



STATE OF FLORIDA

CHARLIE CRIST
ATTORNEY GENERAL

November 7, 2006

The Honorable R. Fred Lewis
Chief Justice, and Justices of
The Supreme Court of Florida
The Supreme Court Building
Tallahassee, Florida 32399-1925

SC06-2183

FILED
THOMAS D. HALL
2006 NOV -7 P 2:38
CLERK, SUPREME COURT
BY _____

Dear Chief Justice Lewis and Justices:

In accordance with the provisions of Article IV, section 10, Florida Constitution, and section 16.061, Florida Statutes, it is the responsibility of the Attorney General to petition this Honorable Court for a written opinion as to the validity of an initiative petition circulated pursuant to Article XI, section 3, Florida Constitution.

On October 9, 2006, this office received from the Secretary of State an initiative petition seeking to amend the Florida Constitution to provide for the funding of embryonic stem cell research.¹ According to the information provided by the Secretary of State, the sponsor of the initiative, Floridians for Stem Cell Research and Cures, Inc., has obtained the necessary signatures required to have the petition presented to the Court for review.² Mr. Burt Aaronson is the Chair of Floridians for Stem Cell Research and Cures, Inc., located at 2255 Glades Road, Suite 218-A, Boca Raton, Florida 33431.³ As of this date, the sponsor has not obtained the necessary number of signatures to place the initiative on the ballot. Signatures are currently being collected and the sponsor has indicated its intent that the initiative be placed on the 2008 ballot.

The full text of the proposed amendment states:

"Article X of the Florida Constitution is hereby amended by inserting at the end thereof the following section:

Funding of embryonic stem cell research. (a) There is hereby appropriated from the General Revenue Fund to the Department of Health the sum of \$20 million in each of the ten fiscal years beginning with the year in which this amendment is adopted. With such funds the Department of Health shall make grants for embryonic stem cell research using, or using the derivatives of, human embryos that, before or after

formation, have been donated to medicine under donor instructions forbidding intrauterine embryo transfer.

(b) For this purpose, an embryo is "donated to medicine" if and only, under conditions that satisfy applicable requirements for informed consent and do not involve financial inducement to any donor, the persons from whose cells the embryo originates give the embryo to another under written instructions that the recipient shall use the embryo in biomedical research or therapy. "Financial inducement" includes any valuable consideration but excludes (1) reimbursement for reasonable costs incurred in connection with a donation, and (2) reasonable compensation to a donor from whom an oocyte is recovered, and to the donor of any other cell recovered by an invasive procedure, for the preparation for and time, burden, and risk of such recovery.

(c) The funds appropriated hereby shall be granted to nonprofit academic and other research institutions situated within the state. Grantees shall be chosen on the basis of a recommended ordering of applications by scientific merit as reckoned in a peer review process by disinterested experts in the relevant fields.

(d) This provision shall be self-executing and effective immediately upon adoption. This appropriation shall be nonlapsing such that any portion of a yearly appropriation not distributed shall accumulate for distribution in subsequent years. The Department of Health is authorized to promulgate administrative rules for the implementation hereof."

The ballot title for the proposed amendment is "**FUNDING OF EMBRYONIC STEM CELL RESEARCH.**" The summary for the proposed amendment states:

This amendment appropriates \$20 million annually for ten fiscal years for grants by the Department of Health to Florida nonprofit institutions to conduct embryonic stem cell research using, or using derivatives of, human embryos that, before or after formation, have been donated to medicine under donor instructions forbidding intrauterine embryo transfer. An embryo is "donated to medicine" only if given without receipt of consideration other than cost reimbursement and compensation for recovery of donated cells.

