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Advisory Opinion to the Attorney General: Reduce Class Size

MR. CHIEF JUSTICE

GOOD MORNING AND WELCOME TO THE ORAL ARGUMENT CALENDAR FOR THIS THURSDAY AT THE FLORIDA SUPREME COURT. WE ARE PARTICULARLY PLEASED TO HAVE THE LEADERSHIP GROUP FROM THE SANTA ROSA COUNTY CHAMBER OF COMMERCE, FROM MILTON, FLORIDA, TO BE HERE FOR THIS ORAL ARGUMENT SESSION, AS I UNDERSTAND IT, THAT YOU ARE HERE ON YOUR ANNUAL TRIP TO TALLAHASSEE, AND SO WE HOPE THAT YOU WILL COME BACK TO SEE US, WHEN YOU RETURN. ALSO WELCOME FROM THE LEGISLATIVE BRANCH OF THE GOVERNMENT, SENATOR MEEK. SO WE WILL NOW PROCEED WITH THE COURT'S ORAL ARGUMENT CALENDAR. THE ADVISORY OPINION TO THE ATTORNEY GENERAL ON THE FLORIDA AMENDMENT TO REDUCE CLASS SIZE.

YOUR HONOR, MAY IT PLEASE THE COURT. LOUIS HUBENER WITH THE OFFICE OF THE ATTORNEY GENERAL. THIS CASE IS BEFORE THE COURT, TODAY, ON THE ATTORNEY GENERAL'S REQUEST FOR AN ADVISORY OPINION ON THE PROPOSED AMENDMENT TO REDUCE CLASS SIZE IN PUBLIC SCHOOLS. ARGUING FOR THE PROPONENTS, WILL BE MARK HER ONE AND, IN OPPOSITION -- MARK HERON AND, IN OPPOSITION, STEVEN UHLFELDER. MR. CHIEF JUSTICE

YOU MAY PROCEED.

GOOD MORNING, MY NAME IS MARK HERRON. I AM WITH THE COALITION TO REDUCE CLASS SIZE, THE ISSUE BEFORE THE COURT TODAY. WITH ME AT COUNSEL TABLE IS PAM COOPER, GENERAL COUNSEL OF THE FLORIDA EDUCATION ASSOCIATION AND THE FLORIDA EDUCATION ASSOCIATION SUPPORTS THE PROPOSED CONSTITUTIONAL AMENDMENT. I WOULD LIKE TO ALLOCATE MY TIME AS FOLLOWS. I WOULD LIKE TO USE 13 MINUTES IN DIRECT PRESENTATION AND SEVEN MINUTES FOR REBUTTAL. MAY IT PLEASE THE COURT. THE PROPOSED AMENDMENT ENTITLED FLORIDA'S AMENDMENT TO REDUCE CLASS SIZE, HAS BUT ONE SOLE AND EXCLUSIVE PURPOSE. TO PLACE A DUTY ON THE LEGISLATURE TO PROVIDE FUNDING FOR PUBLIC SCHOOL CHROOMS AT CERTAIN LEVELS, AS SET FORTH IN THE TEXT OF THE AMENDMENT. THE AMENDMENT COMPLIES WITH THE SINGLE-SUBJECT REQUIREMENT OF ARTICLE XI SECTION THREE OF THE STATE CONSTITUTION AND THE BALLOT ENTITLED SUMMARY 101.161. THE INITIATIVE AMENDMENT MEETS THE SINGLE-SUBJECT REQUIREMENTS FOR THE FOLLOWING REASONS. THE PROPOSED INITIATIVE AMENDMENT POSSESSES A LOGICAL AND NATURAL ONE THAT IS A PURPOSE. THE AMENDMENT DOES NOT SUBSTANTIALLY ALTER OR PERFORM THE FUNCTIONS OF MULTIPLE BAFERJ BRANCHES OF -- OF MULTIPLE BRANCHES OF GOVERNMENT.

LET ME ASK YOU ABOUT THAT. WHAT OBLIGATION DOES, WOULD THIS AMENDMENT PLACE UPON THE STATE LEGISLATURE?

IT WOULD PLACE AN OBLIGATION ON THE LEGISLATURE TO PROVIDE FUNDING FOR ITS SCHOOL CLASSROOM SIZES AND THE ATTENDANT, I GUESS THE ATTENDANT NECESSARY ITEMS TO ACCOMPLISH THAT RESULT AT THE LEVELS SET FORTH IN THE AMENDMENT.

AND THAT WOULD SUBSTANTIALLY AFFECT THE STATE'S BUDGET, WOULD IT NOT?

IT WOULD SUBSTANTIALLY AFFECT THE ABILITY, THE LEGISLATURE'S RESPONSIBILITY TO FUND, APPROPRIATE DOLLARS.

WHAT EFFECT WOULD THIS HAVE ON THE LOCAL SCHOOL BOARDS?

LOCAL SCHOOL BOARDS WOULD NOT BE DIRECTLY AFFECTED BY THE TERMS OF AMENDMENT. I SAY THAT, IN THE SENSE THAT MONIES WOULD FLOW FROM THE LEGISLATURE TO THE LOCAL SCHOOL BOARDS, AT THESE LEVELS, PROVIDED THEY ARE NOT VETOED BY A GOVERNOR, HOWEVER, AND THE MONEY WOULD FLOW DOWN TO THE LOCAL SCHOOL BOARDS. THEY WOULD HAVE THE DISCRETION TO IMPLEMENT, USE THAT MONEY CONSISTENT WITH THE LAWS OF THE STATE. THEY WOULD NOT BE REQUIRED, IN ANY WAY, TO CHANGE THE WAY THAT THEY OPERATE, MANAGE, SUPERVISE THE LOCAL SCHOOL DISTRICTS, BUT IF THE LEGISLATURE APPROPRIATES MONEY DOWN TO THE SCHOOL BOARD FOR THESE PURPOSES, AT, FUND CLASSROOMS AT THE LEVELS OF 18, 22 AND 25 STUDENTS, AS PROVIDED IN THE CONSTITUTIONAL AMENDMENT --

THERE WOULD BE NO DOUBT THAT THESE MONIES WOULD HAVE TO BE USED FOR THAT PURPOSE.

AND IF THEY DIDN'T DO, IT THE REMEDY WOULD BE AT THE BALLOT BOX LOCALLY.

WHAT IMPLICATIONS ARE THERE FOR THE GOVERNOR? YOU INDICATED HE COULD VETO.

YES, YOUR HONOR. I DID INDICATE THAT. OUR BRIEF INDICATES THAT. THIS IN NO WAY AFFECTS THE ABILITY OF A GOVERNOR TO VETO THESE FUNDS, IN CONTRAST TO THE 40 PERCENT AMENDMENT THAT YOU HAD PREVIOUSLY CONSIDERED IN THIS COURT, WHICH SAID 40 PERCENT OF THE STATE BUDGET SHALL GO TO THE PUBLIC EDUCATION. IF A GOVERNOR CHOOSES TO VETO THE FUNDS THAT ARE APPROPRIATED BY THE LEGISLATURE, THEN THE REMEDY LIES IN THE POLITICAL PROCESS NOT IN THE JUDICIAL PROCESS.

WHAT CASE IS THIS MOST LIKE, WHERE WE HAVE UPHELD A SIMILAR BALLOT?

THIS FALSE BETWEEN THE 40 PERCENT CASE AND THE MONORAIL CASE. I THINK IT IS MORE LIKE THE MONORAIL CASE THAN IT IS THE 40 PERCENT CASE, BECAUSE IN THE MONORAIL CASE, THIS AMENDMENT TRACKS SOME OF THE LANGUAGE THAT YOU, THAT IS IN THE OPINION THERE. AND THIS IS ON PAGE 769 SO.2D 370. THE AMENDMENT DOES NOT REQUIRE THE LEGISLATURE TO SPEND A SPECIFIC PERCENTAGE OF THE BUDGET OR EVEN A SPECIFIC AMOUNT ON THE DEVELOPMENT OF A SYSTEM. THIS AMENDMENT DOES NOT REQUIRE THE LEGISLATURE TO SPEND ANY SPECIFIC AMOUNT OR A SPECIFIC PERCENTAGE ON CLASSROOM FUNDING FUNDINGS.

