

**DE 80-34 - October 21, 1980**

**Section 101.161, F.S. (1979), As Amended by, CHP. 80-20 Laws Of Florida**

*To: Honorable Robin C. Krivanek, Supervisor of Elections, Hillsborough County, Tampa, Florida  
32602*

*Prepared by: Division of Elections*

This is in response to your request for advisory opinion pursuant to Section 106.23, F.S. (1979). Your question is two fold:

- (1) Who has authority to propose a referendum to levy a tax mileage for a special tax district authorized by Section 163.570, F.S. (1979)?
- (2) How should the proposed referendum be embodied and presented to the Supervisors of Elections?

Your first question does not involve an interpretation of the election code (chapter 97-106) and therefore we decline to render an opinion. However, your second question can be answered without reference to the first. As to your second question, we interpret Section 101.161, F.S. (1979) to apply to public referendums of local origin. Assuming arguendo that the Regional Transportation Authority may propose a referendum on tax mileage, Florida law prescribes the manner for proposing such referendums. I refer you to Section 101.161, F.S., which states:

"Constitutional amendment or other public measure. Whenever a constitutional amendment or other public measure is submitted to the vote of the people, the substance of such amendment or other public measure shall be printed in clear and unambiguous language on the ballot after the list of candidates, followed by the word "yes," and also by the word "no" and shall be styled in such a manner that a "yes" vote will indicate approval of the proposal and a "no" vote will indicate rejection. The wording of the substance of the amendment or other public measure and the ballot title to appear on the ballot shall be embodied in the joint resolution, constitutional revision commission proposal, constitutional convention proposal, or enabling resolution or ordinance. The substance of an amendment proposed by initiative and the ballot title shall be prepared by the sponsor and approved by the Secretary of State in accordance with rules adopted pursuant to s. 120.54. 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. The substance of the amendment or other public measure shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. The Department of State shall give each proposed constitutional amendment a designating number for convenient reference. This number designation shall appear on the ballot. Designating numbers shall be assigned in the order of filing or certification of the amendment. The Department of State shall furnish the designating number, the ballot title and the substance of each amendment or public measure to

the supervisor of elections of each county in which such amendment or public measure is to be voted on."

Clearly, the wording of a public referendum of local origin should be embodied in the form of a resolution or ordinance in order to obtain ballot position. A mere draft proposal is not appropriate to place the measure on the ballot. The originating authority must take formal action by resolution or ordinance to properly prepare the measure for ballot position.