Single Subject

Article XI, section 3, Florida Constitution, requires that a constitutional amendment proposed by citizens' initiative "embrace but one subject and matter directly connected therewith." As this Court stated in *Fine v. Firestone*, 448 So. 2d 984, 993

(Fla. 1984), this limitation protects the State Constitution from "precipitous" and "spasmodic" changes by preventing logrolling. Logrolling is "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." *Advisory Opinion to the Attorney General--Referenda Required for Adoption & Amendment of Local Government Comprehensive Land Use Plans*, 902 So. 2d 763, 766 (Fla. 2005), quoting *Advisory Opinion to the Attorney General--Florida Transportation Initiative for Statewide High Speed Monorail, Fixed Guideway or Magnetic Levitation System*, 769 So. 2d 367, 369 (Fla. 2000). In addition, the single subject rule "prevent[s] a single constitutional amendment from substantially altering or performing the functions of multiple aspects of government." *Advisory Opinion to the Attorney General--Florida Transportation Initiative for Statewide High Speed Monorail, Fixed Guideway or Magnetic Levitation System, supra*. Thus, the single-subject rule ensures that the impact of a constitutional amendment proposed by a citizen's initiative is limited and accurately disclosed.

To comply with the single-subject requirement, an initiative must manifest a "logical and natural oneness of purpose." *Fine v. Firestone, supra*. This Court stated in *Advisory Opinion to the Attorney General--Restricts Laws Related to Discrimination*, 632 So. 2d 1018, 1020 (Fla. 1994), that "[t]o ascertain whether the necessary 'oneness of purpose' exists, we must consider whether the proposal affects separate functions of government and how the proposal affects other provisions of the constitution." This Court has recognized that "a proposal that affects several branches of government will not automatically fail; rather, it is when a proposal substantially alters or performs the functions of multiple branches that it violates the single-subject test." *Advisory Opinion to the Attorney General--Patients' Right to Know About Adverse Medical Incidents*, 880 So. 2d 617, 620 (Fla. 2004) (quoting *Fine*, 448 So. 2d at 990).

Recently this Court in *Advisory Opinion to the Attorney General--Protect People, Especially Youth, From Addiction, Disease, and Other Health Hazards of Using Tobacco*, 926 So. 2d 1186 (Fla. 2006), held that language in an initiative petition requiring a percentage of tobacco settlement funds to be annually appropriated for a tobacco education and prevention program did not violate the single subject requirement. The Court distinguished the funding requirement from that in *Advisory Opinion to the Attorney General--Requirement for Adequate Public Education Funding*, 703 So. 2d 446 (Fla. 1997), which required the state to expend forty percent of its entire appropriations under Article III, Florida Constitution, not including lottery proceeds or federal funds, for public education funding, stating: "This massive restriction on appropriations also limited the entirety of the State's other functions to the remaining sixty percent of the budget, rendering many other government functions impossible to fund." 926 So. 2d at 1193.

In *Advisory Opinion to the Attorney General--Florida Transportation Initiative for Statewide High Speed Monorail, Fixed Guideway or Magnetic Levitation System, supra*, this Court found no violation of the single-subject rule where the proposed amendment did not require the Legislature to spend a specific percentage of the budget or even a specific amount, nor point to a specific tax or fee from which the revenues for the project would come. 769 So. 2d at 370. In *Advisory Opinion to the Attorney General--Fee on Everglades Sugar Production*, 681 So. 2d 1124 (Fla. 1996), the Court found no violation where the initiative created new funding for a program rather than relying on the appropriations budget of the Legislature. Similarly in *Advisory Opinion to the Attorney General--Funding for Criminal Justice*, 639 So. 2d 972, 974 (Fla. 1994), the proposed amendment mandated the raising of the taxes on the sale of goods or services, established a trust fund and required that funds be spent in excess of current levels, setting forth the particular purposes for which the funds raised could be spent.

The proposed amendment under consideration by this Court, however, requires an annual appropriation from general revenue of twenty million dollars for embryonic stem cell research, with any portion of a yearly appropriation not distributed accumulating for distribution in subsequent years.

Therefore, I respectfully request this Honorable Court's opinion as to whether the constitutional amendment, proposed by initiative petition, complies with Article XI, section 3, Florida Constitution.

