

Tab 1	SJR 74 by Bradley (CO-INTRODUCERS) Simpson, Book, Rouson, Rodriguez, Mayfield, Baxley, Hooper ; (Similar to H 00053) Single-subject Limitation for Constitution Revision Commission Proposals
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Tab 3	SB 268 by Baxley; Voting Methods						
381534	A	S	RCS	EE, Baxley	Delete L.9 - 27:	02/05 05:17 PM	
895386	AA	S	WD	EE, Rodriguez	Delete L.9 - 12:	02/05 05:17 PM	
325334	A	S	WD	EE, Rodriguez	Delete L.12 - 26:	02/05 05:17 PM	

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

ETHICS AND ELECTIONS
Senator Baxley, Chair
Senator Braynon, Vice Chair

MEETING DATE: Tuesday, February 5, 2019

TIME: 2:00—4:00 p.m.

PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Baxley, Chair; Senator Braynon, Vice Chair; Senators Diaz, Passidomo, Powell, Rodriguez, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SJR 74 Bradley (Similar HJR 53, SJR 86)	Single-subject Limitation for Constitution Revision Commission Proposals; Proposing and amendment to the State Constitution to require that any proposals to revise the State Constitution, or any part thereof, filed by the Constitution Revision Commission be limited to a single subject, etc. JU 01/07/2019 JU 01/22/2019 Favorable EE 02/05/2019 Favorable RC	Favorable Yeas 7 Nays 0
2	Presentation by: The Honorable Paul Lux, President Florida State Association of Supervisors of Elections		Presented
3	SB 268 Baxley	Voting Methods; Authorizing voting to be conducted using a voter interface device that produces a voter- verified paper output, etc. EE 02/05/2019 Fav/CS CA RC	Fav/CS Yeas 7 Nays 0
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Ethics and Elections

BILL: SJR 74

INTRODUCER: Senator Bradley and others

SUBJECT: Single-subject Limitation for Constitution Revision Commission Proposals

DATE: January 23, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stallard	Cibula	JU	Favorable
2.	Fox	Roberts	EE	Favorable
3.			RC	

I. Summary:

SJR 74 limits any amendment to the Constitution proposed by the Constitution Revision Commission (“CRC”) to “one subject and matter connected therewith.” Under current law, each CRC proposal may embrace multiple subjects. It may even propose a singular, comprehensive revision of the Constitution. The next CRC convenes in 2037, and thus it would be the first Commission to be governed by the proposed single-subject limitation.

If approved by three-fifths of the membership of each House of the Legislature, SJR 74 will appear on the 2020 General Election ballot. It will take effect if approved by at least 60 percent of the votes cast on the measure.

II. Present Situation:

Overview

The Florida Constitution requires that a Constitution Revision Commission be established every 20 years and that it have the authority to propose a revision of all or any part of the Florida Constitution. Accordingly, the CRC may propose single-subject amendments, multi-subject amendments, or a revision of the entire Constitution.

Context – Proposed Amendments that Appeared on the 2018 General Election Ballot

The CRC proposed seven of the amendments on the 2018 General Election ballot, at least two of which were regarded by many as including two or more substantially unrelated, or “bundled,” changes.¹ Accordingly, voters in many cases were forced to choose between voting for a change

¹ See, e.g., The News Service of Florida, *Constitutional Amendments? One subject only, please*, THE GAINESVILLE SUN (Nov. 23, 2018), <https://www.gainesville.com/news/20181123/constitutional-amendments-one-subject-only-please>.

they did not support (because it was paired with one they wanted) or voting against a change they desired (because it was paired with a change they did *not* like).²

CRC Amendments 6 and 9 were widely cited as embracing multiple subjects. Amendment 6 combined what many regarded as three different subjects: a crime-victim-rights proposal, a prohibition on judges deferring to agencies' interpretation of statutes or rules, and a 5-year increase in the mandatory retirement age for judges. Amendment 9 combined a ban on oil drilling in state waters with a ban on "vaping" in indoor workplaces.

Constitution Revision Commission

Origin

The Florida Constitution was revised extensively in 1968 by three joint resolutions that were proposed during a Special Session of the Legislature. One of the resolutions included a provision requiring a Constitution Revision Commission to convene once every 20 years, beginning in 1977. Accordingly, three CRCs have convened: in 1977-1978, 1997-1998, and most recently in 2017-2018.³

Members

The CRC is comprised of 37 members, including the Attorney General plus: 15 members appointed by the Governor, including one designated to serve as Chair; nine (9) members *each* appointed by the Senate President and House Speaker; three (3) members appointed by the Chief Justice of the Florida Supreme Court.⁴

Task, Procedures, and Authority

The CRC's task is to examine the Constitution and decide which, if any, amendments to submit for voter approval. The amendments must be submitted to the Secretary of State at least 180 days before the next general election.⁵ In turn, the amendments must be submitted to the voters at the next general election held more than 90 days after submission to the Secretary of State. To become effective, an amendment must be approved by at least 60 percent of the votes cast on the measure.⁶

² See Brendan Rivers and News Service of Florida Staff, *Bill Filed to Ban Bundled Amendments from Constitution Revision Commission*, WJCT FIRST COAST CONNECT (Nov. 26, 2018), <http://news.wjct.org/post/bill-filed-ban-bundled-amendments-constitution-revision-commission>; see generally, Editorial Board, *Florida's constitutional amendments: Vote 'yes' on 4 and 11, 'no' on rest*, TALLAHASSEE DEMOCRAT (Oct. 7, 2018), <https://www.tallahassee.com/story/opinion/editorials/2018/10/07/floridas-amendments-yes-4-and-11-no-rest-our-opinion/1494375002/> (arguing that amendment 6 and amendment 9 each included a proposal worthy of approval, but should be voted against on account of at least one unworthy proposal in each); Kelley H. Armitage, *Constitution Revision Commissions Avoid Logrolling, Don't They?*, 72 FLA. B.J. 62 (Nov. 1998) (arguing that the Constitution Revision Commission does not have sufficient safeguards against logrolling).

³ Constitution Revision Commission, *History*, <http://flcrc.gov/about/history.html> (last visited Dec. 31, 2018).

⁴ FLA. CONST. art. XI, s. 2.

⁵ FLA. CONST. art. XI, s. 2.

⁶ FLA. CONST. art. XI, s. 5.

