

FLORIDA CONSTITUTIONAL LAW IN A NUTSHELL

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Page 32 (carryover paragraph at the top of the page): In *Henry v. DeSantis*, 2020 WL 2479447 (S.D. Fla. 2020), the court reiterated that Article I, § 6 does not guarantee a person a job (rejecting a Palm Beach County waitress’s claim that the state’s COVID-19 shutdown orders were invalid because they interfered with her right to work).

Page 43 (1st paragraph): The *Batiz* cite should be updated by adding: *review denied*, 2020 WL 1650658 (Fla. 2020).

Page 80 (1st paragraph): In June 2020, Governor Ron DeSantis activated 700 National Guardsmen in response to protests around the state over the death of George Floyd. See Johari Canty, *Gov. Desantis Mobilizes 700 National Guard Soldiers to Assist with Protests*, WSVN, June 1, 2020, at <https://wsvn.com/news/local/gov-desantis-mobilizes-700-national-guard-soldiers-to-assist-with-protests/>.

Page 83 (2d full paragraph): On appeal, the district court’s decision in *Jacobson* was vacated for lack of jurisdiction. See *Jacobson v. Florida Secretary of State*, 957 F.3d 1193 (11th Cir. 2020).

Page 85 (carryover paragraph at the top of the page): In *Advisory Opinion to the Attorney General re All Voters Vote in Primary Elections for State Legislature, Governor, and Cabinet*, 291 So. 3d 901 (Fla. 2020), the Florida Supreme Court ruled that the “All Voters Vote” proposal can appear on November 2020 ballot. It has been designated “Amendment 3.”

Page 87 (2d full paragraph): In *Advisory Opinion to the Attorney General re Citizenship Requirement to Vote in Florida Elections*, 288 So. 3d 524 (Fla. 2020), the Florida Supreme Court ruled that the “Florida Citizen Voters” proposal can appear on the November 2020 ballot. It has been designated “Amendment 1.”

Page 89 (carryover paragraph at the top of the page): In *Hand v. DeSantis*, 946 F.3d 1272 (11th Cir. 2020), the Eleventh Circuit concluded that Hand’s complaint had become moot due to the passage of Amendment 4. As a result, it vacated the district court’s decision and remanded the case with instructions to dismiss.

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Page 89 (2d full paragraph): In *Advisory Opinion to Governor re Implementation of Amendment 4—The Voting Restoration Amendment*, 288 So. 3d 1070 (Fla. 2020), the Florida Supreme Court held that Amendment 4 prohibits restoration of a former felon’s voting rights until he or she pays all costs, fees, fines, and restitution ordered by the sentencing court.

Subsequently, however, the federal district court hearing the merits case ruled “that the State *can* condition voting on payment of fines and restitution that a person is able to pay but *cannot* condition voting on payment of amounts a person is unable to pay or on payment of taxes, even those labeled fees or costs.” *Jones v. DeSantis*, 2020 WL 2618062, at *1 (N.D. Fla. 2020) (emphasis in original). In July 2020, the district court’s opinion was stayed by the full Eleventh Circuit. See Steven Lemongello, *Ex-Felons’ Voting Rights on Hold in Florida*, S. Fla. Sun-Sentinel, July 2, 2020, at 1A (reporting that the “court [has] set a hearing date of Aug. 11, well past the July 20 registration deadline for the Aug. 18 primary. It’s unclear how quickly the court [will] rule. The registration deadline for the November election is Oct. 5.”).

Page 95 (3d paragraph): For a further look at the constitution’s environmental sections, see Clay Henderson, *The Greening of Florida’s Constitution*, 49 Stetson L. Rev. 575 (2020).

Page 103 (last full paragraph): The *Oliva* cite should be updated by adding: *review denied*, 2020 WL 3525953 (Fla. 2020). As a result, LATF funds can be spent on existing land (the plaintiffs had argued that post-2014, LATF funds could be spent only on newly-acquired land).

Page 109: Although President Trump remains committed to allowing oil drilling off Florida’s coast, he has shelved his plans until after the November 2020 election. See Gray Rohrer, *Trump Wants to Drill Off the Florida Coast*, S. Fla. Sun-Sentinel, June 15, 2020, at 1B.

Page 116 (first paragraph): In *Centennial Bank v. Graham*, 2020 WL 2425732 (M.D. Fla. 2020), the court ordered the plaintiff to turn over its financial records to the defendants. In rejecting the plaintiff’s privacy claim under Article I, § 23, the court wrote: “Here, the requested documents are at issue in this case, relevant to Centennial’s allegations in paragraphs 11, 19 and 20 of the Amended Complaint (Doc. 25), and proportional to the needs of the case. As a result, Centennial’s claims of confidentiality and proprietary information are overruled.” *Id.* at *2.