BUT JUST TO FOLLOW UP WITH JUSTICE WELLS'S QUESTION, DOESN'T IT HAVE, I AM NOT SURE I UNDERSTOOD YOUR ANSWER, AS FAR AS THE EFFECT ON THE LOCAL SCHOOL BOARDS AND WHAT EFFECT IT WOULD HAVE ON THEIR HAVING TO BUILD MORE BUILDINGS TO MEET THIS MANDATE.

THE AMENDMENT IS TARGETING THE LEGISLATURE. IF THE LEGISLATURE, WHEN THE LEGISLATURE APPROPRIATES THOSE FUNDS TO A LOCAL SCHOOL BOARD, TO ACCOMPLISH THE PURPOSES OF THE AMENDMENT --

THEY ARE NOT RESTRICTED AS TO HOW --

THEY CAN DO IT IN ANY WAY. THEY CAN BUILD NEW CLASSROOMS IN SCHOOLS. THEY CAN LEASE CLASSROOMS IN SCHOOLS. THEY CAN DOUBLE SESSION, IF THEY SO --

THE FUNDING. HOW THEY CHOOSE THE FUNDING IS NOT --

NOT BY THE AMENDMENT ITSELF. THE LEGISLATURE MAY OPT TO PUT TIES ON IT, MAY DIRECT IT IN A SPECIFIC WAY, BUT THIS AMENDMENT IS TARGETED SPECIFICALLY AND ONLY TO THE LEGISLATURE.

MY QUESTION IS HOW THIS MANDATE WOULD BE FUNDED. THE LEGISLATURE HAS THE OPTION TO

DETERMINE HOW IT WOULD BE FUNDED.

WHEN YOU SAY HOW TO BE FUNDED?

WHERE DO YOU GET THE MONEY TO DO THIS?

RIGHT. IF, IN FACT, AFTER, THIS AMENDMENT WOULD CONTEMPLATE THE LEGISLATURE TO DETERMINE WHERE WE ARE TODAY, WITH RESPECT TO MEETING THESE STANDARDS. IF THE LEGISLATURE DETERMINES THAT THERE IS, AROUND THE STATE OR DISTRICT BY DISTRICT, THE AVERAGE SCHOOL'S POPULATION IS 30, 40, 45 IN A CLASSROOM, ON THE VARIOUS LEVELS, THAT WOULD BE THE BENCHMARK FROM WHICH THEY DETERMINE HOW MUCH FUNDING THEY ARE GOING TO NEED TO GET READY TO DO THIS OVER A PERIOD OF EIGHT YEARS, LEADING UP TO THE FULL IMPLEMENTATION OF THIS AMENDMENT.

DOES THIS AMENDMENT REQUIRE THE LOCAL SCHOOL BOARDS TO HAVE CLASSES WHICH MEET THESE STUDENT REQUIREMENTS?

THIS AMENDMENT DOES NOT. THIS AMENDMENT DOES NOT MANDATE, BECAUSE IF WE DID THAT, IN THIS AMENDMENT, WE WOULD BE DIRECTING THE DIFFERENT LEVELS AND AGENCIES AND FUNCTIONS OF GOVERNMENT. THIS AMENDMENT IS ONLY TARGETED TO THE LEGISLATURE AND ONLY REQUIRES THE LEGISLATURE TO ACT. IF A SCHOOL BOARD OPTS TO CONTINUE CLASSES AT 30, 40, AND 50 KIDS, THAT BECOMES A POLITICAL ISSUE, AND THOSE SCHOOL BOARD MEMBERS ARE GOING TO HAVE TO BE HELD ACCOUNTABLE BY THE LOCAL ELECTORATE. I AM SURE THAT THERE WILL BE CANDIDATES THAT COME OUT OF THE WOODWORK AND SAY YOU ARE GETTING MONEY FROM THE LEGISLATURE TO REDUCE CLASS SIZE. WHAT ARE YOU DOING WITH IT?

WHAT DO YOU SEE AS THE STANDARD THAT HAS COME OUT OF THIS COURT FOR THE DETERMINATION OF WHETHER OR NOT AN AMENDMENT OR PROMISED AMENDMENT DOES, IN FACT, AFFECT OR CHANGE MULTIPLE FUNCTIONS OF GOVERNMENT, BECAUSE THIS CAN NEVER BE IMPLEMENTED WITHOUT THE ASSISTANCE OF THE LOCAL SCHOOL BOARDS, CAN IT?

THAT'S CORRECT, AND, AGAIN, THE TEST IS SUBSTANTIALLY ALTERS OR PERFORMS A FUNCTION OF A DIFFERENT BRANCH OF GOVERNMENT. THIS DOESN'T ALTER OR PERFORM THE FUNCTION. THAT IS THE TEST, AND IN NUMEROUS CASES, THIS COURT HAS SAID WE RECOGNIZE THAT AMENDMENTS WILL AFFECT OR HAVE THE POTENTIAL TO AFFECT VARIOUS LEVELS OF GOVERNMENT, VARIOUS FUNCTIONS OF GOVERNMENT, BUT AS LONG AS IT DOES NOT SUBSTANTIALLY ALTER THAT PERFORMANCE OF THAT FUNCTION, THEN IT IS OKAY. AND THERE ARE SEVERAL CASES, YOUR HONOR, TO THAT EFFECT.

WHEN YOU GET INTO MANDATING CERTAIN MINIMUM REQUIREMENTS, WOULD YOU HELP ME UNDERSTAND THAT YOU CERTAINLY MUST FUND TO MEET THOSE REQUIREMENTS, AND HOW THAT CAN, REALLY, BE LOGICALLY DISTINGUISHED, WITH A PERCENTAGE APPROACH.

I AM NOT SURE I UNDERSTAND YOUR QUESTION, YOUR HONOR.

YOU HAVE A PERCENTAGE APPROACH THAT HAS ALREADY BEEN CONSIDERED AND DECLARED BY PRIOR COURTS TO BE AN UNACCEPTABLE --

THAT'S CORRECT, YES.

AND SO MY QUESTION IS, IF WE ARE ESTABLISHING THOSE MINIMUM REQUIREMENTS THAT EQUAL A CERTAIN PERCENTAGE OR A CERTAIN AMOUNT, ARE WE NOT, THEN, BOUNCING UP AGAINST THE PERCENTAGE KIND OF CONCEPT, OR ARE WE NOT?

YOUR HONOR, THAT IS WHY I SAID, IN ANSWER TO JUSTICE PARIENTE'S QUESTION, THIS CASE LIES

SOMEWHERE BETWEEN MONORAIL AND THE 40 PERCENT CASE.

I WOULD LIKE YOUR HELP TO EXPLAIN TO US HOW.

AND, WELL, AGAIN, IN MONORAIL THIS COURT SAID THAT WE RECOGNIZE THAT THE FUNDING OF THIS MONORAIL THAT IS MANDATED BY THE CONSTITUTIONAL AMENDMENT, IS GOING TO REQUIRE LEGISLATIVE APPROPRIATIONS. THE STANDARD, AND, AGAIN, THE COURT SAID THAT THE AMENDMENT DOESN'T DETERMINE HOW MUCH YOU HAVE TO SPEND. DOESN'T SAY WHAT YOU HAVE TO SPEND. OR OVER WHAT PERIOD OF TIME.

BUT IT DIDN'T PROVIDE ANY CRITERIA, SUCH AS IT HAD TO BE SO MANY MILES PER HOUR OR SO MANY CARS. IT DIDN'T GO AS FAR AS THIS.

THAT'S CORRECT, AND THAT IS WHAT I AM SAYING. NOW, WITH RESPECT TO THE 40 PERCENT CASE, AS YOU KNOW IT WAS 40 PERCENT OF THE STATE BUDGET HAD TO BE ON PUBLIC EDUCATION. THIS IS A MOVING TARGET THAT IS GOING IT BE DEPENDENT UPON HOW MANY CHILDREN ARE IN SCHOOL AND WHAT ARE THE NUMBERS IN A GIVEN YEAR. THE LEGISLATURE WILL DETERMINE THIS FROM TIME TO TIME. THAT IS WHY IT IS IN BETWEEN. THERE IS NO PARTICULAR MANDATE OF ANY SPECIFIC FUNCTION, BUT THERE IS A POTENTIAL THAT ADDITIONAL REVENUES WILL HAVE TO BE RAISED, AND TO MEET THE REQUIREMENTS OF THIS AMENDMENT.

