledge that all semiautomatic rifles that accept a magazine are capable of accommodating the larger capacity, it follows that the conduct proscribed is knowable and the prohibition is clear.").

majority come with fixed magazines, and many come with a standard capacity of ten or less."); Aff. of Mr. Barborini ¶ 14 (acknowledging that some "semi-automatic rifle[s] with a fixed magazine [are] sold with a capacity of ten rounds or less"). They argue, though, that those semi-automatic rifles and shotguns can be modified by the owner to increase ammunition capacity based upon "kits" or "extension tubes" that are also available in the marketplace. AG 9–10; NSSF 7. Therefore, according to the Opponents, essentially *all* semi-automatic firearms meet their interpretation of the definition of "assault weapons" in the Proposed Amendment.

The Opponents' strained interpretation writes into the definition language that is not there. Unlike the definition of "firearm" in section 790.001(6), Florida Statutes, the definition of "assault weapons" in the Proposed Amendment does not include firearms that are "capable of being modified or converted" to hold more than ten rounds of ammunition at once. § 790.001(6), Fla. Stat. ("'Firearm' means any weapon (including a starter gun) which will, is designed to, or *may readily be converted* to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun." (emphasis added)). If the sponsor intended for the prohibition to apply to firearms that, through the use of commercially available accessories, could be modified to hold more than ten rounds, it would have said so. *Thayer v. State*, 335 So. 2d 815, 817 (Fla. 1976) ("[T]he Legislature must be assumed to know the meaning of words and to have expressed its intent by the use of the words found in the statute.").

Instead, the definition of "assault weapons" in the Proposed Amendment focuses on the current condition of a firearm—either a firearm is currently "capable" of holding more than ten rounds of ammunition at once, or it is not. *See Merriam-Webster's Dictionary* (defining the term "capable," in relevant part, as "having attributes . . . required for performance or accomplishment"), *available at* https://www.merriam-webster.com/dictionary/capable. If not, then the firearm clearly falls outside the definition of "assault weapon[]" unless and until a person modifies it to be capable of holding more than ten rounds of ammunition at once. In other words, the definition of "assault weapons" includes only firearms that are presently capable of holding more than ten rounds of ammunition at once; it does not include a firearm simply because it could, in the future, be modified to be capable of holding more than ten rounds at once.[7]

If the Opponents' interpretation were accepted, it would effectively render the term "capable of" meaningless and lead to significant legal uncertainty in other situations where that term has been used. The Florida Legislature similarly defines motorized vehicles (among other objects) and their associated legal requirements by what they are "capable of" doing. For example, a "golf cart" is defined as "a motor vehicle that is designed and manufactured for operation on a golf course for sporting

[7] The Attorney General's reliance on *Pittman v. State*, 25 Fla. 648 (Fla. 1889), is misplaced. AG 10–11. In *Pittman*, which was decided 130 years ago, the Court held that the trial court misinformed the jury as to the correct definition of "deadly weapon" in a criminal case. *Id.* at 651; *see also* Fla. Std. Jury Instr. (Crim.) 8.2 ("A weapon is a 'deadly weapon' if it is used or threatened to be used in a way *likely to* produce death or great bodily harm." (emphasis added)). The Court did not interpret or apply the text of any legislation that included the phrase "capable of."

or recreational purposes and that is not *capable of* exceeding speeds of 20 miles per hour." § 320.01(22), Fla. Stat. (emphasis added); *see also* § 316.003(4), Fla. Stat. (bicycle); § 316.003(38), Fla. Stat. (moped); § 316.003(42), Fla. Stat. (motorized scooter). In *Angelotta v. Security National Insurance Co.*, 117 So. 3d 1214 (Fla. 5th DCA 2013), the court held that a golf cart that had been modified to increase its speed was, in fact, no longer a "golf cart," but rather a "low-speed vehicle," in part because it had become capable of exceeding speeds of twenty miles per hour. *Id.* at 1216–17. The court found this fact "legally significant" for multiple reasons:

> (1) Low-speed vehicles are required to be registered and insured if they are being operated on a roadway. *See* § 316.2122(3), Fla. Stat. (2007). By contrast, golf carts are generally exempt from Florida's vehicle registration requirements. *See* § 320.105, Fla. Stat. (2007).
>
> (2) A low-speed vehicle driven on any public roadway must be operated by an individual with a valid driver's license. *See* § 316.2122(4), Fla. Stat. There is no similar requirement for the operator of a golf cart. See § 316.212(6), Fla. Stat. (2007) ("A golf cart may not be operated on public roads or streets by any person under the age of 14.").
>
> (3) Unlike golf carts, low-speed vehicles are required to comply with the safety standards set forth in section 316.2122, Florida Statutes, and section 571.500 of the Code of Federal Regulations.
>
> (4) In the absence of a local ordinance, a low-speed vehicle may be operated on streets with a posted speed limit of thirty-five miles per hour or less. *See* § 316.2122(1), Fla. Stat. By contrast, in the absence of a local ordinance, the operation of a golf cart on public roadways is extremely limited. *See* § 316.212, Fla. Stat.

Id. at 1217 (footnotes omitted).

In this case, the Opponents' position, if applied to the definition of "golf cart," would mean that that *every* golf cart is actually a "low-speed vehicle" under Florida

law because apparently there are commercially available accessories that make it possible for every golf cart to be modified and capable of exceeding twenty miles per hour. Such an interpretation clearly belies the Legislature's intent. If the Opponents' interpretation were accepted and applied to Florida Statutes that use the term "capable of," it would effectively eviscerate the definition of "golf cart" (and numerous other definitions of certain motor vehicles) in Title XXIII, and have cascading legal effects in Florida. *See id.* Under Florida law, the term "capable of" does not encapsulate hypothetical possibilities of future modifications that would render the term meaningless. Thus, as in *Medical Marijuana I*, the Opponents' expansive interpretation should be rejected as a gross overgeneralization.

(2) The ballot summary does not "hide the ball" with regard to the true effect of the Proposed Amendment.

The Opponents also argue that the Proposed Amendment "has a 'sweep' that voters will not 'be able to comprehend.'" AG 11; NRA 22; NSSF 8. The crux of the Opponents' position appears to be that the definition of "assault weapons" is misleading because it will include some firearms that do not match the preconceived definition of "assault weapons" in some voters' minds. *See* NRA 22 ("The ballot summary assigns to the term 'assault weapons' a definition wholly incompatible with common usage and leaves voters conflicted between their understanding of the term 'assault weapons' and the far more expansive definition offered by the ballot summary."). As an example, the Opponents state that the definition of "assault weapons" would include the Ruger 10/22—a low caliber, semi-automatic rifle that

"is used for activities like small game hunting, teaching adults and children how to shoot, and target practice." AG 8; NRA 22–23.

This argument is a bright red herring intended to distract from the applicable legal standard. Even if the Proposed Amendment prohibited virtually all semi-automatic long guns, including Ruger 10/22s, the ballot summary is not misleading because it does not "hide the ball" with regard to the true effect of the Proposed Amendment. The Opponents' true concern regarding the effect of the Proposed Amendment "go[es] to the wisdom of adopting the amendment and it is for the proponents and opponents to make the case for adopting or rejecting the amendment in the public forum." *See Carroll v. Firestone*, 497 So. 2d 1204, 1206 (Fla. 1986).

As explained previously, the purpose of section 101.161 is "to provide fair notice of the content of the proposed amendment so that the voter will not be misled as to its purpose, and can cast an intelligent and informed ballot." *Solar Energy Choice*, 188 So. 3d at 831. Although a "ballot title and summary may not 'fly under false colors' or 'hide the ball' with regard to the true effect of an amendment," *Fla. Dep't of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008) (quoting *Armstrong v. Harris*, 773 So. 2d 7, 16 (Fla. 2000)), "[i]t is not necessary to explain every ramification of a proposed amendment, *only the chief purpose*." *Carroll v. Firestone*, 497 So. 2d 1204, 1206 (Fla. 1986) (emphasis added); *see also Andrews v. City of Jacksonville*, 250 So. 3d 172, 174 (Fla. 1st DCA 2018) ("Ballot summaries need not explain every ramification of a proposal, but must make sure that the chief purpose is clear and unhidden.").