Page 124 (last paragraph): According to the Florida First Amendment Foundation (<https://floridafaf.org/>), the total number of exemptions now stands at 1,159.

Page 125: The *Cruz* cite should be updated by adding: *review denied*, 2020 WL 1169444 (Fla. 2020).

Page 134 (last paragraph): In *Pinto v. Collier County*, 2020 WL 2219185 (M.D. Fla. 2020), the court reiterated that Article I, § 22 is not violated where the government decides to dismiss criminal charges, even though doing so deprives the defendant of his or her day in court.

Page 160 (last paragraph): In *Pedroza v. State*, 291 So. 3d 541 (Fla. 2020), the Florida Supreme Court ruled that sentencing a juvenile to 40 years in prison for second degree murder does not violate the Eighth Amendment. (Pedroza did not challenge her sentence under Article I, § 17.)

Page 162 (2d paragraph): The Trump Administration’s plan to resume executing federal prisoners has been greenlighted by the courts. See *In re Federal Bureau of Prisons’ Execution Protocol Cases*, 955 F.3d 106 (D.C. Cir.), cert. denied, 2020 WL 3492763 (U.S. 2020).

Page 169 (last paragraph): In *L.T. v. State*, 2020 WL 1898866, at *7 (Fla. 1st Dist. Ct. App. 2020), the First District Court of Appeal held that courts have no power “to craft rules for implementation of Marsy’s Law [Art. I, § 16(b)]—a task of the Legislature and rulemaking agencies.”

Pages 174 (carryover paragraph at the top of the page): Due to a misleading ballot summary, the “Ban Assault Weapons Now” proposal will not be on the November 2020 ballot. See *Advisory Opinion to Attorney General re Prohibits Possession of Defined Assault Weapons*, 2020 WL 2960236 (Fla. 2020).

Page 176 (last paragraph): During the Florida Legislature’s 2020 session, a bill (S.B. 7028) to further close the gun show loophole died in committee.

Page 177 (2d paragraph): The “Florida Decides Healthcare” proposal did not obtain enough signatures to qualify for the November 2020 ballot. It remains pending at the Florida Supreme Court.

Page 179 (2d paragraph): During its 2020 session, the Florida Legislature passed S.B. 404. As a result, minors in Florida now must obtain their parents’ permission before receiving an abortion. The law includes a judicial by-pass option.

Page 179 (last paragraph): Book’s proposed constitutional amendment died in committee.

Page 180 (last paragraph): In *Barber v. Medical Department*, 2020 WL 2473396 (M.D. Fla. 2020), the court held that the government did not have to provide medical marijuana to the plaintiff, an inmate suffering from glaucoma. In so ruling, the court relied on Article X, § 29(c)(6), which provides: “Nothing in this section shall require any accommodation of any on-site medical use of marijuana in any correctional institution or detention facility.”

Page 182 (1st full paragraph): Neither of the recreational marijuana amendments obtained enough signatures to qualify for the November 2020 ballot. Both remain pending at the Florida Supreme Court.

Page 197 (1st full paragraph): The proposed \$15 minimum wage amendment will appear on the November 2020 ballot as “Amendment 2.”

Page 209 (1st full paragraph): The *Hurchalla* cite should be updated by adding: *review denied*, 2020 WL 1847637 (Fla. 2020).

Page 214 (3d full paragraph): In *State v. Pacchiana*, 289 So. 3d 857 (Fla. 2020), the Florida Supreme Court reversed the Fourth District Court of Appeal's decision because the defense failed to preserve its objection. The Court did not reach the question of whether the Florida Constitution allows Jehovah's Witnesses to be excluded from juries.

Page 216 (1st full paragraph): As expected, the U.S. Supreme Court struck down Montana's Little Blaine Amendment. See *Espinoza v. Montana Department of Revenue*, 2020 WL 3518364 (U.S. 2020). Thus, Florida's LBA (Article I, § 3) is no longer operative.

Page 217 (1st paragraph): Reiterating that the right speak is fundamental, the full Fourth District Court of Appeal vacated an injunction that Florida Senator Lauren Book (D-Plantation) had obtained against a man she claimed was cyberstalking her due to her support for sexual abuse victims. See *Logue v. Book*, 2020 WL 3443876 (Fla. 4th Dist. Ct. App. 2020) (en banc).

Page 217 (3d paragraph): See also *O'Laughlin v. Palm Beach County*, 2020 WL 207123, at *1 n.1 (S.D. Fla. 2020) (“[The] Florida Constitution’s protection of speech under Article 1 § 4 . . . is identical to the protection provided for under the First Amendment to the United States Constitution.”).