The constitutional provision authorizing the CRC does not address the issue of multi-subject amendments. Indeed, it says only that the CRC must convene at the call of its chair, adopt rules of procedure, and “hold [an unspecified number of] public hearings.”⁷

The Single-Subject Requirement

Amendments that are Limited to One Subject

The Constitution authorizes five sources from which an amendment may originate: the Legislature, the CRC, a citizen initiative, a constitutional convention, or the Taxation and Budget Reform Commission. Only citizen initiative proposals are limited to one subject. Accordingly, as the Florida Supreme Court stated in a case challenging a 2018 proposed amendment, the CRC need not limit its proposals to one subject:

Unlike proposed amendments that originate through initiative petitions, amendments proposed by the Constitution Revision Commission are not bound by the single-subject rule limiting amendments to one subject. . . . Moreover, the Florida Constitution expressly authorizes bundling, as it gives the Commission authority to revise the entire constitution or any part of it. The power to amend the whole constitution in one proposal necessarily includes the lesser power to amend parts of the constitution in one proposal.⁸

Policy Reasons for the Single-Subject Limitation on Amendments Originating as Initiatives

The Florida Supreme Court has repeatedly explained the purposes for the single-subject requirement, at least with regard to citizen-initiative amendments. In its decision in *Fine v. Firestone*, the Court stated that the single-subject limitation allows:

...[T]he citizens to vote on singular changes in our government that are identified in the proposal and to avoid voters having to accept part of a proposal which they oppose in order to obtain a change which they support.⁹

Moreover, the Court stated that the single-subject limitation protects the Constitution “against precipitous and spasmodic changes in the organic law.”¹⁰ Making a similar point in a later case, the Florida Supreme Court stated that the:

...[S]ingle-subject requirement in article XI, section 3, mandates that the electorate’s attention be directed to a change regarding one specific

⁷ FLA. CONST. art. XI, s. 2.

⁸ *Detzner v. Anstead*, 256 So.3d 820, 823-24 (Fla. 2018) (citation omitted); *see also*, *County of Volusia v. Detzner*, 253 So.3d 507, 512 (Fla. 2018) (“Appellants have conceded, however, that CRC proposals are not bound by the single subject requirement”); *Charter Review Commission of Orange Cty. v. Scott*, 647 So.2d 835, 837 (Fla. 1994) (“Only proposals originating through a petition initiative are subject to the single-subject rule.”).

⁹ *Fine v. Firestone*, 448 So.2d 984, 994 (Fla. 1984).

¹⁰ *Id.* at 832 (quoting *Adams v. Gunter*, 238 So.2d 824, 832 (Fla. 1970) (Thornal, J., concurring)).

subject of government to protect against multiple precipitous changes in our state constitution.¹¹

As to why this reasoning should not apply to prohibit multi-subject amendments that originate from sources other than a citizen initiative, such as the CRC, the Court noted that the other methods of propounding a constitutional amendment “all afford an opportunity for public hearing and debate not only on the proposal itself but also in the drafting of any constitutional proposal.”¹² This is not true, the Court noted, of citizen initiatives.¹³

What “One Subject” Means

Over the years, the Florida Supreme Court has issued several opinions in which it explained what it means for an amendment to be limited to one subject.

In these opinions, the Court has stated, the single-subject limitation is “functional and not locational.”¹⁴ In other words, the question is primarily one of what the amendment does, rather than a question of what part(s) of the Constitution it alters. As such, the single-subject limitation requires of each amendment a “natural and logical oneness of purpose.”¹⁵ Moreover, the single-subject limitation prohibits an amendment from:

... (1) [E]ngaging in “logrolling” or (2) “substantially altering or performing the functions of multiple aspects of government.” The term logrolling refers to 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.¹⁶

In addition, although “no single proposal can substantially *alter* or *perform* the functions of multiple branches,” the single-subject limitation does not prohibit a proposal that would “*affect* several branches of government.”¹⁷ How an initiative proposal affects other articles or sections of the constitution, however, *is an appropriate factor* to be considered in determining whether there is more than one subject included in an initiative proposal.”¹⁸

A brief look at three Supreme Court opinions will help illuminate what “one subject” really means.

In a recent advisory opinion, the Court analyzed an amendment that would have guaranteed a:

¹¹ *In re Advisory Op. to the Att’y Gen.—Save Our Everglades*, 636 So.2d 1336, 1339 (Fla. 1994) (quoting *Fine v. Firestone*, 448 So.2d 984, 988 (Fla. 1984)).

¹² *Id.* at 1339.

¹³ *Id.*

¹⁴ *Evans v. Firestone*, 457 So.2d 1351, 1354 (Fla. 1984).

¹⁵ *Advisory Op. to Att’y Gen. re Rights of Electricity Consumers regarding Solar Energy Choice (FIS)*, 188 So.3d 822, 828 (Fla. 2016).

¹⁶ *Id.* at 827-28 (internal citations omitted).

¹⁷ *In re Advisory Op. to the Att’y Gen.—Save Our Everglades*, 636 So.2d 1336, 1339 (Fla. 1994) (emphasis in the original).

¹⁸ *Fine v. Firestone*, 448 So.2d 984, 990 (Fla. 1984) (emphasis added).

...[R]ight for electricity consumers “to own or lease solar equipment installed on their property to generate electricity for their own use” while simultaneously ensuring that “State and local governments shall retain their abilities to protect consumer rights and public health, safety and welfare, and to ensure that consumers who do not choose to install solar are not required to subsidize the costs of backup power and electric grid access to those who do.”¹⁹

In the Court’s analysis of the amendment, it identified two basic “components”—the establishment of a right and a guarantee of the government’s authority to regulate that right. The Court rejected the argument that these components embraced different subjects as a matter of law, stating instead that the components were “two sides of the same coin,” were therefore “component parts or aspects of a single dominant plan or scheme,” and accordingly were “naturally related and connected to the amendment’s oneness of purpose.”²⁰ The Court also noted that the amendment did not engage in impermissible logrolling, as it did not combine a popular measure with an unpopular measure in hopes of compelling sufficient support for the unpopular measure.²¹

In another advisory opinion, the Court examined an amendment proposed by citizen initiative that would have created a “trust to restore the Everglades funded by a fee on raw sugar.”²² The Court held that the amendment violated the single-subject rule because it “perform[ed] the functions of multiple branches of government.”²³ The amendment performed the legislative functions of imposing a levy, establishing a trust, and granting the trustees with power to set and redefine the boundaries of the “Everglades Ecosystem.” Additionally, the amendment “contemplate[d] the exercise of vast executive powers” by the trustees, including the “management, construction, and operation of water storage and sewer systems.”²⁴ Finally, the Court stated that the amendment would have performed a judicial function by essentially adjudicating that the sugar cane industry had polluted the Everglades and by imposing a judgment-like fee on that industry to cover cleanup costs.²⁵

Finally, in *Fine v. Firestone*, the Court disapproved a proposed amendment that contained three subjects.²⁶ The Court did so without specifying that the subjects were related to the functions of various branches of government or that the amendment was an attempt at logrolling. Instead, the Court stated that the amendment:

...[L]imits the way in which governmental entities can tax; it limits what government can provide in services which are paid for by the users of such services; and it changes how governments can finance the construction of capital

¹⁹ *Advisory Op. to Att’y Gen. re Rights of Electricity Consumers regarding Solar Energy Choice (FIS)*, 188 So.3d 822, 828 (Fla. 2016) (quoting the language of the proposed amendment at issue, titled, “Rights of Electricity Consumers Regarding Solar Energy Choice”).