Ballot Title and Summary

Section 101.161(1), Florida Statutes, sets forth substantive and technical requirements for the ballot title and summary, stating:

Section 101.161(1), Florida Statutes, provides in relevant part:

Whenever a constitutional amendment . . . is submitted to the vote of the people, the substance of such amendment . . . shall be printed in clear and unambiguous language on the ballot The wording of the substance of the amendment . . . shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. . . . The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of.

This Court has stated "that the ballot [must] be fair and advise the voter sufficiently to enable him intelligently to cast his ballot." *Askew v. Firestone*, 421 So. 2d 151, 155 (Fla. 1982), quoting, *Hill v. Milander*, 72 So. 2d 796, 798 (Fla. 1954). While

The Honorable R. Fred Lewis
Page Five

the ballot title and summary must state in clear and unambiguous language the chief purpose of the measure, they need not explain every detail or ramification of the proposed amendment. *Carroll v. Firestone*, 497 So. 2d 1204, 1206 (Fla. 1986). The ballot, however, must give the voter fair notice of the decision he must make. *Askew v. Firestone, supra* at 155. This Court has stated that the purpose of section 101.161, Florida Statutes, is to ensure that voters are advised of the amendment's true meaning.

Therefore, I respectfully request this Honorable Court's opinion as to whether the amendment's ballot title and summary comply with section 101.161, Florida Statutes.

Sincerely,



Charlie Crist
Attorney General

CC/tfl

¹ This office has been advised that a Spanish version of the petition, which has not been reviewed by the Department of State, has been circulated and those signed petitions are among those counted toward the percentage required to submit an initiative to this Honorable Court.

² According to the Secretary of State's letter, dated October 9, 2006, 61,113 signatures are required by section 15.21 (*i.e.*, verified, forms signed and dated equal to 10 percent of the number of electors statewide and in at least one-fourth of the congressional districts required by Art. XI, s. 3, Fla. Const.). The letter of October 9, 2006 advises that the sponsor has obtained 63,245 verified signatures in at least one-fourth of the congressional districts required by Art. XI, s. 3, Fla. Const.

³ This office has been advised that the law firm of Weiss & Handler located at the same address is acting as the committee's attorney.



CHARLIE CRIST
ATTORNEY GENERAL
STATE OF FLORIDA

OFFICE OF THE ATTORNEY GENERAL
Opinions Division

PL 01 The Capitol
Tallahassee, Florida 32399-1050
Telephone (850) 245-0158, SunCom 205-0158
Fax (850) 922-3969, SunCom 292-3969

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished by U.S. Mail delivery this *7th day of November, 2006*, to the following:

*Mr. Burt Anderson, Chairman
Floridians for Stem Cell Research and Cures, Inc.
2255 Glades Road
Suite 218-A
Boca Raton, Florida 33431*

I hereby certify that a true and correct copy of the foregoing has been furnished via interoffice mail delivery this *7th day of November, 2006*, to the following:

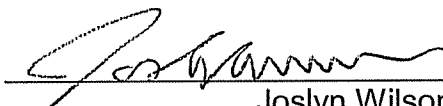
Ms. Sue M. Cobb, Secretary of State
attn: General Counsel

The Honorable Jeb Bush, Governor, State of Florida
attn: General Counsel

The Honorable Tom Lee, President, Florida Senate
attn: General Counsel

The Honorable Allan G. Bense, Speaker, Florida House of Representatives
attn: General Counsel

Director, Division of Elections



Joslyn Wilson
Assistant Attorney General



FLORIDA DEPARTMENT OF STATE
Sue M. Cobb
Secretary of State
DIVISION OF ELECTIONS

October 9, 2006

The Honorable Charlie Crist
Attorney General
State of Florida
PL 01, The Capitol
Tallahassee, Florida 32399-1050

Dear Attorney General Crist:

Section 15.21, Florida Statutes, provides that the Secretary of State shall submit an initiative petition to the Attorney General when a political committee has obtained ten percent of the signatures in one fourth of the Congressional Districts as required by Article XI of the Florida Constitution.