WELL, HOW DO YOU PERCEIVE THAT THIS WILL WORK, IN REALITY? THAT IS WE ARE GOING TO HAVE SOME SCHOOL DISTRICTS, OBVIOUSLY IN THE STATE, WHICH MAY BE VERY CLOSE ALREADY TO THIS, AND THEREFORE REQUIRE, LET'S SAY, IN A PERFECT WORLD, NO ADDITIONAL CLASSROOM SPACE, BECAUSE THEY ARE ALREADY THERE. AND THEN WE HAVE A LARGE, THE LARGER PERCENTAGE THAT DO NOT MEET THIS, SO ARE WE TALKING ABOUT THAT THE LEGISLATURE WILL PROVIDE THE INITIAL FUNDING FOR ALL OF THESE DISTRICTS THAT NEED SUBSTANTIAL CAPITAL IMPROVEMENTS IMPROVEMENTS? WHEREAS THE LEGISLATURE WILL PROVIDE NO CAPITAL FUNDING TO THOSE DISTRICTS THAT ARE ALREADY CLOSE IN BEING ABLE TO DO THIS, AND THEN ONLY EACH YEAR THIS SITUATION CHANGES, SO IS THERE THEN A CONTINUING OBLIGATION BY THE LEGISLATURE TO PRODUCE ADDITIONAL FUNDS EACH YEAR, AFTER THAT, TO ALL OF THE SCHOOL DISTRICTS, OR I AM HAVING A LITTLE BIT OF DIFFICULTY IN UNDERSTANDING HOW THE PUBLIC WOULD+< UNDERSTAND HOW THIS IS ACTUALLY GOING TO WORK IN REALITY.

IN REALITY, I WILL ACKNOWLEDGE AND CONCEDE THE POINT OF THE OPPONENTS, THAT, IF THERE IS A SCHOOL DISTRICT THAT IS CLOSE AND A SCHOOL DISTRICT THAT IS FAR AWAY FROM THE FUNDING GOALS, BASED ON LEGISLATIVE FUNDING AND THEIR OWN EFFORTS, AND THEY, ONE IS CLOSE AND ONE IS FAR, THE ONE THAT IS FAR AWAY IS GOING TO RECEIVE POTENTIALLY, A BIGGER PERCENTAGE OF THE FUNDING, TO GET TO THE LEVELS THAT ARE SET FORTH IN THE AMENDMENT. NOW, OVER THE PERIOD OF THE FIRST EIGHT YEARS, IT IS THE INTENT OF THE SPONSORS AND THE LANGUAGE OF THE AMENDMENT, THAT THE LEGISLATURE WILL MOVE THOSE NUMBERS UP IN FUNDING THESE, PROVIDING FUNDING FOR CLASSROOMS AND THE ATTEND APARTMENT, THE ATTENDANT NECESSARY -- THE ATTENDANT NECESSARY ITEMS, THAT WILL MOVE UP AND BE FULLY IMPLEMENTED BY THE YEAR 2010. WHEN 2010 ROLLS AROUND, THE LEGISLATURE WILL HAVE A CONTINUING RESPONSIBILITY TO FUND AT THOSE LEVELS.

WHAT HAPPENS, WHEN THESE KINDS OF AMENDMENTS ARE PASSED AND 2010 GETS HERE, AND THE CLASSROOMS ARE STILL 30 STUDENTS IN THESE CLASSROOMS?

WELL, I THINK IT DEPENDS ON WHO IS AT FAULT WITH RESPECT TO THAT ISSUE. IF THE LEGISLATURE HAS PROVIDED THE FUNDING CONSISTENT WITH THE REQUIREMENTS OF THE AMENDMENT, THEN WE NEED TO LOOK AT THE SCHOOL BOARDS AND SEE WHETHER THEY HAVE IMPLEMENTED THE AMENDMENT, AND IF NOT, IT IS A POLITICAL ISSUE. IF IT IS NOT, WE MAY BE

BACK HERE TO DEAL WITH SCHOOL BOARD ISSUES. IF THE LEGISLATURE HASN'T COMPLIED, THEN I BELIEVE THAT YOU WILL HAVE A CAUSE OF ACTION AGAINST THE LEGISLATURE CONSISTENT WITH THE COALITION CASE VERSUS CHILES THAT WAS HERE PREVIOUSLY BEFORE THIS COURT AND BEFORE THE TRIAL, BEFORE THE COURTS OF THIS STATE, AND IN THAT CASE, JUSTICE ANSTEAD OR THE COURT, BASICALLY, SAID THAT THE WAY THE SYSTEM WORKS TODAY, IT IS REALLY UP TO THE LEGISLATURE TO MAKE THAT DETERMINATION. JUSTICE ANSTEAD, IN DISSENT, SAID WE NEED TO HAVE A STANDARD BY WHICH THIS WOULD BE MEASURED, AND THIS SUPPOSEDLY, THIS IS OUR ATTEMPT AT CREATING THAT STANDARD BY WHICH LEGISLATIVE FUNDING COULD BE MEASURED. MR. CHIEF JUSTICE

YOU ARE IN YOUR REBUTTAL TIME.

COULD I ASK ONE QUESTION? THIS IS DETERMINING, WE HAVE TALKED ABOUT THE SINGLE SUBJECT MOST OF THE MORNING BUT WE NEVER GOT TO THE BALLOT TITLE AND SUMMARY, AND IN YOUR BALLOT SUMMARY, THERE IS NO MENTION OF THE EXCEPTION THERE. WHY? AND DOES THAT MATTER IN THIS SITUATION?

I WOULD USE MY REBUTTAL TIME, YOUR HONOR, IF THAT IS OKAY. WITH RESPECT TO THAT ISSUE, TITLES CAN BE DRAFTED ALL DIFFERENT KINDS OF WAYS. AND THERE IS AT LEAST ONE ARGUMENT THAT COULD SAY THAT THIS TITLE COULD SAY THIS IS A PROPOSED AMENDMENT THAT WOULD PROVIDE A FUNDING FORMULA FOR THE LEGISLATURE, WITH RESPECT TO EDUCATIONAL FUNDING. THE TITLE THAT IS BEFORE THE COURT HERE, AND THE BALLOT TITLE AND SUMMARY BEFORE THE COURT HERE, IS SOMEWHERE BETWEEN A NOTICE TITLE AND AN INDEX TITLE. WE THINK THAT THE SPECIFICS THAT ARE INCLUDED IN THE TITLE TO THIS POINT AND TIME ARE SUFFICIENT TO MEET THE CONSTITUTIONAL REQUIREMENTS.

BUT THE SUMMARY, HOWEVER.

THE SUMMARY, YES. IT DOES NOT SAY -- AGAIN, THIS COURT HAS SAID YOU CAN ONLY DO SO MANY THINGS THIS 75 WORDS. WE TRIED TO PUT FORTH THE FOUR MAJOR COMPONENTS OF THE AMENDMENT, AND I WOULD BE HAPPY --

IS EXTRACURRICULAR A COMMONLY-UNDERSTOOD TERM, EVEN WITHIN THE AMENDMENT, ITSELF, TO KNOW WHAT WOULD CONSTITUTE EXTRACURRICULAR?

EXTRACURRICULAR WAS INTENDED TO BE PUT THERE, TO GIVE THE LEGISLATURE SOME ROOM TO ADDRESS THESE ISSUES, SO THAT THEY WOULDN'T HAVE TO FUND BAND, FOOTBALL, BASEBALL, CHORUS AT THESE LEVELS.

SO IF THEY DECIDED THAT SPANISH THAT WOULDN'T BE IN THERE, THAT IS GOING TO BE A POTENTIAL LITIGATED ISSUE.

WE WOULD BE BACK, YES, MA'AM. MR. CHIEF JUSTICE

THANK YOU, MR. HERRON. MR. UHLFELDER.