²⁰ *Id.* at 828.

²¹ *Id.*

²² *In re Advisory Op. to the Att’y Gen.—Save Our Everglades*, 636 So.2d 1336, 1337 (Fla. 1994).

²³ *Id.* at 1340.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Fine v. Firestone*, 448 So.2d 984 (Fla. 1984).

improvements with revenue bonds that are paid for from revenue generated by the improvements.²⁷

Joint Resolution

A joint resolution by the Legislature is one of the ways in which an amendment to the Florida Constitution may originate.²⁸ Like a bill, it may begin in either house of the Legislature.

To pass out of the Legislature and be submitted to the voters, a joint resolution must be agreed to by three-fifths of the membership of each House of the Legislature.²⁹ Unless expedited by the Legislature, the joint resolution is then submitted to the voters at the next general election. If the legislatively proposed amendment is approved by at least 60 percent of the people voting on the measure, it becomes effective in the January following the election (unless otherwise specified in the amendment or in the Constitution).³⁰

III. Effect of Proposed Changes:

The joint resolution limits future CRC amendment proposals (beginning in 2037) to “one subject and matter directly connected therewith,” thereby eliminating the political tactic of bundling and logrolling to effect passage of unpopular or marginally-popular proposals by packaging them with more popular measures.

Because the wording of the single subject requirement in the joint resolution is identical to that used in the Constitution for citizen initiatives, the Supreme Court will likely interpret the single-subject requirements similarly.³¹

If passed by a three-fifths supermajority vote of each House of the Legislature, the proposed amendment will appear on the ballot at the 2020 General Election for voter approval.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²⁷ *Id.* at 992 (Fla. 1984).

²⁸ FLA. CONST. art. XI. An amendment or revision may originate as a proposal by the Legislature, the Constitution Revision Commission, a Constitutional Convention, the Taxation and Budget Reform Commission, or the people directly, by way of an initiative.

²⁹ FLA. CONST. art. XI, s. 1.

³⁰ FLA. CONST. art XI, s. 5.

³¹ See e.g., *State v. Hackley*, 95 So. 3d 92, 95 (Fla. 2012); *State v. Hearn*, 961 So. 2d 211, 217 (Fla. 2007) (“We have held that where the Legislature uses the exact same words or phrases in two different statutes, we may assume it intended the same meaning to apply.”).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of State, Division of Elections, provided the following information regarding the cost of advertising the proposed amendment contained in the resolution:

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish[] twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with English and Spanish booklets or posters displaying the full text of proposed amendments, for each polling room or early voting area in each county. The Division is also responsible for translating the amendments into Spanish. The statewide average cost to advertise constitutional amendments, in English and Spanish, in newspapers for the 2018 election cycle was \$92.93 per English word of the originating document.

Using 2018 election cycle rates, the cost to advertise this amendment in newspapers and produce booklets for the 2020 general election could be \$29,737.60, at a minimum. Accurate cost estimates cannot be determined until the total number of amendments to be advertised is known. At this time, no amendments have achieved ballot position for the 2020 election by either joint resolution of the Florida Legislature or by the initiative petition process.³²

³² Email from Brittany Dover, Director of Legislative Affairs, Florida Department of State (Jan. 10, 2019) (on file with the Senate Committee on Judiciary).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This resolution amends Article XI, section 2 of the Florida Constitution.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Bradley

5-00368-19

201974__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 2 of Article XI of the State Constitution to require that any proposals to revise the State Constitution, or any part thereof, filed by the Constitution Revision Commission be limited to a single subject.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 2 of Article XI of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE XI

AMENDMENTS

SECTION 2. Revision commission.—

(a) Within thirty days before the convening of the 2037 ~~2017~~ regular session of the legislature, and each twentieth year thereafter, there shall be established a constitution revision commission composed of the following thirty-seven members:

- (1) the attorney general of the state;
 - (2) fifteen members selected by the governor;
 - (3) nine members selected by the speaker of the house of representatives and nine members selected by the president of the senate; and
 - (4) three members selected by the chief justice of the supreme court of Florida with the advice of the justices.
- (b) The governor shall designate one member of the

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

5-00368-19

201974__

commission as its chair. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments.

(c) Each constitution revision commission shall convene at the call of its chair, adopt its rules of procedure, examine the constitution of the state, hold public hearings, and, not later than one hundred eighty days prior to the next general election, file with the custodian of state records its proposal, if any, of a revision of this constitution or any part thereof ~~of it~~.

(d) Any proposal of a revision of this constitution, or any part thereof, filed by the constitution revision commission with the custodian of state records must embrace but one subject and matter directly connected therewith.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

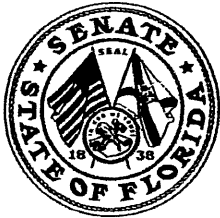
CONSTITUTIONAL AMENDMENT

ARTICLE XI, SECTION 2

ESTABLISHING SINGLE-SUBJECT LIMITATION FOR CONSTITUTION REVISION COMMISSION PROPOSALS.—Proposing an amendment to the State Constitution to require that any proposal of a revision to the State Constitution, or any part thereof, filed by the Constitution Revision Commission with the custodian of state records for placement on the ballot be limited to a single subject and matter directly connected to such subject.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations, *Chair*
Finance and Tax
Innovation, Industry and Technology
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission, *Alternating Chair*

SENATOR ROB BRADLEY

5th District

January 23, 2019

Senator Dennis Baxley, Chairman
Committee on Ethics & Elections
420 Knott Building
404 S. Monroe Street
Tallahassee, Florida 32399-1100

Dear Mr. Chairman:

I respectfully request that SJR 74 which limits constitutional amendments proposed by the Constitutional Revision Commission to a single-subject.