Section 16.061, Florida Statutes, provides that the Attorney General must then petition the Supreme Court for an advisory opinion regarding the compliance of the text of the proposed amendment, ballot title and substance of the amendment to the State Constitution.

Floridians for Stem Cell Research and Cures, Inc. has successfully met the signature requirements for the initiative petition titled *Funding of Embryonic Stem Cell Research*, Serial Number 05-22. Therefore, I am submitting the proposed constitutional amendment, ballot title and substance of the amendment.

Sincerely,

Sue M. Cobb

Sue M. Cobb

Enclosures

cc: The Honorable Burt Aaronson, Chairman
Floridians for Stem Cell Research and Cures, Inc.

**FLORIDA DEPARTMENT OF STATE
DIVISION OF ELECTIONS**

SUMMARY OF SIGNATURES NEEDED AND CERTIFIED FOR REVIEW
PURSUANT TO SECTION 15.21, FLORIDA STATUTES

Political Committee: **Floridians for Stem Cell Research and Cures, Inc.**

Amendment Title: **FUNDING OF EMBRYONIC STEM CELL RESEARCH**

Congressional District	8% Required By Article XI, Section 3 Florida Constitution	10% Required By Section 15.21 Florida Statutes	Signatures Certified
FIRST	25,905	2,591	0
SECOND	27,003	2,701	1
THIRD	19,302	1,931	568
FOURTH	26,380	2,638	2,204
FIFTH	30,652	3,066	47
SIXTH	27,821	2,782	384
SEVENTH	28,951	2,896	38
EIGHTH	24,363	2,437	0
NINTH	27,804	2,781	333
TENTH	25,395	2,540	1,832
ELEVENTH	20,207	2,021	469
TWELFTH	23,100	2,310	29
THIRTEENTH	28,947	2,895	0
FOURTEENTH	29,022	2,903	59
FIFTEENTH	27,402	2,741	0
SIXTEENTH	26,925	2,693	2,542
SEVENTEENTH	17,361	1,737	14,823
EIGHTEENTH	19,018	1,902	4,030
NINETEENTH	26,347	2,635	16,569
TWENTIETH	23,345	2,335	5,441
TWENTY-FIRST	18,058	1,806	3,806
TWENTY-SECOND	26,183	2,619	2,510
TWENTY-THIRD	16,627	1,663	3,009
TWENTY-FOURTH	27,285	2,729	0
TWENTY-FIFTH	17,606	1,761	4,551
TOTAL:	611,009	61,113	63,245



STATE OF FLORIDA
DEPARTMENT OF STATE
DIVISION OF ELECTIONS

Jeb Bush
Governor

Glenda E. Hood
Secretary of State

September 22, 2005

Burt Anderson, Chairman
Floridians for Stem Cell Research and Cures, Inc.
2255 Glades Road
Suite 218-A
Boca Raton, Florida 33431

Re: FUNDING OF EMBRYONIC STEM CELL RESEARCH, Serial Number 05-22

Dear Mr. Anderson:

This office is in receipt of the petition form, ballot title, and ballot summary for the following proposed initiative amendment, Funding of Embryonic Stem Cell Research, Serial Number 05-22.

The Division of Elections approves this format which you submitted for the above referenced initiative and a copy is attached for your files. According to Florida Administrative Code Rule 1S-2.009(12), the Division of Elections shall assign serial numbers to approved petitions. Your petition's serial number is noted above.

No review of the legal sufficiency of the text of this proposed amendment has been nor will be undertaken by the Division of Elections.

Please let me know if I can assist you further.

Sincerely,

Sarah Jane Bradshaw

for Dawn K. Roberts, Esq.
Director

Enclosure

cc: Supervisors of Elections

CONSTITUTIONAL AMENDMENT PETITION FORM

"A person who knowingly signs a petition or petitions for a candidate, a minor political party, or an issue more than one time commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s.775.083."