In this case, the ballot summary does not mislead voters as to the chief purpose of the Proposed Amendment because it clearly and accurately summarizes the substance of the Proposed Amendment. *See supra* Part I.B. Indeed, both the ballot summary and the Proposed Amendment provide the identical definition of "assault weapons" that are covered by the prohibition. Therefore, the ballot summary does not, and cannot, imply that the Proposed Amendment covers a more limited scope of firearms than it actually does. *See Advisory Opinion to the Attorney Gen. Re: Voting Restoration Amendment*, 215 So. 3d 1202, 1208 (Fla. 2017) ("[T]he ballot title and summary also do not mislead voters with regard to the actual content of the proposed amendment. Rather, together they recite the language of the amendment almost in full."); *Advisory Opinion To Attorney Gen. re Florida Marriage Prot. Amendment*, 926 So. 2d 1229, 1237 (Fla. 2006) ("A comparison of the language of this ballot title and summary with the actual proposed amendment reveals that the language submitted for placement on the ballot contains language that is essentially identical to that found in the text of the actual amendment.").

This is obviously not a case in which the sponsor has used divergent terminology "in an attempt to persuade voters to vote in favor of the proposal." *Slough*, 992 So. 2d at 149. The Attorney General even acknowledges that the ballot language tracks the Proposed Amendment's language. AG 14. However, the Attorney General argues that "[t]here is no categorical rule that a ballot summary that tracks misleading language in the proposed amendment is not legally deficient." *Id.*

The Attorney General misapprehends the appropriate legal standard. In reviewing the validity of a proposed constitutional amendment, the Court's "sole task is to determine whether the ballot language sets forth the substance of the amendment in a manner consistent with" the applicable statute. *County of Volusia v. Detzner*, 253 So. 3d 507, 510 (Fla. 2018). The applicable statute, section 101.161(1), Florida Statutes, does not have any requirements for the text of the Proposed Amendment, itself. If the Attorney General's argument were accepted, it would fundamentally change this Court's role in the citizen initiative process and open the floodgates for attacks on the validity of proposed amendments before they are even adopted.[8]

Moreover, the definition of "assault weapons" is not misleading solely because it might cover some firearms that are not necessarily *intended* (but may still be used) to injure or kill humans quickly and efficiently. Because of "[m]odern firearms technology," AG 8, it is effectively impossible to "come up with a set of criteria that sweeps in the rapid-fire, military-style rifles used in some of the nation's most sensational mass murders while leaving out popular hunting rifles that allow a sportsman to quickly fire [ten] bullets at a deer dashing through the forest," Richman, *supra*. Thus, no matter how "assault weapons" was defined, the Opponents will always be able to question the normative value of the general prohibition.[9] *See id.*

[8] The Attorney General goes so far as to introduce evidence in the form of "expert" testimony to support her position on this purely legal issue.

[9] Tellingly, the Opponents do not argue that the effect of the Proposed Amendment would be significantly reduced if the definition of "assault weapons" included a

However, this does not mean that the general prohibition is actually unclear. The Opponents cannot hide behind the complexity of this field to preclude all regulations of assault weapons.

In the end, the Opponents are essentially arguing that the Proposed Amendment, itself, and not merely the ballot summary, is unconstitutionally vague because the voters will not understand the comprehensive effect of the prohibition. *See* AG 11; NRA 22. The Municipalities do not share the Opponents' pessimistic view of Floridians' ability to understand basic terminology,[10] and neither should this Court. *See Florida Educ. Ass'n v. Florida Dept. of State*, 48 So. 3d 694, 701 (Fla. 2010) ("This Court presumes that the average voter has a certain amount of common understanding and knowledge."); *Hill v. Milander*, 72 So. 2d 796, 798 (Fla. 1954) ("It is a matter of common knowledge that many weeks are consumed, in advance of elections, apprising the electorate of the issues to be determined and that in this day and age of radio, television, newspaper and the many other means of communicating and disseminating information."). If a Ruger 10/22 (or any other firearm) is a semiautomatic rifle that is capable of holding more than ten rounds of ammunition at once, then voters will understand that it falls within the definition of "assault weapon[]" in the Proposed Amendment and make their own determination as to whether to vote in favor of the prohibition.

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caliber exception or a higher capacity limit, which suggests that their concern is more with concept than scope.

[10] As explained previously, the Municipalities also disagree with the Opponents' interpretation of the scope of the Proposed Amendment. *See supra* Part I.C(1).