Thank you for your consideration and please reach out to my staff or me if you have any questions or concerns about the bill.

Sincerely,

Rob Bradley

cc: Dawn Roberts, Staff Director

REPLY TO:

- ☐ 1279 Kingsley Avenue, Suite 107, Orange Park, Florida 32073 (904) 278-2085
- ☐ 414 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/5/2019

Meeting Date

STR 74

Bill Number (if applicable)

Topic CRC

Amendment Barcode (if applicable)

Name MARILYNN WILLS

Job Title LWV

Address 2326 KILKENNY DR WEST

Street

Phone 850 893-4104

TALLAHASSEE

City

State

Zip

Email marilyn.wills@msn.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing League of Women Voters of Florida

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02/05/2019

Meeting Date

SJR 74

Bill Number (if applicable)

Topic Single Subject Rule for CRC proposed amendments

Amendment Barcode (if applicable)

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

Phone 850-521-3042

Street

Tallahassee

FL

32302

Email scott.mccoy@splcenter.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing SPLC Action

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/5/19

Meeting Date

SB 74

Bill Number (if applicable)

Topic Single-Subject Limitation for CRC Proposals

Amendment Barcode (if applicable)

Name JONATHAN WEBBER

Job Title Deputy Director

Address 1700 N. Monroe St. #11-286

Phone 954-593-4449

Street

Tallahassee

City

FL

State

32303

Zip

Email JWEBBER@FCVOTERS.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FLORIDA CONSERVATION VOTERS

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/5/19

Meeting Date

55R 74

Bill Number (if applicable)

Topic Single subject / CRC

Amendment Barcode (if applicable)

Name Dr. Rich Templin

Job Title _____

Address 135 S. Monroe

Street

Phone 850-224-6926

Tallahassee

City

FL

State

32301

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida AFL-CIO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/5/2019

Meeting Date

74

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S.

Street

Phone 727/897-9291

St Petersburg

City

FL

State

33705

Zip

Email justice2jesus@yahoo.com

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/5/2019

Meeting Date

SJR 74

Bill Number (if applicable)

Topic Constitutional Revisions

Amendment Barcode (if applicable)

Name Keith Hatcher

Job Title Self

Address 724 SW Sherbik Terrace

Phone 386-365-8742

Street

Lake City

City

FL

State

32024

Zip

Email hatcher1982@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/5/2019

Meeting Date

24 ✓

Bill Number (if applicable)

Topic Single Subject

Amendment Barcode (if applicable)

Name Edward B. Labrador

Job Title Legislative Counsel

Address 100 S. Andrews Avenue, Main Library

Phone 954-357-7575

Street

Ft. Lauderdale

City

FL

State

33301

Zip

Email elabrador@broward.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Broward County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)



FLORIDA STATE ASSOCIATION OF SUPERVISORS OF ELECTIONS

PO Box 350 | Tallahassee, FL 32302 | Telephone: (850) 599-9120

Executive Committee 2018-2019

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Diane Hagan
Dr. Brenda Snipes

General Counsel

Ronald Labasky, Esq.

The following were adopted by the FSASE membership as legislative priorities:

1. Require "voter verified paper output" on all equipment used for compliance for all voters including accessible voting machines under section 101.56075 which provides for mechanisms to be used for persons with disabilities. The current law has a statutory deadline of 2020. Information released by the Department of State indicates that the current equipment used by 32 counties for persons with disabilities will not be able to be used in 2020. This is the only equipment currently certified and being manufactured for use in Florida. Counties that want to use updated previously approved and antiquated equipment need this change to ensure that the only equipment being manufactured and currently certified for use is available for the 2020 election cycle.

2. Funding for ERIC- Electronic Registration information Center - legislation passed in 2018 allowed for Florida to join the group to clean up the statewide voter database to eliminate excess registrants who have moved to other states and registered voters who have moved to other states and registered, voters who have passed away, and provided sophisticated data matching services to the member states in order to improve a state's ability to identify inaccurate and out-of-date voter registration records, as well as eligible, but unregistered residents.

FSASE also SUPPORTS:

3. Public Records Exemption for ALL voter information contained in the statewide voter database except for legitimate political purposes.

4. Public Records Exemption for voter information for 16-17 year old preregistered voters except for legitimate political purposes.

5. Remove of "Not yet designated" language for Governor/Lt. Governor on primary ballot before the position of Lt. Governor has been chosen.

6. Fix Qualifying Check bounce information in statutes as a result of Wright v. City of Miami Gardens case.

7. Eliminate the newspaper publication of ballots when sample ballots are mailed to all registered households in a county.

8. Allow county canvassing boards and SOE the option to use digital imaging automated tabulating equipment, once certified for that use by the State, to conduct machine and manual recounts. (Clear Ballot)
9. Move the qualifying date back two weeks and move the primary election date back one week. This will create 11 week intervals between the three events.
10. Allow flexibility to mail domestic VBM ballots not later than 28 days before the election.
11. Allow canvassing of VBM ballots 22 days prior to the election if desired (one week earlier).
12. Require some type of disclaimer on text messages sent to voters who do not opt-in to receive such messages.
13. Move last day to request VBM to 10 days prior to election and prohibit mailing of VBM less than 8 days prior to election.
14. Use signatures on cure affidavits to update voter signature of record.
15. Remove deadline to update signature prior to start of canvassing board.
16. Extend deadline for curing VBM issues to be 5:00 PM on Election Night.
17. Address issue of having to use provisional ballot envelopes for all votes cast by those not in line before 7:00 PM on election night.
18. Expansion of the number of "wildcard" early voting locations.
19. Implementation of Amendment 4.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Ethics and Elections

BILL: CS/SB 268

INTRODUCER: Ethics and Elections Committee and Senator Baxley

SUBJECT: Voting Methods

DATE: February 6, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Roberts	EE	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 268 mandates that voters with disabilities cast a ballot on a voting system that produces a voter verifiable paper trail (“VVPT”) for canvassing and recount purposes. In the 2018 election cycle, voters with disabilities in four counties — Glades, Jefferson, Miami-Dade, and Palm Beach — still cast ballots on older Direct Recording Equipment (“DRE”) touchscreen voting machines that only recorded the votes electronically (no paper).