— Fla. Stat. § 104.185

NAME _____ [Please print name as it appears on Voter ID Card]
STREET ADDRESS _____
CITY _____ ZIP _____
COUNTY _____
VOTER REGISTRATION NUMBER _____ or DATE OF BIRTH _____

I am a registered voter of Florida and hereby petition the Secretary of State to place the following amendment to the Florida Constitution on the ballot in the general election.

Ballot Title

FUNDING OF EMBRYONIC STEM CELL RESEARCH

Ballot Summary

This amendment appropriates \$20 million annually for ten fiscal years for grants by the Department of Health to Florida nonprofit institutions to conduct embryonic stem cell research using, or using derivatives of, human embryos that, before or after formation, have been donated to medicine under donor instructions forbidding intrauterine embryo transfer. An embryo is "donated to medicine" only if given without receipt of consideration other than cost reimbursement and compensation for recovery of donated cells.

Text of Amendment

"Article X of the Florida Constitution is hereby amended by inserting at the end thereof the following section:

Funding of embryonic stem cell research. (a) There is hereby appropriated from the General Revenue Fund to the Department of Health the sum of \$20 million in each of the ten fiscal years beginning with the year in which this amendment is adopted. With such funds the Department of Health shall make grants for embryonic stem cell research using, or using the derivatives of, human embryos that, before or after formation, have been donated to medicine under donor instructions forbidding intrauterine embryo transfer.

Text continues on reverse →

(b) For this purpose, an embryo is "donated to medicine" if and only, under conditions that satisfy applicable requirements for informed consent and do not involve financial inducement to any donor, the persons from whose cells the embryo originates give the embryo to another under written instructions that the recipient shall use the embryo in biomedical research or therapy. "Financial inducement" includes any valuable consideration but excludes (1) reimbursement for reasonable costs incurred in connection with a donation, and (2) reasonable compensation to a donor from whom an oocyte is recovered, and to the donor of any other cell recovered by an invasive procedure, for the preparation for and time, burden, and risk of such recovery.

(c) The funds appropriated hereby shall be granted to nonprofit academic and other research institutions situated within the state. Grantees shall be chosen on the basis of a recommended ordering of applications by scientific merit as reckoned in a peer review process by disinterested experts in the relevant fields.

(d) This provision shall be self-executing and effective immediately upon adoption. This appropriation shall be nonlapsing such that any portion of a yearly appropriation not distributed shall accumulate for distribution in subsequent years. The Department of Health is authorized to promulgate administrative rules for the implementation hereof."

IS THIS A CHANGE OF ADDRESS FOR VOTER REGISTRATION? YES NO

_____ X _____
[date] [signature of registered voter]

Paid political advertisement sponsored and paid for by Floridians for Stem Cell Research and Cures, Inc., 1900 NW Corporate Boulevard, Suite 300 East, Boca Raton, FL 33431.

For Office Use Only:
Serial Number: 05-22
Date Approved: 9-22-05



FILE COPY

FLORIDA DEPARTMENT OF STATE

David E. Mann

Secretary of State

DIVISION OF ELECTIONS

MEMORANDUM

TO: Supervisors of Elections

FROM: Dawn K. Roberts, Division Director

DATE: December 13, 2005

SUBJECT: Funding of Embryonic Stem Cell Research, Serial Number 05-22

The Floridians for Stem Cell Research and Cures, Inc. has submitted a Spanish version for the above referenced initiative petition, and a copy has been enclosed for your files.

No review of the format of this proposed amendment has been or will be undertaken by the Division of Elections.

Please let me know if you have any questions.

DKR/aj

Enclosure

cc: Burt Anderson, Chairman
Floridians for Stem Cell Research and Cures, Inc.

FORMULARIO DE PETICIÓN DE ENMIENDA CONSTITUCIONAL

"Toda persona que, a sabiendas, firma una petición o peticiones para un candidato, un partido político minoritario, o una propuesta más de una vez comete un delito de primer grado, penado según lo dispuesto en los estatutos 775.082 ó 775.083."