Page 225 (last paragraph): Due to a misleading ballot summary, the “Citizens for Energy Choices” proposal will not appear on the November 2020 ballot. See *Advisory Opinion to Attorney General re Right to Competitive Energy Market for Customers of Investor-Owned Utilities*, 287 So. 3d 1256 (Fla. 2020).

Page 232 (1st full paragraph): The *Baldwin* cite should be updated by adding: *review denied*, 2020 WL 2510816 (Fla. 2020).

Page 234 (last paragraph): In *Citrus Contracting LLC v. Liberty Mutual Fire Insurance Co.*, 2020 WL 364581 (M.D. Fla. 2020), an assignment-of-insurance-benefits case, the court rejected the defendant's argument that Article X, § 4(a) applies to both homestead property and any insurance on the property: “Neither the Supreme Court of Florida nor any Florida appellate court has explicitly extended Florida law as Liberty requests. This Court therefore will not invalidate the assignment on these grounds.” *Id.* at *2.

Page 237 (1st full paragraph): In *Anderson v. Letosky*, 2020 WL 2745559, at *1 (Fla. 2d Dist. Ct. App. 2020), the court held that even though the decedent had rented three of his home's four bedrooms to strangers, at his death his homestead exemption passed to his heirs “intact, undivided.”

Page 238 (2d full paragraph): Because homestead property cannot be mortgaged unless both spouses agree, it is not improper for a bank to ask a mortgage applicant whether he or she is

married. See *Yeh Ho v. Wells Fargo Bank, N.A.*, 2020 WL 820264 (S.D. Fla. 2020) (rejecting plaintiff's claim that such an inquiry violates the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f).

Page 238 (2d full paragraph): In *Warner v. Quicken Loans, Inc.*, 2020 WL 2097981 (M.D. Fla. 2020), a couple titled their property "as tenants by the entirety." As a result, when the wife died, it passed to the husband outside of probate. He then placed a mortgage on the property. When he died, his daughters insisted that the property passed to them as heirs free of the mortgage. The court rejected this contention, finding that the mortgage was unaffected by the daughters' inheritance of the property.

Page 278 (1st full paragraph): In May 2020, Democrats gathered enough support to force a poll on a proposed special session to discuss COVID-19. The idea did not achieve the necessary 60% in either chamber (62 out of 63 Democrats voted for it; all 96 Republicans voted against it).

Subsequently, in June 2020, following the death of George Floyd, Senator Randolph Bracy (D-Orlando) asked Governor Ron DeSantis, House Speaker José Oliva, and Senate President Bill Galvano to call a special session to discuss police reforms. The idea was rejected by all three.

Page 281 (last paragraph): The 2020 legislative session was scheduled to end on Friday, March 13. However, due to the budget being delivered late (because of COVID-19), and the need to observe the constitutionally-mandated 72-hour "cooling off" period, the session was extended until Thursday, March 19. In the interim, legislators went home and then returned to Tallahassee to approve the budget. Although nothing in the constitution explicitly requires votes to be held in person, Senate President Bill Galvano refused to take a chance that a remote vote would be declared illegal:

Despite concerns about lawmakers spreading the virus, they cannot legally cast votes without being present, a memo from Senate President Bill Galvano, R-Bradenton, said.

"Florida's Constitution and laws do not contemplate the Legislature conducting votes remotely," Galvano's memo said. "This public health emergency certainly provides reason to explore changes to our laws that may allow such an option in the future; however, as it relates to this vote, in the midst of a pandemic, I am not willing to risk a legal challenge that could prevent our budget from being promptly enacted."

Jim Saunders, *Lawmakers to Vote on \$93.2 Billion Florida Budget Thursday with Public Seating Galleries Closed*, Tampa Bay Bus. J., Mar. 16, 2020, at <https://www.bizjournals.com/tampabay/news/2020/03/16/lawmakers-to-vote-on-93-2-billion-florida-budget.html>. Because of COVID-19 concerns, 16 representatives and eight senators decided not to make the return trip. (As matters turned out, their votes were not needed because the budget was passed unanimously in both chambers.)

Page 287 (1st paragraph): As explained in the text, “the legislature’s primary function is to pass laws for the public’s benefit.” In recent times, however, many observers have accused the Florida Legislature of being more interested in holding on to power than helping ordinary citizens. In a particularly scathing February 2020 op-ed, one observer wrote:

A financial website has concluded what many Floridians already know: This is not a good state for families.

WalletHub placed Florida 39th in its new rankings. Though we were ninth in “family fun”—attractions, fitness centers per capita—other, more important indicators were harsh.

Florida ranked 41st in health and safety, 37th in education and child care and last in affordability. We were 43rd in socio-economics, which includes such factors as job quality, the wealth gap and the percentage of two-parent families.

This dismal finding aligns with the 2018 United Way Florida ALICE (Asset Limited, Income Constrained, Employed) report. It found that 45 percent of Floridians are poor or live paycheck to paycheck, and are among the working poor.
...

