

Tab 1	SB 230 by Gruters ; (Identical to H 00131) Voter Registration Maintenance						
Tab 2	SB 342 by Lee ; (Similar to H 00281) Public Records/Voters and Voter Registration						
Tab 3	SB 1428 by Perry (CO-INTRODUCERS) Baxley ; (Identical to H 00533) Disposition of Surplus Funds by Candidates						
153890	A	S	RCS	EE, Perry	Delete L.25 - 27:		03/20 05:24 PM
Tab 4	SJR 232 by Baxley ; (Identical to H 00057) Percentage of Elector Votes Required to Approve an Amendment or a Revision						

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

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

MEETING DATE: Wednesday, March 20, 2019
TIME: 4:00—6:00 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	SB 230 Gruters (Identical H 131)	Voter Registration Maintenance; Requiring supervisors of elections to enter into agreements with clerks of the circuit courts to receive specified information; requiring the Department of Highway Safety and Motor Vehicles to furnish monthly to the Department of State a list of persons who identified themselves as aliens; requiring the Department of State to compare the list with the statewide voter registration system and provide the names of registered voters who are aliens to the supervisors of elections of the counties in which the voters are registered, etc. EE 03/20/2019 Favorable IS AP	Favorable Yeas 4 Nays 3
2	SB 342 Lee (Similar H 281)	Public Records/Voters and Voter Registration; Providing an exemption from public records requirements for information concerning preregistered voter registration applicants who are minors; providing for future legislative review and repeal; providing for retroactive application; providing a statement of public necessity, etc. EE 03/20/2019 Favorable GO RC	Favorable Yeas 7 Nays 0
3	SB 1428 Perry (Identical H 533)	Disposition of Surplus Funds by Candidates; Prohibiting a candidate, or the candidate's spouse, parent, child, or sibling, from receiving anything of value in exchange for a donation of surplus funds to a charitable organization, etc. EE 03/20/2019 Fav/CS GO RC	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Ethics and Elections

Wednesday, March 20, 2019, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SJR 232 Baxley (Identical HJR 57)	Percentage of Elector Votes Required to Approve an Amendment or a Revision; Proposing an amendment to the State Constitution to increase the percentage of elector votes required to approve an amendment or a revision to the State Constitution from 60 percent to 66 and 2/3 percent, etc. EE 03/20/2019 Favorable JU RC	Favorable Yeas 4 Nays 3

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: SB 230

INTRODUCER: Senator Gruters

SUBJECT: Voter Registration Maintenance

DATE: March 15, 2019

REVISED: 03/20/19

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Mitchell	Roberts	EE	Favorable
2.			IS	
3.			AP	

I. Summary:

SB 230 requires each supervisor of elections (supervisor) to enter into an agreement with the clerk of the circuit court in his or her jurisdiction to receive, on a monthly basis, change-of-address information for jurors and potential jurors and a list of potential jurors who have identified themselves as aliens. Specifically, the bill requires the list to contain the individual's name, address, date of birth, sex, and Florida driver license number or Florida identification card number.

The bill also requires the Department of Highway Safety and Motor Vehicles (DHSMV) to furnish to the Department of State (DOS) a list of persons who have identified themselves as aliens. Specifically, the bill requires the list to contain the individual's name, address, date of birth, sex, and Florida driver license number or Florida identification card number. DOS must compare the list received from DHSMV with the information in the Florida voter registration system (FVRS). If DOS determines that a registered voter in the FVRS is an alien, it must provide the name of that voter to the supervisor for the county in which that voter is registered.

II. Present Situation:

Department of State

The Department of State¹ is headed by the Secretary of State (Secretary) who serves as Florida's chief election officer.² The Secretary is charged with a variety of responsibilities in his or her capacity as Florida's chief election officer, including:

- Obtaining and maintaining uniformity in the interpretation and implementation of the election laws;

¹ Section 20.10(1), F.S.

² Section 97.012, F.S.