THANK YOU, YOUR HONOR. MAY IT PLEASE THE COURT. IT IS MY PLEASURE TO BE HERE WITH MY PARTNER, JENNIFER LAVIA OF HOLLAND & KNIGHT. WE REPRESENT CITIZENS FOR BUDGET FAIRNESS, THAT IS AN ORGANIZATION MAKE IS -- -- ORGANIZATION THAT IS MAKING SURE THAT CONSTITUTIONAL AMENDMENTS --

HOW DO YOU COMPARE THIS TO THE RAILROAD?

THE RAILROAD WAS FINITE. HERE I DON'T KNOW HOW MANY STUDENTS ARE COMING TO FLORIDA. I DON'T KNOW HOW MANY DEEP HE WILL -- PEOPLE ARE GOING TO BE HERE IN 2010, AND

ACTUALLY NEXT YEAR WE WOULD HAVE TO GET THE BUDGET READY TO START BY 2002, SO I THINK THERE IS A DIFFERENCE IN THE MONORAIL. THIS IS NOTHING LIKE THE MONORAIL. THIS IS LIKE WHY DON'T WE START A MONORAIL IN KEY WEST AND RUN IT AROUND FLORIDA, DEPENDING UPON WHERE THE POPULATION WOULD GO. IT IS MORE LIKE SAYING IF YOU HAVE A TWO-LANE HIGHWAY, ONCE THE TRAFFIC GETS TO A CERTAIN POINT, THE STATE HAS TO FUND AT A FOUR-LANE LEVEL OR ONCE HIGHER THAN THAT, IT HAS TO GO TO A SIX-LANE LEVEL.

DO YOU HAVE A SIMILARITY IN THE REQUIREMENT THAT IS PLACED ON THE LEGISLATURE TO COME UP WITH FUNDING FOR THE MONORAIL.

YES, BUT I DISAGREE WITH MY ESTEEMED COUNSEL HIRE. THAT SAID ALL THEY ARE ASKING THE LEGISLATURE IS TO PROVIDE FUNDING. THAT IS NOT WHAT THE BALLOT LANGUAGE SAYS NOR WHAT THE AMENDMENT, ITSELF. I THINK THE PUBLIC IS GOING TO BE MISLED, TO BELIEVE THAT, WHEN THEY SHOW UP AT THEIR CLASSROOMS WITH THEIR CHILDREN TWO YEARS FROM NOW, THEY ARE GOING TO HAVE TWO PEOPLE LESS IN THEIR CLASS THAN THEY NOW HAVE. IT IS NOT 18 FOR PRE-K THROUGH THREE. AND 22 UP TO EIGHT AND 25. I THINK PARENTS ARE GOING TO WALK IN THE CLASSROOM AND EXPECT OH, I AM GOING TO GO AND SEE THE LEGISLATURE RIGHT NOW. ALL IT IS DOING IS SENDING A MESSAGE TO THE LEGISLATURE. THERE IS A LOT EASIER AND CHEAPER WAYS TO DO IT THAN PLACING A PROVISION IN THE CONSTITUTION, WHICH MISLEADS THE VOTERS. YOU ALL ARE THE GUARDIANS OF THE CONSTITUTION. WITH THIS CONSTITUTIONAL ISSUE PROCESS WE HAVE IN FLORIDA, YOU ARE THE GATEKEEPERS, BASICALLY, OF DEMOCRACY IN OUR STATE.

TRADITIONALLY HASN'T THE BALLOT INITIATIVE, AT LEAST IN TERMS OF ITS JUSTIFICATION, BEEN THERE BECAUSE THE PEOPLE THAT PROPOSE IT SAY THAT THE PEOPLE OF THE STATE OF FLORIDA SHOULD HAVE AN OPPORTUNITY TO, IF THE LEGISLATURE WON'T ACT ON AN ISSUE THAT THE PEOPLE CONSIDER TO BE VERY IMPORTANT, THEN THAT THEY HAVE THIS OPPORTUNITY TO DO SOMETHING, IF THE LEGISLATURE REFUSES TO DO IT. WHAT IS WRONG WITH THE PEOPLE OF THE STATE SAYING THIS PARTICULAR STANDARD, WE BELIEVE, IS SO FUNDAMENTAL OR IMPORTANT, TO A GOOD SYSTEM OF EDUCATION FOR OUR CHILDREN, THAT WE ARE GOING TO WRITE IT INTO THE CONSTITUTION AND REQUIRE THE LEGISLATURE TO ENFORCE IT AND FUND IT. WHAT, WHAT IS WRONG WITH THAT PROPOSITION, AS A GENERALITY?

WELL, AS A GENERALITY, THERE IS NOTHING WRONG WITH IT, AND I THINK OUR PRESENT CONSTITUTION DOES THAT. WE ARE TALKING ABOUT A UNIFORM, ADEQUATE SCHOOL SYSTEM, BUT I THINK WHAT HAPPENS IS, WHEN YOU TRY TO WRITE THESE PROVISIONS, THAT HE SAYS ARE JUST SENDING A MESSAGE, THEY TEND TO CHANGE NOT JUST ONE PORTION OF THE CONSTITUTION BUT I HAVE NOTICED HERE AT LEAST SEVEN DIFFERENT FUNCTIONS AND ARTICLES OF THIS CONSTITUTION AND BECOME ALMOST A MINILEGISLATURE AT THE BALLOT BOX, AND I THINK THAT IS WHAT THE PROBLEM IS HERE, THAT MR. HERRON HAS POINTED OUT ALL HE IS TRYING TO DO IS PROVIDE SUFFICIENT CLASSROOMS. HE NEVER MENTIONS TEACHERS. HE NEVER MENTIONS ROADS. HE NEVER MENTIONS PERMITTING. HE NEVER MENTIONS FRINGE BENEFITS, OF THE \$36,500 FOR TEACHERS. HE NEVER MENTIONS ANY OF THE ISSUES THAT ARE RELATED. HE DOESN'T MENTION COLLECTIVE BARGAINING, UNDER ARTICLE I OF THE CONSTITUTION, CONDITIONS OF CLASS SIZE AND CONDITIONS OF EMPLOYMENT.

DOESN'T THE LEGISLATURE DO THAT EVERY YEAR, IN LARGE NUMBERS, IN OTHER WORDS, ISN'T THERE ALWAYS A MAJOR ISSUE OUT THERE, FOR INSTANCE, ABOUT UNFUNDED MANDATES? THAT IS THAT THE LEGISLATURE SAYS YOU SHALL DO THIS! IF THE LEGISLATURE PASSED A LAW, THAT NOW SAID THAT ALL OF THE LOCAL SCHOOL DISTRICTS MUST PROVIDE ADEQUATE CLASSROOM SPACE SO THAT THERE WOULD BE THE SAME STANDARDS HERE, WOULD THERE BE ANYTHING UNCONSTITUTIONAL ABOUT THE LEGISLATURE PASSING A LAW LIKE THAT?

THEY PROVIDED THE FUNDING AND THEY PROVIDED THE CHANGES IN THE LEGISLATIVE

LANGUAGE THAT, YOU --

ISN'T THAT REGULARLY DEBATED IN THE LEGISLATURE? THAT IS THAT CLASSROOM SIZE IS A VERY FUNDAMENTAL AND IMPORTANT INGREDIENT IN THE QUALITY OF PUBLIC SCHOOL EDUCATION, AND FROM TIME TO TIME THE LEGISLATURE CONSIDERS BILLS THAT WOULD ACTUALLY DO THE SAME THING THAT APPARENTLY THIS CONSTITUTIONAL AMENDMENT ATTEMPTS TO DO?

SOMETIMES THEY DO AND SOMETIMES THEY DISAGREE. SOMETIMES THEY THINK TECHNOLOGY WORKS. SOMETIMES THEY THINK THERE IS OTHER WAYS TO DO THINGS. WE HAVE, UNDER, THE SEFP FORMULA CHAPTER 236, ONE OF THE BEST UNIFORM SYSTEMS AND FORMULAS IN THE COUNTRY. IT HAS BEEN IN EFFECT SINCE 1973 AND EVERY TIME THEY MAKE A MINOR CHANGE TO CLASSROOM SIZE OR TECHNOLOGY OR TEACHER SALARIES, THEY HAVE TO READJUST THAT FORMULA, WHICH HASN'T EVEN BEEN CONSIDERED IN THIS AMENDMENT, SO I THINK IF IT AS AS EASY AS HE SAYS IT IS TO DO AND IT WAS SUCH A SOUND POLICY, THAT MAYBE IT WOULD HAVE BEEN DONE ALREADY, BUT THE PROBLEM IS THERE IS SO MANY ISSUES RELATED TO THIS MATTER THAT MAKE IT ALMOST IMPOSSIBLE TO ACCOMPLISH IN A CONSTITUTIONAL AMENDMENT OF THIS TYPE.