One might expect a smart Legislature to address these problems. Unfortunately, the Legislature’s priorities don’t align with Florida’s needs. To review:

The first major bill out of the Florida Senate this year would require written consent from a parent or guardian before a minor could have an abortion. If the House goes along, which is almost certain, Gov. Ron DeSantis will sign it. That legislation is about Republican politics, not helping at-risk Floridians.

Elsewhere, Tallahassee wants to make it all but impossible to propose constitutional amendments through petition drives. Support for this rights restriction comes from business groups that oppose the campaign to raise Florida’s minimum wage to \$15. Higher pay would mean fewer working poor Floridians.

Another petition drive seeks to have Florida expand Medicaid under the Affordable Care Act. Doing so could bring health care coverage to 800,000 working poor Floridians whose employers don’t offer it. Despite the potential economic benefits, Republican legislators refuse to act.

Separately, the Legislature wants to abolish the Constitution Revision Commission. This panel meets every 20 years—the next would be in 2038—and

can put amendments on the ballot without legislative approval. If both of these efforts succeed, the Legislature will have near-total control of what amendments voters see.

Tallahassee also wants to allow vacation rental companies free rein to destroy residential neighborhoods. Large corporations want more tax breaks, which would deprive the state of money for basic services. Legislators are preparing again to raid the affordable housing trust fund, which can provide down payments for the working poor to buy a home.

And last year, the priority for Senate President Bill Galvano, R-Bradenton, was new toll roads. They will get large state subsidies to bring suburban sprawl to rural areas. The Florida Chamber of Commerce is fighting the minimum wage increase but backed toll roads, which will benefit chamber members that build roads and houses.

Galvano claimed that the new toll roads will make it easier to evacuate in advance of hurricanes and help local economies. But emergency management experts question the effectiveness of mass evacuation and local officials told legislators that existing highways don't help local businesses. Representatives from the small town of Alva in Lee County said the new road would wipe out their community.

Republicans would note that they are planning to raise salaries for public school teachers, some of whom are among those working poor. But an asterisk comes with that effort.

DeSantis and the Legislature have not identified a dedicated source of money—such as a sales-tax increase—for those raises. They intend to use new revenue and move money around.

With that approach, state-financed raises would end with the first economic slump. Legislators then would tell local school districts—which Tallahassee has shorted for years—to make up the difference. Moreover, the GOP plan would give proportionally smaller raises to older teachers.

The 2020 Legislature's agenda is the 2020 election. The goal is to drive Republican turnout by stressing abortion and E-Verify [a system used to check the immigration status of potential employees], and to attract Democrats with money for education and the environment. It could help deliver Florida for President Trump. It won't make Florida more family-friendly.

Page 302 (4th full paragraph): In *Support Working Animals, Inc. v. DeSantis*, 2020 WL 1991479 (N.D. Fla. 2020), the court held that the passage of Amendment 13 does not require dog racing workers to be compensated for the loss of their livelihoods.

Page 305 (5th paragraph): During the Florida Legislature's 2020 session, a total of 1,883 bills were introduced, of which 210 passed. See <https://www.flsenate.gov/Session/Reports/2020> (under "Statistics"). For a summary of the session, see, e.g., <https://accfl.org/resources/Documents/Advocacy/2020%20Florida%20Session%20Summary%204-9-20%20final.pdf>.

Page 309 (1st full paragraph): The end of the 2020 legislative session was even more chaotic than usual due to COVID-19. As has been explained elsewhere: "During the waning days of this year's regular legislative session, . . . as coronavirus fears and unknowns collided quickly, . . . bills took a backseat and, as a result, many of them died." League of Women Voters of Florida, *Capitol Report: 2020 Legislative Wrap Up*, Mar. 28, 2020, at <https://www.lwvfl.org/capitol-report-2020-legislative-wrap-up/>.

Page 331 (carryover paragraph at the top of the page): In response to COVID-19, Governor Ron DeSantis cut \$1 billion (or nearly 1.1%) from the state's 2020 budget. See Steven Lemongello et al., *DeSantis Slashes \$1B from Budget*, S. Fla. Sun-Sentinel, June 30, 2020, at 1A. For a list of the vetoed expenditures, see <https://www.flgov.com/wp-content/uploads/2020/06/2020-Veto-List.pdf>.

Page 332 (last paragraph): As discussed later in this Update, during its 2020 session the Florida Legislature passed S.B. 1794, which makes numerous changes to how constitutional amendments are proposed. Section 8 of the bill provided: "This act shall take effect upon becoming a law." Because the bill was presented to, and signed by, Governor Ron DeSantis on April 8, 2020, it became effective on that date.