Therefore, as a categorical rule, this Court should decline the Opponents' request to turn this proceeding into a trial on the merits or to inject itself into the political process. *Slough*, 992 So. 2d at 147; *see also Askew v. Firestone*, 421 So. 2d 151, 156 (Fla. 1982) (stating that the Court "must act with extreme care, caution, and restraint before it removes a constitutional amendment from the vote of the people"). The Opponents' challenge to the substance of the Proposed Amendment is premature and inappropriate. *See Grose v. Firestone*, 422 So. 2d 303, 306 (Fla. 1982) ("Appellants' argument that the substance of the amendment is unconstitutional is not a justiciable issue in this case and may be raised in an appropriate proceeding in due course when the issue is properly presented."). The sole issue before this Court is whether the ballot summary fairly informs the voters of the chief purpose of the Proposed Amendment, and it clearly does. *See* § 101.161(1), Fla. Stat.; *Carroll*, 497 So. 2d at 1206.

(3) The term "assault weapons" is not inherently misleading or political rhetoric.

The Opponents also take issue with the use of the term "assault weapons" in the title and ballot summary. The Attorney General and the NSSF state that the term does not have an established definition and suggest that some semi-automatic long guns are not "assault weapons." AG 13; NSSF 7. The NRA states that the term is political rhetoric that is intended to provoke an emotional response. NRA 6–7.

In *Save Our Everglades*, this Court held that the ballot title, "Save Our Everglades," misled the voter because it implied that "the Everglades is lost, or in danger of being lost, to the citizens of our State, and needs to be 'saved,'" while

"nothing in the text of the proposed amendment hints at this peril." *In re Advisory Opinion to the Attorney General-Save Our Everglades*, 636 So. 2d 1336, 1341 (Fla. 1994). In fact, the text of the actual amendment stated that the purpose of the amendment was to "restore" the Everglades and did not include the term "save." *See id.*

Here, in contrast, the term "assault weapons" is used without deviation in both the ballot summary and the text of the Proposed Amendment, and is followed by a precise definition. Therefore, the fact that other jurisdictions define the same term differently is of no consequence; the voters of Florida are clearly informed of the exact legal effect of the Proposed Amendment, and no more.[11] *See Florida Marriage Prot. Amendment*, 926 So. 2d at 1238–39. If anything, the existence of other, similar regulations reveals that the term "assault weapons" is not unusual or misleading in this context. *See, e.g.*, Pub. L. 103-322, § 110103 (Sep. 13, 1994)[12]; N.Y. Penal Law § 265.00(22); N.J. Rev. Stat. § 2C:39-1(w); Mass. Gen. Laws ch. 140, § 121; D.C. Code § 7–2502.02(a)(6).

Additionally, the term "assault weapon" is not political or emotional rhetoric. "The popularly held idea that the term 'assault weapon' originated with anti-gun activists is wrong." Phillip Peterson, *Gun Digest Buyer's Guide to Assault Weapons*

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[11] The Attorney General even agrees that the legal effect of the Proposed Amendment is "clear." AG 16.

[12] In 1994, the United States federal government enacted the Public Safety and Recreational Firearms Act, which prohibited the possession of "semiautomatic assault weapons," among other firearms. The ban automatically expired in 2004 and was not re-enacted.

11 (2008). "In fact, the term was introduced by the gun industry itself to boost interest in new lines of firearms" as early as 1984. Richman, *supra*; *see also* Peterson, *supra*, at 11 ("The term ['assault weapon'] was first adopted by manufacturers, wholesalers, importers and dealers in the American firearms industry to stimulate sales of certain firearms that did not have an appearance that was familiar to many firearms owners. The manufacturers and gun writers of the day needed a catchy name to identify this new type of gun."). Although some anti-gun-control activists may no longer like the term, their subjective disdain does not render the ballot summary "misleading."

(4) The ballot summary does not misstate the nature of the exemption for the continued possession of assault weapons that were lawfully possessed on the effective date and then properly registered.

The Opponents also take issue with the summary of the exemption for the possession of assault weapons that are lawfully possessed prior to the effective date of the Proposed Amendment and then properly registered. The text of the Proposed Amendment provides, "If a person had lawful possession of an assault weapon prior to the effective date of this subsection, the person's possession of that assault weapon is not unlawful . . . after the person has registered with the [FDLE] or a successor agency, within one year of the effective date of this subsection." Art. I, § 8(e)(2)(d), Fla. Const. (Proposed). To register the assault weapon, the person seeking to possess the assault weapon must provide a sworn statement that the weapon was lawfully in his or her possession prior to the effective date of this subsection and identify the weapon by make, model, and serial number. *Id.*

In turn, the ballot summary states that the Proposed Amendment "[e]xempts and requires registration of assault weapons lawfully possessed prior to this provision's effective date." The Opponents argue that this language is misleading because it suggests an exemption of an assault weapon that is lawfully registered (presumably forever, regardless of who possesses it), whereas the Proposed Amendment does not "categorically exempt the firearm, only the current owner's possession of the firearm." AG 16; NRA 15–18; NSSF 12.