- Providing uniform standards for the proper and equitable implementation of the registration laws;
- Providing technical assistance to the supervisors of elections (supervisors) on voter education, election personnel training services, and voting systems; and
- Creating and administering a statewide voter registration system as required by the Help America Vote Act of 2002.³

Florida Voter Registration System

The Secretary implements, operates, and maintains the Florida voter registration system (FVRS).⁴ The FVRS is the official list of registered voters in the state and is required to contain the name and registration information of every legally registered voter in Florida.⁵ Voter registration officials, such as supervisors, are provided secure access to the FVRS and may update the voter registration information contained therein.⁶ DOS is prohibited from contracting with any other entity for the operation of the FVRS.⁷

Voter Eligibility

Each supervisor is charged with ensuring that each voter registration application is processed in accordance with the law.⁸ The Florida Election Code sets forth the reasons that a supervisor may deem a voter registration applicant ineligible.⁹ Under current statutory requirements, an applicant may be ineligible based on any of the following:

- Failure to complete the voter registration application;
- The applicant is deceased;
- The applicant has been convicted of a felony¹⁰ for which his or her civil rights have not been restored;
- The applicant has been adjudicated mentally incapacitated;
- The applicant is not 18 years old;
- The applicant is not a United States Citizen;
- The applicant is a fictitious citizen;
- The applicant has provided an address that is not his or her legal residence; or
- The applicant has provided a driver license number, Florida identification number, or the last four digits of a social security number that is not verifiable by DOS.¹¹

³ *Id.*

⁴ Section 98.035(1), F.S.

⁵ Section 98.035(2), F.S.

⁶ *Id.*

⁷ Section 98.035(3), F.S.

⁸ Section 98.045(1), F.S.

⁹ *Id.*

¹⁰ With the passage of Amendment 4 in 2018, Florida's Constitution now provides that, except for a conviction of murder or felony sex offense, disqualification from voting arising from a felony conviction terminates and voting rights are restored upon completion of all terms of sentence, including parole or probation. FLA. CONST., Art. VI, s. 4 (a) and (b).

¹¹ Section 98.045(1)(a)-(i), F.S.

Voter Registration List Maintenance

Once registered, a voter may only be removed from the FVRS in the following limited circumstances:

- The voter is deceased;
- The voter has been convicted of a felony;¹²
- The voter has been judged mentally incapacitated;
- Pursuant to a prescribed registration list maintenance activity (see below), or
- The voter has requested in writing to be removed.¹³

Supervisor Voter Registration List Maintenance Activities

Each supervisor, to protect the integrity of the electoral process, is required to conduct voter registration list maintenance at least every odd-numbered year.¹⁴ The list maintenance program must be completed at least 90 days before any federal election, and all actions must be entered, tracked, and maintained in the FVRS.¹⁵ The program must be uniform, nondiscriminatory,¹⁶ and in compliance with federal election law.¹⁷ Each supervisor must incorporate at least one of the following methods in his or her list maintenance program:

- Use of change of address information provided by the United States Postal Service through its licensees to identify registered voters whose addresses might have changed;
- Use of change of address information that is known from returned nonforwardable return-if-undeliverable mail sent to all registered voters in a county; or
- Use of change of address information that is known from returned nonforwardable return-if-undeliverable address confirmation requests mailed to every registered voter who has not voted in the last two years and who did not make any written request to update his or her registration record during that two-year period.¹⁸

A supervisor must change the registration records to reflect a new address if the supervisor receives change of address information from:

- One of the methods listed above;
- Jury notices returned to the courts and signed by the voter;
- The Department of Highway Safety and Motor Vehicles (DHSMV); or
- From other sources which reveal that a registered voter's legal address might have changed.¹⁹

¹² With the passage of Amendment 4 in 2018, Florida's Constitution now provides that, except for a conviction of murder or felony sex offense, disqualification from voting arising from a felony conviction terminates and voting rights are restored upon completion of all terms of sentence, including parole or probation. FLA. CONST., Art. VI, s. 4 (a) and (b).

¹³ Section 98.045(2)(a), F.S.

¹⁴ Section 98.065(3), F.S.