Page 363: In January 2020, Virginia formally approved the ERA, becoming the 38th state to do so. A federal lawsuit now is underway to determine whether the amendment has become part of the U.S. Constitution. See *Commonwealth of Virginia v. Ferriero*, 2020 WL 3128948 (D.D.C. 2020). During a February 2020 speech, Justice Ruth Bader Ginsburg, a longtime ERA advocate, stated that she believes the ERA cannot be revived and must "start over." See Sheryl Gay Stolberg, *House Moves to Revive Equal Rights Amendment*, N.Y. Times, Feb. 14, 2020, at A13.

Page 374 (1st paragraph): In *Israel v. DeSantis*, 2020 WL 2129450 (N.D. Fla. 2020), the court found that former Broward County Sheriff Scott Israel was afforded all the process he was due after he was suspended by Governor Ron DeSantis. As a result, it upheld the Florida Senate's decision to remove him.

Page 377 (4th paragraph): To deal with COVID-19, Governor Ron DeSantis has issued multiple executive orders. They can be found at <https://www.flgov.com/2020-executive-orders/>. In

Abramson v. DeSantis, 2020 WL 3464376 (Fla. 2020), the Florida Supreme Court ruled that the governor has the power to issue such orders:

William S. Abramson petitions this Court for a writ of quo warranto, arguing that Executive Orders 20-111 and 20-112, issued April 29, 2020, by Governor Ron DeSantis, are null and void because the State Emergency Management Act (the Act), §§ 252.31-.60, Fla. Stat. (2019), does not contemplate the Governor's use of his emergency powers to impose restrictions for the purpose of responding to a pandemic. We conclude that a pandemic is a "natural emergency" within the meaning of section 252.34(8). Accordingly, we further conclude that, under section 252.36(1)(b), the Governor has the authority to issue executive orders to address a pandemic in accordance with the Act.

Id. at *1.

Page 384 (1st paragraph): During the period January 1-June 30, 2020, Governor Ron DeSantis and the cabinet met twice (once before and once after the emergence of COVID-19). Commissioner of Agriculture Nikki Fried, the cabinet's sole Democratic member, has harshly criticized DeSantis for his failure to call more meetings, accusing him of "ignoring his constitutional responsibility." See Michael Moline, *Democrat Nikki Fried Lobs Fresh Bombs at Gov. DeSantis Over Cancellation of Cabinet Meeting*, Florida Phoenix, June 10, 2020, at <https://www.floridaphoenix.com/2020/06/10/democrat-nikki-fried-lobs-fresh-bombs-at-gov-desantis-over-cancellation-of-cabinet-meeting/>. (Fried's claim technically is incorrect, as the constitution does not require the governor to call cabinet meetings.)

Page 403 (1st full paragraph): In September 2019, Justices Barbara Lagoa and Robert Luck were elevated to the Eleventh Circuit. In May 2020, Governor Ron DeSantis replaced them with Miami lawyer John Curiel and Palm Beach Circuit Judge Renatha Francis. As a result, the court again has six hard-right members. (Justice Jorge Labarga, who was appointed by Governor Charlie Crist (R) in 2009, is the court's lone moderate.)

Page 404 (1st full paragraph): To stop the Kanter family from carrying out its plan to drill for oil in the Everglades, the State of Florida agreed in May 2020 to purchase the family's land (20,000 acres) for \$16.5 million. See David Fleshler, *\$16.5M Deal to Stop Oil Drilling*, S. Fla. Sun-Sentinel, May 6, 2020, at 1B.

Page 407 (2d full paragraph): In May 2020, the court began holding virtual oral arguments because of COVID-19. See Jim Saunders, *Florida Supreme Court to Use Zoom for Arguments*, S. Fla. Sun-Sentinel, Apr. 18, 2020, at 1B.

Page 409 (2d paragraph): The court currently lacks geographical balance, as four of its members are from South Florida: Justices Couriel (Miami), Francis (Palm Beach), Labarga (Palm Beach), and Muñoz (Miami).

Page 410 (2d full paragraph): To deal with COVID-19, Chief Justice Charles Canady has issued multiple administrative orders. They can be found at <https://www.floridasupremecourt.org/Emergency>. As a result, most court functions have been suspended.

Page 432 (last full paragraph): In response to COVID-19, the court has made two § 15 adjustments. First, in March 2020 it suspended all deadlines contained in the attorney discipline, unlicensed practice of law, and lawyer advertisement rules. *See In re COVID-19 Emergency Measures Relating to Rules Regulating Florida Bar*, 2020 WL 1313773 (Fla. 2020). Second, it authorized the Florida Board of Bar Examiners to move the July 2020 bar exam to August 2020, administer it on-line, and eliminate the MBE. *See Dana Cassidy, Florida Bar Exam Will Be Taken Online in Wake of Concerns*, S. Fla. Sun-Sentinel, July 3, 2020, at 5B.