Estatuto de Florida 104.185

NOMBRE _____ <i>[Escriba su nombre en letra de imprenta, tal como aparece en la tarjeta de identificación de votante]</i>	
DIRECCIÓN _____	
CIUDAD _____	CÓDIGO POSTAL _____
CONDADO _____	
NÚMERO DE REGISTRO DE VOTANTE _____	o FECHA DE NACIMIENTO _____

Como votante registrado en Florida, por el presente solicito al Secretario de Estado que coloque la siguiente enmienda a la Constitución del Estado de Florida en la boleta electoral en las próximas elecciones generales.

Título de la boleta **FINANCIACIÓN DE LA INVESTIGACIÓN DE CÉLULAS MADRE EMBRIONARIAS**

Resumen de la boleta

Esta enmienda destina \$20 millones por año durante diez años fiscales para subsidios del Departamento de Salud para que las instituciones sin fines de lucro del Estado de Florida realicen investigaciones sobre las células madre embrionarias que utilicen embriones humanos, o derivados de los embriones que, antes o después de la formación, hayan sido donados a la ciencia médica bajo instrucciones del donante que prohíben la transferencia intrauterina de los embriones. Un embrión es "donado a la ciencia médica" solamente si se dona sin otra consideración que el reembolso del costo y la compensación para la recuperación de las células donadas. 107

Texto de la enmienda

"Por la presente se enmienda el Artículo X de la Constitución del Estado de Florida mediante la inserción de la siguiente sección al final del mismo:
Financiación de la investigación de células madre embrionarias.

- Por la presente se destina al Departamento de Salud la suma de \$20 millones del Fondo de Ingreso General en cada uno de los diez años fiscales que comienzan el año en que se adopte esta enmienda. Con dichos fondos, el Departamento de Salud otorgará subsidios para la investigación de las células madre embrionarias que utilicen embriones humanos, o derivados de los embriones que, antes o después de la formación, hayan sido donados a la ciencia médica bajo instrucciones del donante que prohíben la transferencia intrauterina de los embriones.
- Para este fin, un embrión es "donado a la ciencia médica" siempre que, según las condiciones que satisfacen los requisitos aplicables para el consentimiento informado y que no implican un incentivo financiero para el donante, las personas de cuyas células se originan los embriones entreguen el embrión a otra persona bajo instrucciones escritas que indiquen que el receptor utilizará el embrión en la investigación y el tratamiento biomédico. El "incentivo financiero" incluye cualquier consideración valiosa pero excluye: (1) el reembolso por los costos razonables incurridos en relación a una donación, y (2) la compensación razonable a una donante de quien se recupera un ovocito, y al donante de cualquier otra célula recuperada mediante un procedimiento invasivo, por la preparación y por el tiempo, la molestia, y el riesgo de dicha recuperación.
- Los fondos asignados por el presente se otorgarán a instituciones académicas y de investigación sin fines de lucro localizadas en este estado. Los receptores del subsidio serán elegidos en base a un ordenamiento recomendado de las solicitudes según el mérito científico considerado en un proceso de revisión por pares que realizan expertos imparciales en los campos relevantes.
- Esta disposición será autoejecutable y efectiva inmediatamente después de su adopción. Esta asignación no caducará por lo que cualquier parte de la asignación anual no distribuida se acumulará para ser distribuida en los años siguientes. El Departamento de Salud está autorizado para promulgar normas administrativas para la implementación del presente."

¿ESTE ES UN CAMBIO DE DIRECCIÓN PARA EL REGISTRO ELECTORAL? SÍ NO

Fecha: _____	X Firma del votante registrado: _____
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Anuncio político pagado y auspiciado por Floridians for Stem Cell Research and Cures, Inc., c/o Weiss, Handler, Angelos & Cornwell, P.A., One Boca Place, 2255 Glades Road, Suite 218-A, Boca Raton, Florida 33431.

Nombre y dirección del circulador pagado, si corresponde:

Nombre: _____ Dirección: _____

Nº de identificación del circulador: _____ Ciudad _____ Estado _____ Código Postal _____

Para uso exclusivo de la administración:
Número de Serie 05-22
Fecha de aprobación: 9-22-05