WELL, ISN'T, AGAIN, TRYING TO GO BACK TO WHETHER THIS IS MISLEADING OR WE HAVE GOT ONLY TWO THINGS WE ARE CONSIDERING HERE, WHETHER IT IS A SINGLE-SUBJECT TEST, AND WHETHER THE BALLOT SUMMARY IS MISLEADING MISLEADING. AS WE KNOW, THE WISDOM OF WHETHER THIS SHOULD BE IN THE CONSTITUTION OR WHETHER THIS IS BETTER LEFT TO THE LEGISLATURE, IS NOT THIS COURT'S TASK.

I UNDERSTAND THAT.

LET'S GET BACK TO YOUR FIRST MAJOR ARGUMENT, WHICH IS THAT IT IS GOING TO BE VERY DIFFICULT, THIS IS NOT A SIMPLE THING. IT IS NOT, ALTHOUGH WE ALL THINK IT IS A GREAT IDEA TO ACTUALLY ACCOMPLISH HAVING A SMALL NUMBER OF STUDENTS PER CLASS, IT IS GOING TO BE VERY DIFFICULT TO DO. WHAT IS THERE ABOUT SOMETHING BEING DIFFICULT THAT IS, VIOLATES THE SINGLE SUBJECT? IT GIVES THE LEGISLATURE THE DISCRETION BROAD DISCRETION TO FIGURE OUT HOW TO DO IT, AND IN FACT, THERE IS ALREADY A STATUTE THAT IS SORT OF COEXTENSIVE WITH THIS, RIGHT? 236.687, THAT ESTABLISHES THAT CLASSES SHOULD NOT EXCEED 20 STUDENTS PER CLASS, SO I GUESS I AM TRYING TO UNDERSTAND WHICH SINGLE, HOW IS THAT A SINGLE-SUBJECT VIOLATION?

WELL, FIRST OF ALL, I WOULD LIKE MR. HERRON, IN HIS REBUTTAL TO ACTUALLY EXPLAIN TO YOU HOW THIS WOULD WORK, BECAUSE IT WOULD VIOLATE AT LEAST THE ARTICLE THAT DETERMINES RIGHT NOW WHAT IS A TEACHER, CERTIFIED TEACHER, TEACHER ASSISTANT, BASICALLY WHETHER TECHNOLOGY CAN BE USED IN PLACE OF THAT. BASICALLY IT VIOLATES THE SCHOOL BOARD'S POWERS TO DETERMINE WHAT IS A PROPER WAY TO SET UP A SCHOOL UNDER THE ARTICLES FORM SECONDLY, UNDER ARTICLE VII, DEALING WITH PECO FUNDING, HOW YOU ALLOCATE MONEY. RIGHT NOW WE USE PECO ALLOCATIONS UNDER THE CONSTITUTION, UNDER, THAT ALLOWS GROSS RECEIPTS TAX, 60 PERCENT TO BE USED FOR K-12 AND 40 PERCENT FOR HIGHER ED. IF THIS PROPOSAL GOES THROUGH, THAT WOULD IMPACT THAT. PROBABLY KNOW MONEY FOR HIGHER ED. IT WOULD, ALSO, AFFECT THE LEGISLATIVE ARTICLE. HE SAYS IT DOES NOT AFFECT THE VETO POWER. IF THEY SAY, BY 2010, THEY HAVE TO HAVE THIS DONE AND THEY HAVE TO DO IT UP TO TWO PER YEAR, AND HE SAYS WHAT HAPPENS IF THEY PASS A BILL, IF IT DOES THAT, THAT PROVIDES THAT MONEY? WHAT RIGHT DO THEY HAVE TO TELL THE GOVERNOR HE CAN'T VETO IT, IF HE IS GOING TO VIOLATE THIS PROVISION OF THE CONSTITUTION?

BUT AREN'T YOU TALKING ABOUT POLICY, NOW, RATHER THAN CONSTITUTIONALITY OF THE

AMENDMENT?

NO. IT IS THE WAY SCHOOLS ARE BUILT. I THINK, AND THEY NEVER EVEN MENTIONED TEACHERS. THEY SAY, IN THIS BRIEF AND IN THIS PROVISION, HE SAYS IT IS ALL ABOUT CLASSROOMS. BUT IT DOESN'T EVEN MENTION TEACHERS, HOW WE HIRE TEACHERS. THAT IS THE POWER OF THE SCHOOL BOARD. HOW THEY ARE HIRED IS A PART OF THE SCHOOL BOARD POWERS AND THE ARTICLE, LOCAL SCHOOL DISTRICTS. SECONDLY THE CONDITIONS, CLASSROOM SIZE, BENEFITS, THINGS THAT WOULD BE IMPACTED BY THE CONDITIONS OF COLLECTIVE BARGAINING THAT IS ALSO A CONSTITUTIONAL RIGHT.

BUT MR. UHLFELDER, IF YOU TRY TO PUT THOSE KINDS OF THINGS, ARTICLES IN HERE, WE WOULD BE HERE ON A TOTALLY DIFFERENT ISSUE? WOULDN'T YOU BE HEARSAYING NOW THIS CLEARLY IS A SINGLE-SUBJECT VIOLATION, BECAUSE IT CERTAINLY COVERS MORE THAN CLASSROOM SIZES. IT COVERS ALL THESE OTHER ISSUES AND SO WE WOULD HAVE DIFFERENT ARGUMENT HERE THIS MORNING, IF THIS PROPOSED AMENDMENT CONTAINED THAT KIND OF INFORMATION.

AND I AGREE WITH YOU. THERE IS CERTAIN THING THAT IS ARE JUST TOO DIFFICULT TO BE PLACED IN THE CONSTITUTION, AND THIS IS ONE OF THEM. I THINK THAT IS THE REASON THERE IS A 75-WORD LIMIT. ONE OF THE REASONS HE HAS PROBLEMS GETTING HIS 75 WORDS, IS BECAUSE HE IS AMENDING SEVEN ARTICLES OF THE CONSTITUTION. I MEAN, IT IS ONE THING FOR THE LEGISLATURE. WE HAVE A CONSTITUTION REVISION COMMISSION THAT CAN REVISE THE CONSTITUTION. YOU DON'T HAVE A RIGHT TO REVISE THE CONSTITUTION AT PUBLIC. YOU HAVE A RIGHT TO DO IT ---THE CONSTITUTION AT PUBLIC. YOU HAVE A RIGHT TO DO IT, THE LEGISLATURE HAS THE RIGHT AND UNDER CONSTITUTIONAL CONVENTION, BUT JUST BECAUSE THEY DECIDE THEY WANT TO CHANGE THE WHOLE CONSTITUTION OF THE STATE OF FLORIDA, DOESN'T GIVE THEM THE RIGHT TO DO SO. THAT IS THE WHOLE PURPOSE. YOU ALL HAVE WRITTEN, OVER AND OVER AGAIN, YOUR FRUSTRATION WITH THIS PROVISION OF THE CONSTITUTION, AND IF I HAVE EVER SEEN A CONSTITUTIONAL AMENDMENT PROPOSED BY ANYONE THAT COULD PROVIDE MORE FRUSTRATION AND MORE CONCERN TO THE COURT THAN THIS ONE, I DON'T KNOW WHAT IT IS, AND I WILL TELL YOU GO ON AND ON. WHAT DOES EXTRACURRICULAR MEAN? BASICALLY ALLOWING THIS TO GO ON THE BALLOT, GETTING BACK TO THE SUMMARY OF THE BALLOT, WHEN YOU LOOK AT THAT SUMMARY, IT IS NOT JUST WHAT THEY TELL YOU. IT IS WHAT THEY DON'T TELL YOU. WHAT THEY DON'T TELL YOU IS, IF YOUR SCHOOL DISTRICT IS OVERCROWDED AND WEALTHY, YOU BETTER NOT START BUILDING NEW SCHOOLS, BECAUSE IT WOULD BE STUPID TO DO THAT, BECAUSE THE SCHOOL DISTRICTS THAT DO THE LEAST UNDER THIS PROVISION, WILL GET THE MOST MONEY, AND THE POORER SCHOOL DISTRICTS THAT WE ARE TRYING TO DEAL WITH, WITH UNDER 236, WILL GET NOTHING! THEY DON'T TELL YOU ABOUT THAT. THEY DON'T TELL YOU WHAT EXTRACURRICULAR IS. NOW, HE SAID THEATER OR SPORTS. WHAT ABOUT FIST ED? DO YOU KNOW THAT -- WHAT ABOUT PHYS ED? THAT IS MOST PLACES REQUIRED. WHAT ABOUT THE FLORIDA ON-LINE HIGH SCHOOL? THERE IS 150-PLUS KIDS THERE. IS THAT UNCONSTITUTIONAL NOW? HE DOESN'T TELL YOU ABOUT TECHNOLOGY BEING MOVED OUT. I DIDN'T HAVE A CHANCE TO SEE THE BRIEF OR THE FEA, SINCE I DIDN'T GET A COPY OF IT. MUST HAVE BEEN A MISTAKE, BUT IN THERE THEY HAVE ALL THESE POLICY REASONS WHY THIS IS SUCH A GOOD IDEA, AND GRANTED I DIDN'T HAVE A CHANCE TO REPLY, BUT IT HAS BEEN SHOWN AND THE COURT CAN LOOK THAT THE LOS ANGELES SCHOOL DISTRICT, THE CALIFORNIA SYSTEM SPENT \$8 BILLION TO DO SOMETHING LIKE THIS AND NOW THEY ARE REVISING IT, SO THE POLICY REASONS THEY TALK ABOUT IN THEIR BRIEFS AREN'T EVEN VALID. MR. CHIEF JUSTICE