Page 444 (3d full paragraph): For an example of an attorney asking for, and obtaining, a written opinion after receiving a “per curiam affirmed” decision, see *D.T.M. v. Judd*, 2020 WL 1231580 (Fla. 2d Dist. Ct. App.), *opinion withdrawn and superseded by* 2020 WL 3022533 (Fla. 2d Dist. Ct. App. 2020).

Page 459 (2d paragraph): In *Walls v. DeSantis*, Case No. 2020 CA 000792 (Fla. 2d Cir. Ct.) (unreported), the plaintiffs, who had lost their jobs due to COVID-19 and then had been stymied in their effort to obtain state unemployment benefits, sought a writ of mandamus. Although agreeing that the government’s claims process had broken down, resulting in intolerable delays, the court ruled that it lacked the power to do anything about it. *See Jim Saunders & Jim Turner, Judge Rejects Suit Over Unemployment Claims*, S. Fla. Sun-Sentinel, May 8, 2020, at 1B. The case documents can be found on the clerk’s web site (https://cvweb.leonclerk.com/public/online_services/high_profile/high_profile.asp).

Page 467 (carryover paragraph at the top of the page): In June 2020, Governor Ron DeSantis vetoed H.B. 1049, which sought to give Judges of Compensation Claims a 22% pay raise (making their salaries equal to that of county court judges). *See* <https://www.flgov.com/wp-content/uploads/2020/06/Letter-3.pdf>.

Page 471 (carryover paragraph at the top of the page): As explained above, in May 2020 Governor Ron DeSantis appointed Palm Beach Circuit Judge Renatha Francis to the Florida Supreme Court. At the time of her appointment, however, Francis was ineligible because she had not been a member of the Florida Bar for 10 years. Thus, she will not be sworn in until September 24, 2020, when she reaches her 10-year anniversary. *See Skyler Swisher, First Caribbean American in Florida Supreme Court*, S. Fla. Sun-Sentinel, May 27, 2020, at 1A.

Page 472 (2d full paragraph): On January 23, 2020, the JNC submitted to Governor Ron DeSantis 12 names for the vacancies on the Florida Supreme Court created by the elevations of Justices Lagoa and Luck to the Eleventh Circuit. Although this meant that DeSantis had to make his picks by March 23, 2020, he did not do so until May 26, 2020. DeSantis blamed the delay on COVID-19.

Page 503 (carryover paragraph at the top of the page): In *In re National Prescription Opiate Litigation*, 2020 WL 1986589 (N.D. Ohio 2020), Broward County filed suit against various opiate manufacturers, distributors, and pharmacies. Claiming that the county lacked the authority to bring such a suit, the defendants moved to dismiss. In denying their motion, the court held that the suit was implicitly authorized by Article VIII, § 1(g).

Page 503 (carryover paragraph at the top of the page): In June 2020, Governor Ron DeSantis vetoed S.B. 410, a growth management bill that would have required all counties and municipalities to include in their comprehensive plans express protections for private property rights. (Every local government must have a comprehensive plan, which provides a blueprint for future development. See Fla. Stat. §§ 163.3177 and 163.3178.) In his veto message, DeSantis wrote:

CS/CS/SB 410 . . . provides that a county charter provision or comprehensive plan policy adopted after January 1, 2020, may not impose a limitation on lands within a municipality unless the municipality adopts the same limitation. This broad provision preempts charter county powers and unnecessarily risks frustrating the will of the voters in charter counties. For [this reason] I withhold my approval of Senate Bill 410 and do hereby veto the same.

<https://www.flgov.com/wp-content/uploads/2020/06/Letter-4.pdf>.

Page 503 (carryover paragraph at the top of the page): See the entry for page 518.

Page 507 (2d full paragraph): In 2018, Sarasota County’s residents decided to switch from “at-large” voting to “single district” voting. As a result, in 2019 the county commission redrew the county’s five districts. In *Atkins v. Sarasota County*, 2020 WL 2110474 (M.D. Fla. 2020), the court upheld the reconfiguration and rejected the plaintiffs’ claim that the changes prejudiced minority voters.

Page 517 (1st full paragraph): In June 2020, Governor Ron DeSantis signed H.B. 1215, thereby abolishing the insolvent City of Weeki Wachee. See <https://www.flsenate.gov/Session/Bill/2020/1215/BillText/er/PDF>. The law transfers the city’s assets and debts to Hernando County.