The Opponents' interpretation of the ballot summary language attempts to create a contradiction that does not exist. Specifically, the Opponents appear to misread the ballot summary to state that there is an exemption for assault weapons that is divorced from the person who lawfully possessed the assault weapon on the effective date. However, that is not what the ballot summary says or implies.

The ballot summary and the text of the Proposed Amendment are clear and consistent, especially when the ballot summary is read in context. The title and ballot summary begin by stating that the Proposed Amendment seeks to prohibit the *possession* of defined assault weapons. It goes without saying that the general prohibition applies to the possession of assault weapons *by persons*. Subsequently, the ballot summary explains that there is an exemption to the prohibition on possession and a registration requirement for "assault weapons *that are lawfully possessed prior to the effective date*," which is true. If the assault weapon was not lawfully possessed prior to the effective date, or if the assault weapon was not properly registered, then the exemption to the general prohibition for possession of assault weapons cannot apply—regardless of who seeks to possess and register it.

However, it does not follow that if a particular assault weapon is properly registered by the person who lawfully possessed it prior to the effective date, then another person (who did not lawfully possess the assault weapon on the effective date) may now lawfully possess that assault weapon until the end of time. This interpretation of the ballot summary is illogical and intentionally unreasonable. If the exemption applied indefinitely to assault weapons no matter who possessed them, the exception would swallow the rule. The average, reasonable voter will understand that the exempted assault weapon may only be registered to the person who lawfully possessed it on the effective date, and only that person can possess that assault weapon. *See Florida Educ. Ass'n*, 48 So. 3d at 701. To the extent there is any ambiguity as to whether that person can subsequently transfer or devise the registered assault weapon that he or she possessed on the effective date, those are ancillary details or legal ramifications that need not be included in the ballot summary, which is limited to only 75 words.[13] *See Hill*, 72 So. 2d at 798. The requirements for registration and prior lawful possession are the most critical aspects of the exemption, and both are unambiguously included in the ballot summary.

In sum, the ballot summary fairly and accurately summarizes the content of the Proposed Amendment's exemption for registered assault weapons. In context, the ballot summary clearly explains that there is an exemption to the general prohibition for possession of assault weapons, provided that the assault weapon is registered by the person who lawfully possessed it prior to the effective date.

[13] The subsection at issue is 153 words in total. *See* Art. I, § 8(e)(2)(d), Fla. Const. (Proposed).

However, this does not mean that the possession of a specific registered assault weapon is exempted forever no matter who possesses it. And the mere possibility that some voters may (unreasonably) misinterpret the language that way does not render the ballot summary clearly and conclusively defective.

(5) The ballot will disclose that the Proposed Amendment seeks to amend the Florida Constitution.

The NRA argues that the ballot language is misleading because it does not disclose that the Proposed Amendment abridges Floridians' existing right under the Florida Constitution to possess the very firearms that the Amendment seeks to outlaw. NRA 12–15. However, pursuant to Florida Law, every supervisor of elections is *required* to disclose on the ballot the specific constitutional provision that a proposed amendment seeks to amend. Fla. Admin. Code R. 1S-2.032(6) ("Additionally, the contest title for a constitutional amendment shall read: No. ___ Constitutional Amendment, Article ____, Section ____."). Therefore, when Floridians enter the polls, they will certainly be aware that the Proposed Amendment seeks to amend article I, section 8, of the Florida Constitution by prohibiting the possession of defined assault weapons. The ballot summary is not misleading merely because it does not include that same information in the limited ballot summary as well.[14]

[14] In 2018, for example, there were multiple constitutional amendments at issue, and not one of them identified in the ballot tile or summary the specific constitutional section being amended. Appendix 6–9 (Sample 2018 Ballot, Broward County). That information was included only in the contest title. *See id.*

(6) The ballot summary is not required to disclose every detail or ramification of the Proposed Amendment.

