

## Florida Supreme Court Unanimously Rules to Remove Amendment 5 from November Ballot

September 3, 2008

Dear Michele

Just hours after hearing 20-minute arguments from both sides, the Florida Supreme Court unanimously ruled to toss the controversial Amendment 5 off the November ballot-upholding Circuit Court Judge John Cooper's initial ruling.

Amendment 5 seeks to eliminate the required local effort (RLE), which would create a \$9-\$11 billion budgetary hole that ultimately would force the Legislature to fill it with, among other things, a tax on services.

"AIA Florida was an active partner in the Coalition to Protect Florida's Economy," said the Florida Association of the American Institute of Architects (AIA Florida) EVP Vicki Long, CAE. "That partnership eventually led to this court case and the demise of the proposed constitutional amendment. We've fought four times and won four times, and we are pleased that Supreme Court agreed with our position."

"What fantastic news," said AIA Florida President Don Yoshino, FAIA. "Congratulations to staff and the Coalition for their hard work and continuous updates for the membership."

On Wednesday morning, the Coalition to Protect Florida's Economy attorney, Barry Richard, provided a consistent, fact-based and constitutionally sound argument that misleading voters is wrong.

Richard pointed out that one of the biggest problems with the amendment is that "the title states that the amendment only does two things, but in fact, it does five." He argued that if a summary or title has any ambiguity, the court should see it as an impediment to voters making an informed decision.

Throughout his argument, he maintained that the statutes state the title only needs to be a caption of the amendment, but it cannot be misleading. "This title is affirmatively misleading," Richard said.

The defendant attorney, Mark Herron, argued that the title and summary together are not misleading and that what the amendment is about is clearly stated in the allotted 90 words.

A crucial part of the title/summary language that came under fire was the use of the words "eliminates and replaces" without clarification that the replacement only happens for the first year, which the proponents call the "hold harmless" clause for school funding. After that first year, the Legislature would have to come up with a way to fill the multi-billion dollar budgetary hole to fully fund education.

"What, in the title and summary, would put voters on notice at the polls that the hold harmless clause exists?" asked Chief Justice Peggy O. Quince. "When reading the title and summary people will think the money will be replaced. The title should not give voters a false hope."

The justices were concerned that the title and summary did not provide adequate and forthright information regarding the amendment's goals-current and future-which could impact how voters cast their ballots.

Fatally flawing his assertion that the amendment was not misleading, Herron maintained that the "language was not misleading and that if it could not be assumed that voters do understand, then it

also could not be assumed that they do not understand."

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