

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D2024-1485

FINANCIAL IMPACT ESTIMATING
CONFERENCE, AMY BAKER,
VINCE ALDRIDGE, AZHAR KHAN,
BREA GELIN, and the SECRETARY
OF STATE,

Appellants,

v.

FLORIDIANS PROTECTING
FREEDOM, INC., and SARA
LATSHAW, et al.,

Appellees.

On appeal from the Circuit Court for Leon County.
John C. Cooper, Judge.

July 22, 2024

ON ORDER TO SHOW CAUSE REGARDING MOOTNESS

PER CURIAM.

This appeal concerns the financial impact statement associated with the proposed citizen initiative amendment to the Florida Constitution titled “Amendment to Limit Government Interference with Abortion.” The financial impact statement at issue below and on appeal was issued on November 16, 2023. Appellants—the Financial Impact Estimating Conference

(“FIEC”), members of the Conference, and the Secretary of State—challenge the circuit court’s final order finding the financial impact statement to be inaccurate, ambiguous, misleading, unclear, and confusing in violation of the Florida Constitution and Florida Statutes. In that order, the circuit court directed the FIEC to redraft the financial impact statement within fifteen days.

While this appeal was pending, the President of the Florida Senate and the Speaker of the House directed the FIEC to consider revisions to the financial impact statement. The FIEC met on July 1, 8, and 15, 2024. Those meetings were voluntary, not pursuant to the circuit court’s order. At the conclusion of those meetings, the FIEC withdrew the initial financial impact statement that was the subject of the circuit court’s order and issued a revised statement.

After the FIEC issued the revised financial impact statement, we directed the parties to show cause why the appeal should not be dismissed as moot. *See Godwin v. State*, 593 So. 2d 211, 212 (Fla. 1992) (“A moot case generally will be dismissed.”).

“A case is ‘moot’ when it presents no actual controversy or when the issues have ceased to exist.” *Waters v. Dep’t of Corr.*, 306 So. 3d 1264, 1266 (Fla. 1st DCA 2020). As the Florida Supreme Court has explained,

Article V, section 1 of the Florida Constitution vests “[t]he judicial power” in Florida’s courts, and Florida’s courts, including its appellate courts, reserve the exercise of judicial power for cases involving actual controversies. *Sarasota-Fruitville Drainage Dist. v. Certain Lands Within Said Dist.*, 80 So. 2d 335, 336 (Fla. 1955); *see Dep’t of Revenue v. Kuhnlein*, 646 So. 2d 717, 720–21 (Fla. 1994) (explaining that the only exception to the general requirement that cases must involve a real controversy is where the Florida Constitution otherwise authorizes advisory opinions). This limitation on the exercise of judicial power to justiciable controversies is rooted in judicial adherence to the doctrine of separation of powers. *See Ervin v. City of N. Mia. Beach*, 66 So. 2d 235, 236 (Fla. 1953) (“Judicial adherence to the doctrine of separation

of powers preserves the courts for the decision of issues between litigants capable of effective determination.” (emphasis omitted) (quoting 1 Walter H. Anderson, *Actions for Declaratory Judgments* 66 (2d ed. 1951)); see also art. II, § 3, Fla. Const.

Casiano v. State, 310 So. 3d 910, 913 (Fla. 2021). It follows then that “[a] case becomes moot, for purposes of appeal, where, by a change of circumstances prior to the appellate decision, an intervening event makes it impossible for the court to grant a party any effectual relief.” *Montgomery v. Dep’t of Health & Rehab. Servs.*, 468 So. 2d 1014, 1016 (Fla. 1st DCA 1985).

Here, the order on review is based on a financial impact statement that is no longer operative. No judicial determination or action remains for the circuit court based on the complaint before it. See *Harbor Bay Condos., Ins. v. Basabe*, 856 So. 2d 1067, 1069 (Fla. 3d DCA 2003) (“A trial court does not retain the authority to amend or modify a final judgment, absent a rule or statute providing otherwise.” (citing *Frumkes v. Frumkes*, 328 So. 2d 34, 35 (Fla. 3d DCA 1976)); see also *Vargas v. Deutsche Bank Nat’l Tr. Co.*, 104 So. 3d 1156, 1165–66 (Fla. 3d DCA 2012). To the extent that Appellees may wish to raise new claims about the revised financial impact statement, they may do so in a separate proceeding. Appellants can again raise their arguments concerning the circuit court’s lack of jurisdiction in a case where there is an actual controversy presented.

For these reasons, we decline to exercise our jurisdiction to decide a moot question. This appeal is therefore dismissed. Any motion under rules 9.330(a)(2) or 9.331(d), Florida Rules of Appellate Procedure, must be filed by noon on Wednesday, July 24, 2024; and any response must be filed by noon on Friday, July 26, 2024. No replies will be permitted.

RAY, BILBREY, and KELSEY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

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Daniel B. Tilley, Samantha J. Past, and Michelle Morton of ACLU Foundation of Florida, Miami; Nicholas L.V. Warren of ACLU Foundation of Florida, Jacksonville; Margaret Good of Margaret Good Law, PLLC, Sarasota; Joseph T. Eagleton of Brannock Berman & Seider, Tampa, for Appellees.