The NRA also argues that the ballot language fails to disclose that the Proposed Amendment will have the ancillary effect of prohibiting the manufacture and export of assault weapons, in addition to their possession. NRA 19–20. However, as explained previously, this Court has frequently recognized the limitations inherent in the 75-word limit that burdens all ballot summaries and has never insisted that the impossible be accomplished in describing all potential ramifications or details as to the effects of an amendment. *See, e.g., Solar Elec. Supply*, 177 So. 3d at 245; *Advisory Opinion to Atty. Gen. re Ltd. Casinos*, 644 So. 2d 71, 75 (Fla. 1994); *Miami Dolphins, Ltd.*, 394 So. 2d at 987.

Here, the ballot summary accurately communicates to voters that the Proposed Amendment bans *all* possession of assault weapons in Florida, regardless of who possesses them, unless the individual (i) is in the military or law enforcement and uses the assault weapon for official duties, or (ii) lawfully possesses the assault weapon as of the effective date and takes the appropriate steps to register the assault weapon. As written, the Proposed Amendment clearly applies whether the individual is a farmer with an assault weapon, a hunter with an assault weapon, a teacher with an assault weapon, an athlete with an assault weapon, or a manufacturer or exporter with an assault weapon. The ballot summary need not disclose all conceivable individuals or entities who might fall within the reach of the Proposed Amendment. Those details are not necessary to inform voters of the chief purpose of the Proposed Amendment.

The Court's admonition in *Advisory Opinion to Attorney General re Standards for Establishing Legislative District Boundaries*, 2 So. 3d 175 (Fla. 2009), rings equally true here with respect to the Opponents' extensive challenges to the ballot summary:

> The Legislature fails to indicate which of the current seventy-four words could be removed without creating another claim that the summaries are vague or misleading. Indeed, it is likely impossible to draft summaries that explain all of the details sought by the Legislature within the statutory-word limit. While ideal summaries for these amendments might have included the words "with the intent," we conclude that—given the strict word limits—the failure of the summaries to include these three words does not render them so misleading as to clearly and conclusively violate section 101.161, Florida Statutes.

Id. at 186–87. Indeed, the NRA fails to articulate where in the remaining two words of the ballot summary such an explanation, in addition to all of the other information the Opponents would like to be disclosed, would fit without creating another claim that the summary is vague or misleading.

(7) The Proposed Amendment does not restrict the constitutional right of gun ownership under the United States Constitution.

The NSSF argues that the ballot summary fails to disclose that the Proposed Amendment will significantly restrict the existing constitutional right of gun ownership under the Second Amendment. NSSF 12–13. At best, this is a legal challenge to the validity of the Proposed Amendment itself, which is not a proper

basis to strike the proposal from the ballot.[15] *See Hill*, 72 So. 2d at 798; *Grose*, 422 So. 2d at 306. At worst, the NSSF is plainly wrong. Not only does the Proposed Amendment expressly state that "[t]his subsection shall be construed in conformity with the Second Amendment to the United States Constitution as interpreted by the United States Supreme Court," Art. I, § 8(e), Fla. Const. (Proposed), numerous courts have already rejected similar challenges as well.[16]

D. The ballot title is not misleading.

Finally, the Municipalities note that the ballot *title* certainly complies with section 101.161(1), Florida Statutes, because it is less than fifteen words and contains a caption by which the Proposed Amendment is commonly referred to or

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[15] The Florida Constitution can provide greater, not lesser, rights than the federal constitution. *See State v. Horwitz*, 191 So. 3d 429, 438 (Fla. 2016); *State v. Small*, 483 So. 2d 783, 786 (Fla. 3d DCA 1986). Thus, technically, the Proposed Amendment could never "restrict" the constitutional right of gun ownership under the Second Amendment.

[16] *See, e.g.*, *Kolbe v. Hogan*, 849 F.3d 114 (4th Cir. 2017) (en banc) (holding that Maryland's assault weapons ban does not violate the Second Amendment); *New York State Rifle & Pistol Ass'n v. Cuomo*, 804 F.3d 242 (2d Cir. 2015) (holding that New York and Connecticut laws prohibiting possession of semiautomatic assault weapons and large-capacity magazines do not violate the Second Amendment); *Friedman v. City of Highland Park*, 784 F.3d 406 (7th Cir. 2015) (upholding local ordinance prohibiting assault weapons and large capacity ammunition magazines); *Heller v. District of Columbia*, 670 F.3d 1244, 1260–64 (D.C. Cir. 2011) (holding that District of Columbia's ban on assault weapons and large capacity ammunition magazines did not violate the Second Amendment); *Kampfer v. Cuomo*, 993 F. Supp. 2d 188, at *17–*19 & n.10 (N.D.N.Y. 2014) (holding that New York's assault weapons ban does not substantially burden Second Amendment rights); *People v. James*, 174 Cal. App. 4th 662, 676–77 (2009) (upholding California's ban on assault weapons and .50 caliber rifles).