JUSTICE SHAW A QUESTION.

I GATHER YOU ARE SAYING THAT WE, OUR ONLY CONCERN IS SINGLE SUBJECT AND THAT IT IS MISLEADING, AND I GATHER YOU ARE ARGUING THAT IT IS MISLEADING. IS THAT WHAT YOU ARE SAYING?

IT MORE THAN, REALLY, MISLEADING. YOU ALL ARE VERY CONCERNED ABOUT VALID INTEGRITY, AND TO ME THIS WOULD BE, TO PUT THIS ON THE BALLOT IN THE FORM IT IS IN, HE SAID IT IS ONLY ABOUT, IN HIS BRIEF AND AGAIN TODAY, IT IS ONLY ABOUT CLASSROOMS? WHAT, ARE YOU GOING TO CREATE ALL THESE CLASSROOMS WITHOUT TEACHERS? YOU CAN BUILD THE CLASSROOMS WITHOUT ROADS. YOU CAN BUILD THE CLASSROOMS WITHOUT TECHNOLOGY?

WOULD YOU HAVE ALL OF THIS TO GO IN THE AMENDMENT?

WOULD I HAVE ALL OF THIS?

ALL THIS EXPLANATION THAT YOU ARE GOING INTO.

I WOULD SAY THAT HE HAS GOT A JOB.

THIS IS NOT SET FORTH IN THE PROPOSED AMENDMENT?

ABSOLUTELY. I THINK IT FAILS. I DON'T THINK YOU NEED TO GET TO THE SINGLE SUBJECT THIS. BALLOT LANGUAGE IS SO FRAUGHT WITH ERROR AND MISLEADING THE PUBLIC, I MEAN, I COULD GO ON IN TERMS OF THE FACT THAT THE SCHOOL DISTRICTS, REALLY, WILL HAVE VERY LITTLE AUTHORITY. THEY WILL SPEND ALL THEIR TIME BUILDING CLASSROOMS. DO YOU KNOW HOW LONG IT TAKES TO BUILD A CLASSROOM? AND THINK ABOUT THE PEAK-FUNDING UNED -- THE PEAK-FUNDING UNDER THE CONSTITUTION AND -- THE PECK PECK-FUND -- THE PECO FUNDING, UNDER THE CONSTITUTION. REALLY --.

HOW WOULD YOU SET FORTH THIS TYPE OF DETAILING IN A SINGLE AMENDMENT?

IT IS EASY TO DO WHEN YOU HAVE A SINGLE SUBJECT, BUT WHEN YOU HAVE GOT SEVEN SUBJECTS LIKE HE HAS GOT HERE, HE HAS GOT A DIFFICULT TIME AND THAT IS WHY HE HAS A PROBLEM. I MEAN, HE DOESN'T HAVE AN EASY JOB HERE, BECAUSE HE IS TRYING TO PUT TOO MUCH IN A CONSTITUTIONAL AMENDMENT, AND I THINK THAT IS THE REASON WE TRY TO LIMIT THESE AMENDMENTS, AND THAT IS WHY WE SAY THAT SUMMARIES NEED TO BE SUMMARIZED IN A WAY THAT THE PUBLIC CAN GO IN THERE AND READ. NOT EVERYBODY IS GOING TO HAVE A LAW DEGREE, WHEN THEY GO IN THERE TO READ THESE CONSTITUTIONAL AMENDMENTS. BUT I, REALLY, BELIEVE THAT, IN THIS CIRCUMSTANCE, THAT WE NEED TO THINK ABOUT WHAT IMPACT THIS WILL HAVE. THINK ABOUT THE FACT THAT, WHEN THIS GOES ON THE BALLOT AND THEY ADVERTISED AND THEY TALK ABOUT THIS, ABOUT REDUCING CLASSROOM SIZE, AND PARENTS SHOW UP IN A YEAR FROM NOW AND THEY DON'T SEE THEIR CLASSROOM SIZE REDUCED, WHAT ACTIONS ARE THEY GOING TO BRING? ARE THEY GOING TO BRING THEM AGAINST THE LEGISLATURE?

BUT THAT GOES TO WHETHER OR NOT IT IS WEISS TO PASS AND VOTE FOR OR AGAINST IT, IF IT GOES ON THE BALLOT. DOESN'T IT?

TO A DEGREE, BUT I THINK THE PUBLIC --

AND THAT IS NOT WHAT WE ARE HERE TO DECIDE. AND WE HAVE SPOKEN ON THAT, AS FAR AS THE WISDOM OF IT. WE ARE NOT SUPPOSED TO GET INTO THAT.

NO, BUT I THINK THE PUBLIC, WHEN WE PUT SOMETHING IN THE CONSTITUTION AND WE SAY CLASSROOM SIZE WILL BE THIS SIZE AND A PARENT HOWS UP, AND THE CLASSROOM SIZE IS NOT THAT SIZE, THEN --

THERE ARE REMEDIES TO ACCOMPLISH THAT, AND WE DEAL WITH THE CONSTITUTIONALITY OF LAWS ALL THE TIME.

WHICH SAY THAT THAT WOULD BE CORRECT, IF THEY WERE EXPLAINING THAT TO THE PUBLIC IN THIS AMENDMENT, BUT THEY ARE MISLEADING THE PUBLIC WHEN YOU LOOK AT THAT.

WHAT WAS PASSED, WHEN THE VOTERS OF THIS STATE, NOW IN THE CONSTITUTION, SAYS ADEQUATE PROVISIONS SHALL BE MADE FOR UNIFORM, EFFICIENT, SAFE, SECURE AND HIGH-QUALITY EDUCATION. HOW VAGUE AND AMBIGUOUS IS THAT, AND SOMEBODY GOES INTO COURT AND SAYS I AM GOING TO CHALLENGE NOT GETTING ONE OF THESE, BECAUSE THE CLASSROOM SIZE IS, I AM IN A CLASSROOM, MY KIDS ARE IN A CLASSROOM WITH 30 KIDS, AND YOU GO THAT IS NOT PART OF WHAT IS CONSTITUTIONALLY MANDATED IF THIS IS PASSED, THEY POINT TO THIS AND GO THIS IS WHAT IS REQUIRED BY THE CONSTITUTION. THIS IS GOING TO BE THE STANDARD AND I AM NOT SURE. AGAIN, THERE ARE A LOT OF PROVISIONS OF THE CONSTITUTION, THROUGH THIS INITIATIVE PROCESS, THAT CAN CREATE LITIGATION PROBLEMS. WE HAVE SEEN SOME OF THEM. WE WILL SEE SOME IN THE FUTURE, BUT I DON'T KNOW, AGAIN, HOW THAT CAN GO INTO OUR MIX, AT THIS STAGE OF THE GAME, AS TO THIS BALLOT.