The bill also authorizes the general use of such VVPT touchscreen systems by all voters, not just those with disabilities. This addresses ongoing concerns of the disability community to be able to cast ballots in the same manner as other voters, and will allow for more cost-effective use of the machines that otherwise would sit idle in many precincts for much of Election Day.

The bill takes effect January 1, 2020.

II. Present Situation:

A “voting system” is a method of casting and processing votes that consists of electromechanical components and, in many cases, utilizes physical mark-sense ballots. The voting system may also include things like procedures, operating manuals, supplies, printouts, and other software necessary for the system’s operation.¹

¹ Section 97.021(45), F.S.

The State Division of Elections approves the voting system used in most Florida elections. The Division tests the reliability of both the hardware and software components to make sure that they meet the standards set out in law and rules. Florida's certification process is among the most comprehensive in the nation.

The law currently requires all voting by electors *without* disabilities to be done by marksense ballots that can be electronically tabulated.² Since July 1, 2008, however, counties have been allowed to use touchscreen voting equipment for voters *with* disabilities that tabulates votes electronically, without a VVPAT; *ONLY* voters with disabilities may cast ballots on these accessible voting systems.³ At least one piece of accessible voting equipment must be available at each precinct,⁴ which often sits idle much of the day.

Since authorizing this “dual” voting requirement in 2007, the Legislature has three times delayed targeted statutory implementation dates (to 2012,⁵ 2016,⁶ and 2020⁷), to allow election technology to catch-up with the ability to allow voters with disabilities to cast an independent ballot that is:

- Recorded on paper, for canvassing and recount purposes; and;
- Cast in the same manner as voters without disabilities.

Four Florida counties — Glades, Jefferson, Miami-Dade, and Palm Beach — are still using non-VVPAT legacy systems.^{8,9} The remaining 63 counties have purchased touchscreen equipment for voters with disabilities that produces a scannable VVPAT, though the printed ballot/ballot card varies in format.¹⁰

There are currently three state-certified systems for voters with disabilities:

- ES&S AutoMARK¹¹ (22 counties)
- Dominion ImageCast Evolution¹² (16 counties)

² Section 101.56075(1), F.S.

³ Section 101.56075(2), F.S.

⁴ Section 101.56065(2), F.S.

⁵ Ch. 2007-30, s.6, LAWS OF FLA. (codified at s. 101.56075(3), F.S. [2007]).

⁶ Ch. 2010-167, s.5, LAWS OF FLA. (codified at s. 101.56075(3), F.S.[2010]).

⁷ Ch. 2013-57, s.9, LAWS OF FLA. (codified at s. 101.56075(3), F.S. (current)).

⁸ See Fla. Div. of Elections, *2018 Voting Systems – Website Publication* (Sept. 14, 2018 update), available at: <https://dos.myflorida.com/media/695246/voting-systems-in-use-by-county.pdf> (last accessed Jan. 17, 2019)[hereinafter, DOS, *2018 Voting Systems*].

⁹ Palm Beach is in the process of replacing its outdated machinery with a new countywide system. Jeff Ostrowski, Palm Beach Post, *After Election Debacle, Palm Beach County to Spend \$16M on Voting Machines for 2020* (Feb. 5, 2019), available at <https://www.palmbeachpost.com/news/20190205/after-election-debacle-palm-beach-county-to-spend-16m-on-voting-machines-for-2020> (last visited Feb. 6, 2019).

¹⁰ DOS, *2018 Voting Systems*.

¹¹ This system marks the same type of optical scan ballot design familiar to voters, effectively serving as an electronic “pen.” Verified Voting, ES&S AutoMARK Description and Instructional Video, <https://www.verifiedvoting.org/resources/voting-equipment/ess/automark/> (last accessed Jan. 2, 2018)[hereinafter, *AutoMARK Web Page*].

¹² ImageCast Evolution is a second-generation system similar to AutoMARK in that it marks a typical optical scan ballot using the voter's electronic selections. Evolution goes a step further, however, by *automatically* forwarding the marked ballot into the tabulator — especially helpful for voters with certain physical limitations.

- ES&S ExpressVote¹³ (25 counties)

Generally, these systems “mark” a scannable paper ballot — a voter-verifiable paper trail that can be used for canvassing and recount purposes.¹⁴ AutoMARK and Evolution produce the familiar optical-scan ballot style; ExpressVote produces a ballot card with multiple bar codes at the top corresponding to the voters’ choices. Underneath the bar codes, the card contains the offices or amendments on the ballot, along with the voters’ choices in each contest.

These systems prevent an elector from “overvoting” (selecting more than one candidate per race) and warn or prompt the voter if he or she “undervotes” (completely skips a race). There is a summary review screen at the end of the selection process to allow a voter to go back and make or change a selection.¹⁵ After the ballot is printed on an AutoMARK or ExpressVote system, voters are able to review the ballot for accuracy before depositing it themselves in an optical scanner; the Evolution system automatically deposits the optical-scan ballot into the ballot box for the voter.

III. Effect of Proposed Changes:

CS/SB 268 provides that, for the purpose of designating ballot selections, all voting must be done by marksense ballot using a marking device (i.e., ink pen) or voter interface device (i.e., touchscreen) that produces a voter verified paper trail. *All* voters, those with disabilities and those without, will be able to cast *paper ballots* on the *same* certified voting equipment — thereby fulfilling a promise that the Legislature made to the disability community back in 2007.

The bill effectively puts the ExpressVote ballot card on a par with the more familiar optical scan ballot for purposes of canvassing and recounts. This will save millions of dollars in equipment upgrades in the 25 counties currently using ExpressVote for voters with disabilities. In order to meet the 2020 disability implementation deadline, however, the four Florida counties still recording votes on legacy DRE, non-VVPAT touchscreen systems— Glades, Jefferson, Miami-Dade, and Palm Beach — will have to purchase at least one new piece of disability voting equipment per polling place.

Also, allowing *any* elector, not just voters with disabilities, to use touchscreen VVPAT systems will mean fewer idle machines at the polls and possibly shorter lines at certain polling places.

The bill takes effect January 1, 2020.

¹³ The ExpressVote produces a ballot card with multiple bar codes at the top corresponding to the voter’s choices. Underneath the bar codes, the card contains the offices or amendments on the ballot, along with the voter’s choice in each contest. See Verified Voting, ES&S ExpressVote Description and Instructional Video, <https://www.verifiedvoting.org/resources/voting-equipment/ess/expressvote/> (last accessed Jan. 2, 2018)[hereinafter, *ExpressVote Web Page*].