spoken of. The Opponents do not argue otherwise. Although the Opponents repeatedly refer to the ballot title as misleading, none of them articulates any argument that is germane to the ballot title, rather than the ballot summary. To the extent the Opponents contend that the ballot title is misleading for the same reasons as the ballot summary, their arguments fail for the reasons stated above. *See Advisory Opinion to the Attorney Gen. Re: Voter Control of Gambling*, 215 So. 3d 1209, 1213 (Fla. 2017) ("This Court has explained that 'the ballot title and summary may not be read in isolation, but must be read together in determining whether the ballot information properly informs the voters.'" (quoting *Advisory Op. to Att'y Gen. re Voluntary Univ. Pre–Kindergarten Educ.*, 824 So. 2d 161, 166 (Fla. 2002))).

II. THE PROPOSED AMENDMENT DOES NOT VIOLATE THE SINGLE-SUBJECT REQUIREMENT OF ARTICLE XI, SECTION 3.

The single-subject requirement of Article XI, section 3 of the Florida Constitution "prevents an amendment from (1) engaging in 'logrolling' or (2) 'substantially altering or performing the functions of multiple aspects of government.'" *Solar Energy Choice*, 188 So. 3d at 827 (quoting *Advisory Op. to Att'y Gen. re Fla. Transp. Initiative for Statewide High Speed Monorail, Fixed Guideway or Magnetic Levitation Sys.*, 769 So. 2d 367, 369 (Fla. 2000)). "Logrolling" refers to "a practice whereby an amendment is proposed which contains unrelated provisions, some of which electors might wish to support, in order to get an otherwise disfavored provision passed." *Id.* at 827–28 (citing *Advisory Op. to Att'y Gen. re: Protect People, Especially Youth, from Addiction, Disease, & Other*

Health Hazards of Using Tobacco, 926 So. 2d 1186, 1191 (Fla. 2006)). The single-subject requirement applies to the citizen initiative method of amending the Florida Constitution. *Id.* at 827 (citing *Advisory Op. to the Att'y Gen. re 1.35% Prop. Tax Cap, Unless Voter Approved,* 2 So. 3d 968, 972 (Fla. 2009)).

The test this Court has consistently applied to determine whether a citizen initiative petition satisfies the single-subject requirement is whether "[t]he subparts of [the] amendment have a natural relation and connection as component parts or aspects of a single dominant plan or scheme." *Id.* at 828 (citing *Advisory Op. to Att'y Gen. re Standards for Establishing Leg. Dist. Boundaries*, 2 So. 3d 175, 181–82 (Fla. 2009)). If the initiative has a "logical and natural oneness of purpose," it satisfies the test. *Id.*

Tellingly, neither the Attorney General nor the NRA argue that the Proposed Amendment fails this test. The NSSF, however, argues that the Proposed Amendment violates the single-subject requirement because it simultaneously bans the possession of assault weapons, creates an exemption for registered assault weapons, and creates a criminal penalty. NSSF 16. According to the NSSF, "these are logically separable topics about which individual voters may feel differently." NSSF 4.

The NSSF is mistaken. The primary purpose of the Proposed Amendment is to prohibit the possession of certain defined assault weapons in Florida. The creation of a criminal penalty for the possession of certain defined assault weapons is necessary and directly related to that purpose. As was the case in *Solar Energy Choice*, where the proposed amendment allowed state and local governments to

regulate the field of solar energy to protect consumer rights and the public health, safety and welfare, 188 So. 3d at 828, so, too, here the Legislature has been afforded the authority to increase penalties for violations of the general prohibition of assault weapons. As this Court has observed, "Combining a constitutional right with the government's authority to regulate that right represents two sides of the same coin, and we have approved ballot initiatives that similarly have created constitutional rights and allowed the government to regulate the right." *Id.* (citing *In re Advisory Op. to Att'y Gen. re Use of Marijuana for Debilitating Medical Conditions*, 181 So. 3d 471 (Fla. 2015)).