YOU HAVE THE RESPONSIBILITY TO LOOK HOW IT WOULD WORK AND NOBODY HAS BEEN ABLE TO EXPLAIN TO COUNSEL OR IN BRIEF HOW IT WOULD WORK. I THINK WE HAVE AN OBLIGATION TO AT LEAST BE ABLE TO DO. THAT HAVING BEEN FORTUNATELY INVOLVED IN CONSTITUTIONAL PROVISIONS IN SEVERAL OCCASIONS, WHEN WE WORK ON THOSE PROCESSES, WE TRY TO WORK THING INS AWAY THAT GIVES GOVERNMENT SOME OPPORTUNITY FOR FLEXIBILITY. THIS GIVES NO FLEXIBILITY AND NO TAX PLAN FOR DEALING WITH THIS, AND HE MISLEADS THE PUBLIC ON HIS LANGUAGE. FURTHER, HE HASN'T EVEN DEFINED TERMS. HE SAYS "PREKINDERGARTEN" IN PUBLIC SCHOOLS. THINK ABOUT THAT. WHAT DOES PREKINDERGARTEN IN PUBLIC SCHOOLS MEAN? IT WAS TAKEN OUT OF THE DEPARTMENT OF EDUCATION, SO PREKINDERGARTEN MEANS ANYTHING FROM CHILDBIRTH TO KINDERGARTEN, SO UNDER THAT ANY CHILD THAT GOES TO A CHILDCARE CENTER WOULD NECESSARILY HAVE TO BE IN A CLASSROOM OF 18 OR LESS. I AM TELLING YOU IT IS FRAUGHT WITH ERRORS. IT IS FRAUGHT WITH PROBLEMS AT WHICH TIME IS FRAUGHT WITH THINGS THAT WILL ADVERSELY AFFECT OUR PEOPLE FRONTING UNDER THE ARTICLE VII AND -- AFFECT OUR PEOPLE FUNDING UNDER THE ARTICLE VII AND ARTICLE XII, AND HOW WILL THEY BE FUNDED AND IMPACT HOW, WHAT RIGHTS PEOPLE HAVE THE. LET ME ASK YOU, IF A PERSON SHOWED UP AND THE CLASSROOM WAS OVERCROWDED, WOULD THEY HAVE A RIGHT THEN? WE CAN'T BUS ANYMORE FOR RACIAL PURPOSES, BUT COULD YOU BUS FOR CLASSROOM SIZE? COULD YOU SAY WE ARE GOING TO START BUSING KIDS NOW, TO MEET THE CONSTITUTIONAL PROVISION HERE, TO REQUIRE KIDS, BECAUSE 20 EXTRA KIDS SHOW UP IN A KINDERGARTEN CLASS? I AM TELLING YOU THIS PROVISION WILL CAUSE CHAOS IN THE STATE OF FLORIDA. IT WILL HURT THE BUDGET PROCESS, THE LEGISLATIVE PROCESS AND THE LOCAL GOVERNMENTS, WHICH WE HAVEN'T TALKED ABOUT ALL OF THE RIGHTS THEY HAVE FOR SCHOOL DISTRICTS. WHEN THEY DO PERMITTING ALL THEIR RIGHTS WILL BE PREEMPTED. WHAT ABOUT THE POWERS OF THE LEGISLATURE AND THE GOVERNOR. HE SAYS IT WON'T AFFECT THE GOVERNOR'S VETO POWER, BUT WOULDN'T IT, IF THE BUDGET PROVIDED FOR THIS? I THINK THAT THEY HAVE A RESPONSIBILITY TO TELL YOU, IN THEIR REBUTTAL, HOW THIS WILL WORK. IF IT DOESN'T MEAN ANYTHING, THEN I DON'T KNOW WHY IT IS ON THE BALLOT, BECAUSE ALL THEY ARE TRYING TO DO IS SEND A MESSAGE TO THE LEGISLATURE, THERE ARE A LOT MORE WAYS TO DO IT THAN TO AMENDMENT OUR CONSTITUTION AND CHANGE AT LEAST SIX OR SEVEN ARTICLES OF THE CONSTITUTION. I THINK THAT THE BURDEN HE HAS IS VERY DIFFICULT, AND I THINK THE REASON THEY HAVE DIFFICULTY EXPLAINING WHAT THEY MEAN HERE IS BECAUSE IT CHANGES TOO MANY PARTS OF THE CONSTITUTION.

BUT IF THEY TELL US IN REBUTTAL, HOW IT WOULD WORK OR NOT WORK OR HOW EFFECTIVE IT WOULD BE, THAT HAS NOTHING TO DO WITH IT SHOULD BE PLACED BEFORE THE PUBLIC, THE CONSTITUTIONALITY OF IT.

I BELIEVE IT WOULD, YOUR HONOR, BECAUSE IT WOULD EXPLAIN HOW MANY SECTIONS OF THE CONSTITUTION WOULD BE IMPACTED AND HOW MISLEADING THIS BALLOT IS AND ALL OF THE

THINGS IT HAS LEFT OFF.

THE PROBLEM IS WE HAVE TO LOOK WITHIN THE FOUR CORNERS OF THE DOCUMENT. THEIR EXPLAINING IT WOULD NOT ADD TO IT OR DETRACT FROM IT, ONE WAY OR THE OTHER.

WELL, I UNDERSTAND THE ISSUE THAT YOU ARE RAISING, BUT I BELIEVE THEY HAVE A RESPONSIBILITY, WHEN THEY PUT THIS ON THE BALLOT, TO PUT ON A CLEAR AND NONMISLEADING WAY.

AND IS THAT WHAT HAPPENED WITH THE NET BAN? THE ISSUES RELATING TO THE NET BAN HAVE BEEN IN LITIGATION SINCE IT FIRST WAS MADE A PART OF OUR CONSTITUTION. AND THERE HAVE HAD TO BE DEFINITIONS AND COURT DECISIONS IN REGARD TO THAT, AND SHOULD WE GO, BECAUSE OF THAT, AND SAY, WELL, WE SHOULD NOT HAVE HAD THAT AS A PART OF OUR CONSTITUTION?

I THINK THAT YOU HAVE TO LOOK AT WHAT IS IN THE LANGUAGE. YOU HAVE TO LOOK AT WHAT IS IMPACTED, WHAT ARTICLES OF THE CONSTITUTION ARE IMPACTED BY IT AND WHETHER THEY FAIRLY REPRESENT THAT. I KNOW THAT YOU ARE NOT SUPPOSED TO LOOK AT THE POLICY CONSEQUENCES, BUT THE POLICY CONSEQUENCES ARE OFTEN IMPLEMENTED BY THE ARTICLE TO THE CONSTITUTION, AND EVERY PERSON THAT IS A PARENT IN OUR STATE AND ABOUT 80 PERCENT OF OUR KIDS GO TO PUBLIC SCHOOLS AND LESS THAN TEN PERCENT OF THEM FISH AND WORRY ABOUT NET BANS, AND I JUST SAY WHEN YOU HAVE A SITUATION LIKE THIS, WHERE MOST EVERY PERSON IN THE STATE IS CONCERNED ABOUT AN AMENDMENT THAT IS GOING ON THE BALLOT, THAT YOU HAVE TO LOOK AT YOUR PROVISIONS CAREFULLY, BUT YOU HAVE TO LOOK AT IT, NO MATTER WHO IS IMPACTED, AND IN THIS CASE, THEY HAVE A VERY DIFFICULT JOB SHOWING HOW THEY DID NOT VIOLATE THE SINGLE-SUBJECT RULE AND HOW THEY DID NOT MISLEAD YOU. MR. CHIEF JUSTICE

THANK YOU. MR. HERON. HOW MUCH TIME? FIVE MINUTES? MR. CHIEF JUSTICE

MR. HERRON, LET ME ASK YOU AT THE BEGINNING OF YOUR REBUTTAL, TO, JUSTICE PARIENTE ASKED A QUESTION JUST A FEW MINUTES AGO. MR. UHLFELDER, IN WHICH HE SAID THAT CLASS SIZE IS REQUIRED BY THE CONSTITUTION, IF THIS IS PASSED, BUT THAT IS NOT CORRECT?