Page 518 (2d full paragraph): In recent years, the Florida Legislature has been cutting back the home rule powers of local governments by enacting aggressive preempting legislation. See Alan Stonecipher & Ben Wilcox, *Preemption Strategy: The Attack on Home Rule in Florida* (Jan. 2020), available at <https://www.integrityflorida.org/2020/01/06/preemption-strategy/>. In 2020, the legislature considered several new preemption bills, including S.B. 172 (passed—prohibits local governments from regulating over-the-counter cosmetics and drugs); H.B. 3/S.B. 1336 (died in committee—would have prohibited local governments from passing new occupational licensing requirements); H.B. 305/S.B. 1126 (died in committee—would have prohibited local

governments from ordering private businesses to give their employees better benefits and more predictable work schedules); and H.B. 1011/S.B. 1128 (died in committee—would have prohibited local governments from regulating vacation rental homes).

S.B. 172 was dubbed the “sunscreen bill” because it was prompted by Key West’s plan to ban sunscreen products containing chemicals harmful to coral reefs. *See Gov. Desantis Signs Controversial Sunscreen Bill*, WINK News, June 30, 2020, at <https://www.winknews.com/2020/06/30/gov-desantis-signs-controversial-sunscreen-bill/>.

Page 530 (2d full paragraph): To improve Florida’s education system, the 2020 state budget increases the starting salaries of Florida’s teachers to \$47,500. *See* H.B. 641. *See also* Scott Travis, *DeSantis to Raise New Teachers’ Pay*, S. Fla. Sun-Sentinel, June 25, 2020, at 1A (explaining that this change will make Florida fifth in the nation in starting pay for teachers).

Page 532 (2d paragraph): During its 2020 session, the Florida Legislature voted to quadruple the size of the Family Empowerment scholarship program. *See* H.B. 7067. At the same time, it refused to prohibit schools that discriminate against LGBTQ students from participating in the state’s voucher programs. *See* S.B. 56, which died in committee.

Page 533 (1st full paragraph): Delete this paragraph. As explained above, the U.S. Supreme Court struck down § 3-type bans in *Espinoza v. Montana Department of Revenue*, 2020 WL 3518364 (U.S. 2020).

Page 533 (2d full paragraph): The number of Florida charter schools that have closed since 1998 should be changed to 409.

Page 534 (1st full paragraph): The current number of Florida charter schools should be changed to 658.

Page 535 (1st full paragraph): The *School Board of Collier County* cite should be updated by adding: *review denied*, 2020 WL 1685138 (Fla. 2020).

Page 541 (3d full paragraph): During its 2020 session, the Florida Legislature again considered a constitutional amendment limiting school board members to eight years. Although the proposal passed the House (see H.J.R. 157), it failed in the Senate (see S.J.R. 1216).

Page 564 (1st sentence): During its 2020 session, the Florida Legislature approved a \$93.2 billion budget. As explained above, Governor Ron DeSantis vetoed \$1 billion, making the final figure \$92.2 billion. *See* Scott Sutton, *Florida Gov. Ron DeSantis Signs \$92.2 Billion Budget*, WPTV, June 29, 2020, at <https://www.wptv.com/news/state/florida-governor-ron-desantis-signs-92.2-billion-budget>.

Page 567 (3d full paragraph): COVID-19 is expected to cost Florida at least \$8 billion in tax revenues. As a result, it is likely that Florida’s ’20-’21 budget will have to be redone at some point

during the fiscal year to ensure that it finishes in the black. Governor Ron DeSantis, however, has insisted that his decision to veto \$1 billion in spending projects, coupled with the \$6 billion Florida is expecting to receive in federal stimulus money under the 2020 CARES Act (Pub. L. 116-136), plus the state's \$4 billion in reserves, will make changes unnecessary. See Lawrence Mower & Kirby Wilson, *4 Takeaways from Ron Desantis' \$92 Billion Budget*, Tampa Bay Times, June 30, 2020, at <https://www.tampabay.com/florida-politics/buzz/2020/06/30/four-takeaways-from-ron-desantis-92-billion-budget/>.

Page 601 (2d paragraph): The tax break for non-profit hospitals was changed during the 2020 legislative session. As a result, beginning in 2022 a hospital's exemption will be limited to the value of the charity care it provides (as reported to the IRS). Currently, hospitals are 100% exempt.

Page 604 (last paragraph): During its 2020 session, the Florida Legislature agreed to propose a constitutional amendment that continues the extra discount if a disabled veteran predeceases his or her spouse. It will appear on the November 2020 ballot as "Amendment 6."

Page 609 (last sentence): During its 2020 session, the Florida Legislature agreed to propose a constitutional amendment increasing from two years to three years the amount of time a homeowner has to replace a homestead and still be eligible for portability. It will appear on the November 2020 ballot as "Amendment 5."