¹⁴ About 2/3 of Florida’s counties (42/67) currently use either the ES&S AutoMark or ExpressVote systems for disabled voters. See Fla. Div. of Elections, *Accessible Voting Equipment by County* (updated Jan. 4, 2018), available at: http://www.flsenate.gov/Media/Videoplayer?EventID=2443575804_2018011067 (last accessed Jan. 10, 2018).

¹⁵ Voters can return to a contest selection *for any reason*, not just because they left a race blank, or undervoted, and change a selection.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Local supervisors of elections typically purchase voting equipment using county funds or, occasionally, federal grant money. There is no anticipated impact on state revenues or expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 101.56075 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Ethics and Elections on February 5, 2019:

Technical and structural amendment moving the 2020 effective date out of the substantive statutes (s. 101.56075, F.S.), and making conforming changes.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



381534

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/05/2019	.	
	.	
	.	
	.	

The Committee on Ethics and Elections (Baxley) recommended the following:

Senate Amendment

Delete lines 9 - 27
and insert:

Section 1. Section 101.56075, Florida Statutes, is amended
to read:

101.56075 Voting methods.—For the purpose of designating
ballot selections,

~~(1) Except as provided in subsection (2),~~ all voting must
~~shall~~ be by marksense ballot using ~~utilizing~~ a marking device or



381534

11 a voter interface device that produces a voter-verified paper
12 trail and for the purpose of designating ballot selections.

13 ~~(2) Persons with disabilities may vote on a voter interface~~
14 ~~device that meets the voting system accessibility requirements~~
15 ~~for individuals with disabilities pursuant to s. 301 of the~~
16 ~~federal Help America Vote Act of 2002 and s. 101.56062.~~

17 ~~(3) By 2020, persons with disabilities shall vote on a~~
18 ~~voter interface device that meets the voter accessibility~~
19 ~~requirements for individuals with disabilities under s. 301 of~~
20 ~~the federal Help America Vote Act of 2002 and s. 101.56062 which~~
21 ~~are consistent with subsection (1) of this section.~~

22 Section 2. This act shall take effect January 1, 2020.



895386

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/05/2019	.	
	.	
	.	
	.	

The Committee on Ethics and Elections (Rodriguez) recommended the following:

Senate Amendment to Amendment (381534)

Delete lines 9 - 12
and insert:

~~(1) Except as provided in subsection (2),~~ all voting must
~~shall~~ be by marksense ballot that is human readable using
utilizing a marking device or a voter interface device that
produces a voter-verified paper trail that is human readable and
~~for the purpose of designating ballot selections.~~



325334

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/05/2019	.	
	.	
	.	
	.	

The Committee on Ethics and Elections (Rodriguez) recommended the following:

Senate Amendment

Delete lines 12 - 26
and insert:

(1) Except as provided in subsection (2), for the purpose of designating ballot selections, all voting must shall be by marksense ballot that is human readable using utilizing a marking device, or a voter interface device that produces a voter-verified paper output that is human readable for the purpose of designating ballot selections.



325334

11 (2) Persons with disabilities may vote on a voter interface
12 device that meets the voting system accessibility requirements
13 for individuals with disabilities pursuant to s. 301 of the
14 federal Help America Vote Act of 2002 and s. 101.56062.

15 (3) By 2020, persons with disabilities shall vote on a
16 voter interface device that meets the voter accessibility
17 requirements for individuals with disabilities under s. 301 of
18 the federal Help America Vote Act of 2002 and s. 101.56062 and
19 that produces a voter-verified paper output that is human
20 readable ~~which are consistent with subsection (1) of this~~
21 ~~section.~~

By Senator Baxley

12-00583A-19

2019268__

A bill to be entitled

An act relating to voting methods; amending s.
101.56075, F.S.; authorizing voting to be conducted
using a voter interface device that produces a voter-
verified paper output; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 101.56075, Florida Statutes, is amended
to read:

101.56075 Voting methods.—

(1) Except as provided in subsection (2), for the purpose
of designating ballot selections, all voting ~~must~~ shall be by
marksense ballot using ~~utilizing~~ a marking device or a voter
interface device that produces a voter-verified paper output for
~~the purpose of designating ballot selections.~~

(2) Persons with disabilities may vote on a voter interface
device that meets the voting system accessibility requirements
for individuals with disabilities pursuant to s. 301 of the
federal Help America Vote Act of 2002 and s. 101.56062.

(3) By 2020, persons with disabilities shall vote on a
voter interface device that meets the voter accessibility
requirements for individuals with disabilities under s. 301 of
the federal Help America Vote Act of 2002 and s. 101.56062 and
that produces a voter-verified paper output ~~which are consistent
with subsection (1) of this section.~~

Section 2. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/5/19
Meeting Date

268
Bill Number (if applicable)

Topic ELECTIONS

Amendment Barcode (if applicable)

Name ALAN HAYS

Job Title SOE

Address Box 457

Phone 352 253 1403

TAVARES FL 32704
City State Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FL State Assn of Supervisors of Elections

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

5 Feb 19
Meeting Date

268
Bill Number (if applicable)

Topic Elections

Amendment Barcode (if applicable)

Name Paul Lux

Job Title Sup. of Elections, Okaloosa County

Address 302 N Wilson St.

Phone 850-689-5600

Street

Crestview

City

FL

State

32536

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida State Assoc. of Sup. of Elections

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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2/5/2019

Meeting Date

SB 268

Bill Number (if applicable)

Topic Voting Methods

Amendment Barcode (if applicable)

Name Scott D. McCoyJob Title Senior Policy CounselAddress P.O. Box 10788Phone 850-521-3042

Street

TallahasseeFL32302Email scott.mccoy@splcenter.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)Representing SPLC ActionAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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APPEARANCE RECORD

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2/5/2019

Meeting Date

SB 268

Bill Number (if applicable)

895386

*Amendment Barcode (if applicable)*Topic Voting MethodsName Scott D. McCoyJob Title Senior Policy CounselAddress P.O. Box 10788*Street*Tallahassee*City*FL*State*32302*Zip*Phone 850-521-3042Email scott.mccoy@splcenter.orgSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing SPLC ActionAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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2/5/2019

Meeting Date

SB 268

Bill Number (if applicable)

325334

*Amendment Barcode (if applicable)*Topic Voting MethodsName Scott D. McCoyJob Title Senior Policy CounselAddress P.O. Box 10788*Street*Tallahassee*City*FL*State*32302*Zip*Phone 850-521-3042Email scott.mccoy@splcenter.orgSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing SPLC ActionAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