Likewise, the exception for registered assault weapons is an integral part of the overall scheme. It provides a limitation to and a mechanism for state and local law enforcement to enforce the Proposed Amendment. *See id.* Merely because a voter may disagree with a particular subpart does not mean that the subpart is logically unrelated.

As a practical matter, the NSSF appears to argue that there should be three separate ballot questions concerning the general prohibition, its penalties, and its exceptions. However, this piecemeal approach is neither helpful nor desirable because each provision is interdependent. There can be no penalties or exceptions without the general prohibition, and the general prohibition would be incomplete without its penalties and exceptions. The NSSF stretches the single-subject requirement so thin that it would make almost every law a logrolling attempt.

In its entirety, the Proposed Amendment manifests a "logical and natural oneness of purpose" concerning the possession of certain defined assault weapons.

There are no provisions unrelated to the possession of firearms. Moreover, the Proposed Amendment does not affect other sections of the constitution or multiple branches of government. Therefore, the Proposed Amendment clearly satisfies the single-subject requirement.

III. THE FINANCIAL IMPACT STATEMENT COMPLIES WITH THE REQUIREMENTS OF CHAPTER 100.

A financial impact statement must disclose in "clear and unambiguous" language not to exceed 150 words any increase or decrease in revenues or costs to the state or local governments resulting from the proposed amendment. *See* §§ 100.371(13)(a), 100.371(13)(c)2., Fla. Stat. (2019). This Court's review, therefore, is narrow and focuses on "whether the statement is clear and unambiguous, consists of no more than [one hundred fifty] words, and is limited to addressing the estimatedincrease or decrease in any revenue or costs to state or local governments."[17] *Prop. Tax Cap, Unless Voter Approved,* 2 So. 3d at 976.

As previously noted, the Attorney General did not make any objections to the FIS in her September 19, 2019 request for advisory opinion. Nor did the Opponents in their initial briefs. To the extent that this issue was not abandoned and is still within this Court's review powers,[18] the Municipalities contend that the statement is

[17] In 2019, the Legislature amended section 100.371(5)(c)2., increased the word-limit from 75 to 150 words, and re-codified the standard. *See* § 100.371(13)(c)2., Fla. Stat. (2019).

[18] The Municipalities also question whether this Court has jurisdiction to address the validity of a financial impact statement in the first place. Although article IV, section 10 of the Florida Constitution, authorizes the Attorney General to request an opinion

sufficient on its face. It is precisely 150 words in length and very clearly sets forth the anticipated financial consequences of adoption of the Proposed Amendment:

> The amendment will eliminate sales of certain firearms and purchases related to the use of such firearms, which are estimated to reduce combined state and local government sales taxes by $23.4 to $30.6 million beginning the first full year of implementation and growing thereafter. These losses will be partially offset by purchases of other taxable items. The amendment will affect state and local government costs. At a minimum, the required registry will cost approximately $4 million to create and $3 million annually to maintain. Additional costs or savings cannot be determined because they are dependent on implementation. The revenue and cost impacts will affect the state's overall budget by less than 0.1 percent. The amendment will also have slightly negative effects on the economy. For example, total employment in the first full year of implementation will be lower by at least 3,200 jobs (0.03% of total employment) and fluctuate thereafter.

The statement does not stray outside the parameters of what section 100.371(13)(a) requires, and the Conference's use of ranges to estimate losses is specifically permissible. *See* § 100.371(13)(c)2., Fla. Stat. (2019) ("Nothing in this subsection prohibits the Financial Impact Estimating Conference from setting forth a range of potential impacts in the financial impact statement."). Accordingly, the financial impact statement complies with section 100.371(13).[19]

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from the Supreme Court "as to the validity of any initiative petition," and article V, section 3(b)(10), authorizes this Court to render an advisory opinion to the Attorney General, a fiscal impact statement is not part of the "initiative petition." This issue is currently before the Court in *Advisory Opinion to the Attorney General Re: Raising Florida's Minimum Wage (FIS)*, Case No. SC19-736.

[19] In the event the Court should find any portion of the financial impact statement to be not in compliance, the remedy is to remand the statement to the Conference for redrafting within 15 days. § 100.371(13)(c)2., Fla. Stat. (2019).

CONCLUSION

This Court should, for the foregoing reasons, approve the Proposed Amendment for placement on a ballot.

Respectfully submitted,

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