Page 612 (3d paragraph): In *Furst v. Rebholz*, 2020 WL 3368232 (Fla. 2d Dist. Ct. App. 2020), the Sarasota County property appraiser reduced the defendant's homestead exemption by 15% after discovering he was renting two bedrooms in his home to strangers. The trial court found the reduction to be improper. On appeal, the Second District Court of Appeal, after reiterating that the burden of proof in such cases is on the homeowner, affirmed the trial court's decision.

Page 657 (3d paragraph): In *Advisory Opinion to the Attorney General re Voter Approval of Constitutional Amendments*, 290 So. 3d 837 (Fla. 2020), the Florida Supreme Court ruled that the "Keep Our Constitution Clean" proposal can appear on the November 2020 ballot. It has been designated "Amendment 4."

Page 664 (1st full paragraph): Although bills proposing the abolition of the Constitution Revision Commission were introduced during the 2020 session (see H.J.R. 301/S.J.R. 142), neither reached the floor for a vote.

Page 667 (2d full paragraph): During its 2020 session, the Florida Legislature continued its recent practice of placing roadblocks in the way of citizens' initiatives. As explained elsewhere, S.B. 1794 (effective April 8, 2020):

- Expands the scope of Florida Supreme Court review to include facial validity of the proposal under the U.S. Constitution.

- Narrows the role of the Financial Impact Estimating Conference (FIEC) to estimating the proposal's financial impact on state and local governments and the state budget (removing impacts to the local governments and economies).
- Statutorily authorizes the Senate President and House Speaker to direct legislative staff to analyze any other impacts of the proposal.
- Increases the geographic diversity and number of petition signatures that must be verified before the Secretary of State refers the proposal to the Attorney General and the FIEC.
- Creates a cause of action for citizens to challenge a petition circulator's registration.
- Provides that petition signatures are valid until the next February 1 of an even-numbered year, which prevents signatures from being held over for a subsequent election.
- Requires a supervisor of elections to charge the actual cost for verifying a petition signature in lieu of the current rule of the lesser of 10 cents/signature or the actual cost and requiring the Department of State to determine the cost annually by rule.
- Provid[es] that a signature obtained illegally, including by an unregistered paid petition circulator, is invalid.
- Allow[s] the Division of Elections or a supervisor of elections to provide a petition form in PDF format, with printing costs to be borne by the sponsor.
- Requir[es] the ballot for a citizen initiative [to] include a bold-font statement that the FIEC: estimates a positive financial impact OR estimates an indeterminate financial impact OR estimates a net negative impact on the state budget or cannot reach a consensus, along with indicating the possible negative tax and government services impacts.
- [R]equires every proposed constitutional amendment—not just one originating as a citizen initiative—to be reviewed by the FIEC and requires the ballot for every amendment to include a financial impact statement.

League of Women Voters of Florida, *Capitol Report: 2020 Legislative Wrap Up*, Mar. 28, 2020, at <https://www.lwvfl.org/capitol-report-2020-legislative-wrap-up/>.

Page 669 (last paragraph): As explained above, as of April 8, 2020 signatures are good for only one campaign cycle (*i.e.*, they no longer “roll over”).

Page 670 (carryover paragraph at the top of the page): For an interesting case involving a dispute between a signature-gathering company and the parties that hired it, see *Floridians for Solar Choice, Inc. v. Paparella*, 802 F. App'x 519 (11th Cir. 2020). (Although the Florida Supreme Court ruled that the initiative was proper, see *In re Advisory Opinion to the Attorney General re Limits or Prevents Barriers to Local Solar Electricity Supply*, 177 So. 3d 235 (Fla. 2015), the effort failed because only 291,591 signatures were collected. At the time, 683,149 signatures were needed to place a proposal on the ballot.)

Page 670 (3d full paragraph): As explained above, as of April 8, 2020 county supervisors must charge the actual cost of verifying signatures.

Page 670 (last paragraph): As explained above, as of April 8, 2020 petitions will not be sent to the Florida Supreme Court until the number of verified signatures reaches 25% of the total number of electors needed statewide in at least 50% of the state's congressional districts. (The previous thresholds were 10% and 25%.)

Page 671 (last paragraph): As explained above, as of April 8, 2020 the Florida Supreme Court must consider an initiative petition's facial validity under the U.S. Constitution.

Page 680 (last paragraph): As explained above, as of April 8, 2020: 1) every proposed constitutional amendment's ballot summary must include a financial impact statement; and, 2) an initiative petition's ballot summary also must include an estimate of its likely effect on the state budget and on state services and taxes.

Page 685 (2d full paragraph): Change the number of constitutional provisions that are unenforceable because they run afoul of federal law to five; change the numbering of the four cited provisions from "1-4" to "2-5"; and insert the following at the top of the list: "1) The ban on government money being used to support religious entities, see Article I, § 3 (due to *Espinoza v. Montana Department of Revenue*, 2020 WL 3518364 (U.S. 2020))."