APPEARANCE RECORD

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01/05/2019

Meeting Date

SB268

*Bill Number (if applicable)*Topic Accessible voting for the Visually Impaired*Amendment Barcode (if applicable)*Name Nancy Folsom

Job Title _____

Address 6500 Montrose TrailPhone 850-524-5026*Street*TallahasseeFL 32309Email nfolsom@comcast.net*City**State**Zip*Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing Florida Council of the BlindAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

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(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

01/05/2019

Meeting Date

SB 268

*Bill Number (if applicable)*Topic VOTING ACCESS FOR THE VISUALLY IMPAIRED*Amendment Barcode (if applicable)*Name Elizabeth S Bowden

Job Title _____

Address 1919 Leone DrivePhone (850) 345-0822*Street*tTallahasseeFL32308Email bowdenelizabeth5@gmail.com*City**State**Zip*Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing Florida Council of the Blind & Tallahassee Council of the BlindAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☐ Yes ☐ No*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.****This form is part of the public record for this meeting.***

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

01/05/2019

Meeting Date

SB 268

*Bill Number (if applicable)*Topic VOTING ACCESS FOR THE VISUALLY IMPAIRED*Amendment Barcode (if applicable)*Name Jennifer Connolly

Job Title _____

Address 800 Ocala Road #3300Phone (850) 363-7902*Street*TallahasseeFL32304Email jcannoli5@gmail.com*City**State**Zip*Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing Florida Council of the Blind & Tallahassee Council of the BlindAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

01/05/2019

Meeting Date

SB 268

*Bill Number (if applicable)*Topic VOTING ACCESS FOR THE VISUALLY IMPAIRED*Amendment Barcode (if applicable)*Name Carl McCoy

Job Title _____

Address 180 B S E Villas Ct.Phone (386) 872-8840*Street*TallahasseeFL32303Email cmcoy12@gmail.com*City**State**Zip*Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing Florida Council of the Blind & Tallahassee Council of the BlindAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/5/2019

Meeting Date

SB 268

Bill Number (if applicable)

Topic Voting (Ballots)

Amendment Barcode (if applicable)

Name MARILYN WILKS

Job Title LWV

Address 2326 KILKENNY DRIVE West
Street

Phone 850 893-4109

City

State

Zip

Email marilyn.wilks@msn.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing League of Women Voters of Florida

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/5/2019

Meeting Date

268

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S

Street

Phone 727/897-9291

St Petersburg

City

FL

State

33705

Zip

Email justice2jesus@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

February 5, 2019
Nancy Folsom, President
Tallahassee Council of the Blind and
on behalf of Sheila Young, President Florida Council of the Blind
708 Kristina Court, Port Orange, FL 32127
Phone: 386-763-3836

Senate Ethics and Elections Committee
The Honorable Chair Dennis Baxley
320 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

February 5, 2019

Testimony submitted on Behalf of the Florida and Tallahassee Councils of the Blind

Good morning Chairman Baxley, Vice-Chair Baynon and honorable Committee members,

My name is Nancy Folsom and I am submitting this testimony on behalf of the Tallahassee and Florida Councils of the Blind in support of the passage of SB 268. Last year we were pleased to be a part of the proceedings before the House and Senate Committees which unanimously approved HB 709 and SB 864, bills containing the same legislative fix necessary to ensure the nondisenfranchisement of Florida's voters who are blind or visually impaired.

For more than a dozen years blind voters in the majority of Florida counties have been forced to accept a status of second-class citizens by voting on antiquated DRE touch screen voting machines. These machines were specifically found by our legislature to be unreliable, without verifiable ballots and thus illegal for continued use by all Florida voters but the blind.

It was 1954 when this nation's highest court held that "separate but equal" is unlawful and discriminatory, resulting in unequal treatment in education and thus was not to be tolerated. If such discrimination is unlawful in education, it only follows that 65 years later, voting on DRE machines is also unlawful and therefore unacceptable discrimination in voting. Honorable members of this committee, the continuation of this discrimination in voting is just plain wrong.

Florida's voters who are blind deserve the right and the privilege to have their counties provide more than old retired DRE voting machines that are not deemed fit for use by

the rest of Florida's voters. For years this Legislature, the Florida Supervisors of Elections, the county Clerks, and the advocates who promoted their own bias noninclusive agendas, have stood by idly. Now, the Supervisors of Elections, as they should, are finally working for the passage of legislation to ensure that blind voters will not be disenfranchised in 2020. Further pushback and delay as urged by the naysayers is discriminatory and unfair and lacks supporting documentation. In fact under this legislation, with its bar codes and direct ballot design that would be available to the blind voter he/she would be given fully verifiable receipts for their ballots and be fully enfranchised.

After all these years of inequity, SB 268 must be passed now. In response to our ongoing pleas, vendors have produced and obtained certification by Florida's Division of Elections of accessible voting machines with verifiable ballots. Now, with less than 2 years to go before the retirement of DRE machines, voters must be given the ability and the right to vote on equipment with receipted verifiability thereby ending the discrimination now faced by many blind voters in Florida. The continued availability and use of already outlawed and outdated voting machines has to end.

Folks like those from "Verifiable Ballots" would still like us to withdraw our support of SB 268. They continue asking blind voters to back off and accept the use of illegal, separate, unequal and "different" voting machines. They seemingly call for more study and analysis at the expense of the disenfranchisement of blind voters who have already been forced to endure voting on illegal voting equipment for the past 14 years. A year after their voiced opposition last year there have still been no discussions, and no documentation or other evidence has been offered by them supporting their specious arguments and claims. Voting no on the passage of SB 268 we can not do. This legislation was unanimously approved at the committee level last year by both the House and the Senate and we strongly urge you to send it forward to be adopted this year. Then, the counties still needing modernized equipment and those counties needing authorization for the equipment they have already purchased in order to keep blind voters enfranchised can appropriately move forward.

Please pass SB 268. Let all voters who are blind or have low vision have the ability, the opportunity and the right to vote using the accessible optical scan machines, including ExpressVote, that, notwithstanding arguments to the contrary, do provide for full and complete verification. These new machines do in fact have ballots which are verifiable not just in the voting machine itself, but also in the tabulator, and in the eye of the voter's hands as well. To suggest that the existence of an additional bar code on the ballots renders them nonverifiable or nontamper proof is false, misleading and without supporting documentation.