THAT IS NOT OUR UNDERSTANDING OR INTENT IN THIS AMENDMENT. THIS AMENDMENT SETS FUNDING LEVELS.

WOULDN'T THAT BE WHAT AN AVERAGE VOTER WOULD THINK THIS AMENDMENT WOULD DO, IF, BECAUSE WHAT BALLOT SUMMARY SAYS IS THAT IT PROPOSES AN AMENDMENT TO THE CONSTITUTION, TO REQUIRE THAT THE LEGISLATURE PROVIDE FUNDING, SO THAT THERE BE A MAXIMUM NUMBER OF STUDENTS IN PUBLIC SCHOOL CLASSROOMS. NOW, WHY, I MEAN, WHY DOESN'T AN AVERAGE VOTER BE REASONABLY ENTITLED TO THINK THAT WHAT THAT MEANS IS THAT THE SCHOOL BOARDS ARE GOING TO BE REQUIRED BY THIS AMENDMENT, TO HAVE ONLY THESE NUMBER OF PEOPLE IN THEIR CLASSROOMS?

WELL, I THINK THE ANSWER TO THAT IS THE LANGUAGE THAT IS USED IN THE BALLOT SUMMARY. IT DOESN'T MENTION SCHOOL BOARD AT ALL. IT SAYS THE LEGISLATURE SHALL --

THE CONSTITUTION PUTS THAT OBLIGATION ON THE SCHOOL DISTRICTS, BY REASON OF THE FACT IT SAYS, SPECIFICALLY, THAT THE SCHOOL DISTRICTS, SCHOOL BOARDS, ARE TO OPERATE AND CONTROL THE SCHOOLS.

AS PROVIDED BY GENERAL LAW. AS PROVIDED BY GENERAL LAW. AND SO, AGAIN, IF THE LEGISLATURE IMPLEMENTING THE FUNDING MECHANISMS, GENERAL LAW SAID YOU HAVE THESE SIZES FOR CLASSES, EXTRACURRICULAR CLASSES EXCLUDED, THAT IS THE WAY IT WILL BE.

YOU SAID A MINUTE AGO THAT THIS DOESN'T INTERFERE WITH THE GOVERNOR'S POWER OF VETO, AND SO WHAT I ASSUME YOU MEAN BY THAT IS, IF THE LEGISLATURE PASSES A SCHEME THAT ATTEMPTS TO FOLLOW THIS, THAT THE GOVERNOR CAN, IN ONE FELL SWOOP, VETO IT AND THERE FOR IT WON'T HAPPEN. ANOTHER GOVERNOR CAN VETO IT AND WILL HAVE TO ANSWER AT THE BALLOT BOX IF AND WHEN HE DOES.

I AM CONCERNED AS TO WHETHER OR NOT THE SUMMARY IS MISLEADING IN THAT RESPECT, THEN, BECAUSE, AGAIN, DOESN'T THIS GIVE THE APPEARANCE TO THE PUBLIC THAT THIS WILL TAKE CARE OF THIS ISSUE OF CLASS SIZE, AND THAT BY VOTING FOR THIS, THEY ARE GOING TO PUT IN THE CONSTITUTION, A REQUIREMENT THAT THE CLASS SIZES BE LIMITED, AND IN THE WAY THAT IS DESCRIBED HERE. THERE IS NOTHING ABOUT THAT, NO, IF THE LEGISLATIVE EXECUTIVE PROCESS, THE GOVERNOR DECIDES HE DOESN'T WANT TO APPROVE IT, THAT HE CAN VETO IT, SO THAT IT IS AN ALLUSORY, THEN, GRANT IN THE CONSTITUTION, AND I AM CONCERNED ABOUT WHETHER THAT ISN'T AN IMPLICIT, DECEPTIVE, HERE IS SOMETHING THAT IS ALLUSORY, BECAUSE THE GOVERNOR CAN VETO IT.

I THINK IF THIS COURT ADOPTS THAT AS A STANDARD FOR SUMMARIES AND TITLES, WE ARE GOING TO BE IN A NEW ERA OF SUMMARIES AND TITLES, BECAUSE IN 75 WORDS, ONE CAN ONLY DO SO MUCH, AND IF I HAVE TO EXPLAIN THAT IT IS GOING TO BE READ IN PARAMAKE TEAR YEAH TOGETHER, NOT TO RESTRICT THE GOVERNOR'S -- IN MARIMATERIA TOGETHER, NOT TO RESTRICT THE GOVERNOR'S VETO POWER, I AM NOT SURE IT CAN BE EXPLAINED IN AN AMENDMENT.

YOU HAVE ADMITTED THAT IT WON'T HAVE THAT AFFECT. THE PURPOSE IS TO REDUCE CLASS SIZE. ANOTHER PURPOSE IS TO REDUCE CLASS SIZE THROUGH DIRECTING THE LEGISLATURE TO FUND THESE AMENDMENTS. IF THE LEGISLATURE DOESN'T DO IT IF THE GOVERNOR DOESN'T DO IT, PEOPLE WILL BE HELD ACCOUNTABLE. AT THE BALLOT BOX. THE LEGISLATURE WILL BE ACCOUNTABLE, THROUGH SOME KIND OF LITIGATION.

WOULDN'T YOU COMMENT, THOUGH, UPON THE OPPOSITION'S ALLEGATION THAT THIS WILL AFFECT A CATAclysmic IMPACT, AND THAT IS SOMETHING THAT WE ARE SUPPOSED TO AT LEAST CONSIDER AND BRING INTO FOCUS.

YES, YOUR HONOR. THE OPPONENTS TO THE AMENDMENT CITE, IN THEIR BRIEF, SEVERAL CONSTITUTIONAL PROVISION THAT IS THEY SAY WILL BE ALTERED OR AMENDED BY THIS PROPOSAL. I WOULD REJECT ALL THEIR ASSERTIONS THAT DEAL WITH TAXATION, MILLAGE RATE, ISSUES OF BOND, LOCAL RENERENDA, PERMITTING, MILLAGE -- REFERENDA PERMITTING, MILLAGE AND THE LIKE IN THEIR AMENDMENT. THIS IN NO WAY AMENDS OTHER AMENDMENTS TO THE CONSTITUTION BY TAKING AWAY A RIGHT, BY MODIFYING A RIGHT, BY LIMIT AGO RIGHT. THE LANGUAGE OF THE AMENDMENT, THE LANGUAGE OF THE SUMMARY SAY THAT THE LEGISLATURE IS TO PAY FOR ALL OF THE COSTS OF COMPLYING WITH THE AMENDMENT. THEY SAY THAT. AND IF CLASSROOMS ARE NEED, THE LEGISLATURE PAYS. IF TEACHERS ARE NEEDED, THE LEGISLATURE PAYS. IF EQUIPMENT AND SUPPLIES ARE NEEDED, THE LEGISLATURE PAYS. THAT IS WHAT THE AMENDMENT SAYS. THAT IS WHAT THE SUMMARY SAYS. IT DOESN'T GO AROUND AND CHANGE THE FUNCTION OR RESPONSIBILITY OF THE DISTRICT SCHOOL BOARD, THE GOVERNOR, THE GOVERNOR AND THE CABINET. I THINK THAT IS AS STRAIGHTFORWARD AS I CAN BE, YOUR HONOR. IF YOU HAVE ANY FURTHER QUESTIONS, I -- MR. CHIEF JUSTICE

THANK YOU, MR. HERON. THANK YOU, COUNSEL, FOR YOUR ASSISTANCE TO THE COURT IN THE CONSIDERATION OF THIS VERY IMPORTANT MATTER.