Please support the passage of SB 268 and the continued use of ExpressVote. Give our blind voters, like our sighted peers, the same constitutional civil right to be fully enfranchised by being able to vote on machines that fully protect the secret and verifiable enfranchisement of all of Florida's voters.

CourtSmart Tag Report

Room: KN 412
Caption: Senate Committee on Ethics and Elections

Case No.:

Type:
Judge:

Started: 2/5/2019 2:01:10 PM
Ends: 2/5/2019 3:41:07 PM **Length:** 01:39:58

2:01:13 PM	Meeting called to order
2:01:33 PM	Roll call - Quorum present
2:01:51 PM	Chair - Opening Remarks
2:02:17 PM	Tab 1 - SJR 74 by Senator Bradley - Single-subject Limitation for Constitutional Revision
2:03:35 PM	Questions?
2:03:49 PM	Senator Stargel
2:04:13 PM	Senator Bradley
2:05:31 PM	Questions? None
2:05:38 PM	Appearance forms?
2:05:45 PM	Marilyn Wills, League of Women Voters, waives in support
2:06:08 PM	Scott McCoy, Senior Policy Counsel, waives in support
2:06:21 PM	Jonathan Webber, Deputy Director, Florida Conservative Voters - waives in support
2:06:29 PM	Dr. Rich Templin, Florida AFL-CIO, waives in support
2:07:07 PM	Brian Pitts-Justice-2-Jesus
2:10:19 PM	Keith Hatcher, speaking for self, waives
2:10:33 PM	Edward Labrador, Legislative Counsel, Broward County, speaking for the bill
2:13:12 PM	Chair
2:13:20 PM	
2:13:21 PM	Debate? None
2:13:28 PM	Senator Bradley to close
2:15:20 PM	Chair
2:15:37 PM	Roll Call for SJR 74 - Favorable
2:16:00 PM	Tab 2 - Presentation by: The Honorable Paul Lux, President, FL St. Assoc. of Supervisors of Elections
2:16:12 PM	Alan Hays, SOE, Florida State Association of Supervisors of Elections, speaking for the bill
2:22:01 PM	Honorable Paul Lux, President, Florida State Association of Supervisors of Elections
2:22:26 PM	Chair Baxley
2:25:18 PM	Questions?
2:25:22 PM	Senator Powell
2:26:02 PM	Paul Lux
2:27:36 PM	Senator Powell
2:27:53 PM	Paul Lux
2:29:46 PM	Senator Powell
2:29:49 PM	Paul Lux
2:29:53 PM	Senator Powell
2:29:57 PM	Paul Lux
2:30:14 PM	Senator Powell
2:30:32 PM	Paul Lux
2:31:30 PM	Senator Powell
2:31:54 PM	Paul Lux
2:32:41 PM	Senator Braynon
2:33:32 PM	Paul Lux
2:33:39 PM	Senator Braynon
2:34:04 PM	Paul Lux
2:34:10 PM	Senator Braynon
2:34:20 PM	Paul Lux
2:35:15 PM	Senator Braynon
2:35:39 PM	Paul Lux
2:37:38 PM	Senator Braynon
2:37:50 PM	Paul Lux
2:38:52 PM	Senator Rodriguez
2:39:30 PM	Paul Lux
2:41:02 PM	Senator Rodriguez

2:41:51 PM Paul Lux
 2:43:55 PM Senator Rodriguez
 2:44:04 PM Paul Lux
 2:45:18 PM Chair
 2:49:38 PM Paul Lux
 2:49:55 PM Chair Baxley
 2:50:06 PM Tab 3 - SB 268 by Senator Baxley, Voting Methods
 2:53:21 PM Senator Braynon, Chairing Meeting: Questions? None
 2:53:32 PM Amendment 381534 is presented by Senator Baxley
 2:54:03 PM Amendment to Amendment 895386 by Senator Rodriguez
 2:54:34 PM Questions? None
 2:54:46 PM Appearance Forms?
 2:54:52 PM Scott McCoy, Senior Policy Counsel, SPLC Action
 2:56:32 PM Chair
 2:56:36 PM Senator Stargel
 2:57:07 PM Scott McCoy
 2:58:27 PM Chair
 2:58:40 PM Senator Stargel
 2:59:03 PM Chair
 2:59:07 PM Senator Powell
 2:59:38 PM Scott McCoy
 3:00:46 PM Senator Rodriguez
 3:02:21 PM Scott McCoy
 3:02:40 PM Chair
 3:02:47 PM Senator Rodriguez, wishes to withdraw amendment to amendment 895386
 3:03:40 PM Motion to withdraw amendment to amendment 895386. Show withdrawn
 3:03:41 PM Back on Amendment 381534 by Senator Baxley
 3:03:47 PM Debate? None
 3:03:48 PM Recognize Senator Baxley to close. Waives to close.
 3:03:52 PM Oppose? None
 3:04:11 PM Appearance cards for Amendment 381534? None
 3:04:12 PM Debate? None
 3:04:13 PM Showing no opposition on Amendment 381534, amendment is adopted
 3:04:15 PM Amendment 325334 by Senator Rodriguez. Senator wishes to withdraw amendment
 3:05:04 PM Nancy Folsom, Tallahassee Council, Florida Council for the Blind, speaking for the bill
 3:22:16 PM Elizabeth S. Bowden, Florida Council of the Blind and Tallahassee Council of the Blind, speaking in support of the bill
 3:24:59 PM Jennifer Connolly, Florida Council of the Blind and Tallahassee Council of the Blind, speaking in support of bill
 3:26:12 PM Carl McCoy, Florida Council of the Blind and Tallahassee Council of the Blind, waive in support
 3:26:26 PM Senator Alan Hayes, Florida State Association of Supervisors of Elections
 3:28:37 PM Chair
 3:29:10 PM Marilyn Wills, League of Women Voters of Florida, does not support
 3:29:35 PM Scott McCoy, Senior Policy Counsel, cannot support the bill
 3:31:16 PM Brian Pitts, Trustee, Justice-2-Jesus, speaking for the bill
 3:34:24 PM Paul Lux
 3:36:07 PM Senator Powell
 3:37:32 PM Chair
 3:37:43 PM Debate on bill as amended? None
 3:37:58 PM Senator Baxley close on bill as amended
 3:38:45 PM Chair
 3:38:57 PM Roll Call - CS/SB 268 - Favorable
 3:39:19 PM Gavel back to Senator Baxley
 3:39:36 PM Closing comments by Chair
 3:41:00 PM Senator Powell moves to rise
 3:41:06 PM Meeting adjourned