¹⁵ Section 98.065(3), F.S.; *see also* 52 U.S.C. s. 20507(c)(2)(A).

¹⁶ The term "nondiscriminatory" applies to, and includes persons with disabilities. Section 98.065(1), F.S.

¹⁷ Section 98.065(1), F.S.

¹⁸ Section 98.065(2), F.S.

¹⁹ Section 98.065(4)(a), F.S.

The supervisor must then send the registered voter an address change notice.²⁰ If the supervisor receives information that a registered voter has moved his or her legal residence outside the state, the supervisor must send an address confirmation final notice to the registered voter at his or her new address.²¹ Voters who are sent an address confirmation final notice who do not return the prepaid, preaddressed return form within 30 days or for whom the notice is returned as undeliverable are designated as inactive.²² If the voter does not update his or her information by the second general election²³ after being designated as inactive, the voter's name must be removed from the FVRS.²⁴

DOS Voter Registration List Maintenance Activities

DOS is required to perform voter registration list maintenance activities to ensure the accuracy of the FVRS.²⁵ Specifically, DOS is required to identify:

- Duplicate registrations;²⁶
- Deceased persons;²⁷
- Persons adjudicated to be mentally incapacitated,²⁸
- Persons convicted of a felony,²⁹ and
- Other ineligible voters contained in the FVRS.³⁰

Duty of Agencies to Furnish Information to DOS

Certain agencies are required to submit information to DOS in order to help identify ineligible voters.³¹ The following chart lists the agencies required to submit information, the information required, and the frequency of the submissions.

²⁰ *Id.*

²¹ Section 98.065(4)(b), F.S.

²² Section 98.065(4)(c), F.S.

²³ The Florida Constitution requires that a “general election” shall be held in each county on the first Tuesday after the first Monday in November of each even-numbered year. FLA. CONST., art. VI, s. 5; *see also* s. 97.021(16), F.S.

²⁴ Section 98.065(4)(c), F.S.

²⁵ Section 98.075(1), F.S.

²⁶ Section 98.075(2), F.S.

²⁷ Section 98.075(3), F.S.

²⁸ Section 98.075(4), F.S.

²⁹ Section 98.075(5), F.S. With the passage of Amendment 4 in 2018, Florida’s Constitution now provides that, except for a conviction of murder or felony sex offense, disqualification from voting arising from a felony conviction terminates and voting rights are restored upon completion of all terms of sentence, including parole or probation. FLA. CONST., Art. VI, s. 4 (a) and (b).

³⁰ Section 98.075(6), F.S.

³¹ Section 98.093, F.S.

Agency	Frequency	Information Submitted
Department of Health	Monthly	List containing the name, address, date of birth, social security number, race, and sex of each deceased person 17 years of age or older
Clerk of the Circuit Court	Monthly	<ul style="list-style-type: none"> • List of persons adjudicated mentally incapacitated with respect to voting during the preceding calendar month • List of those persons whose mental capacity with respect to voting has been restored during the preceding calendar month • List of those persons who have returned signed jury notices during the preceding months to the clerk of the circuit court indicating a change of address
Department of Law Enforcement	In a time and manner that enables the Department to meet its obligations under state and federal law	The identity of those persons who have been convicted of a felony ³² who appear in the voter registration records supplied by the FVRS
Florida Commission on Offender Review	Bimonthly	The identity of those persons granted clemency in the preceding month or any updates to prior records which have occurred in the preceding month
Department of Corrections	In a time and a manner that enables the Department to identify registered voters who are convicted felons and to meet its obligations under state and federal law	The identity of those persons who have been convicted of a felony ³² and committed to its custody or placed on community supervision
Department of Highway Safety and Motor Vehicles	Monthly	List of those persons whose names have been removed from the driver license database because they have been licensed in another state

³² With the passage of Amendment 4 in 2018, Florida’s Constitution now provides that, except for a conviction of murder or felony sex offense, disqualification from voting arising from a felony conviction terminates and voting rights are restored upon completion of all terms of sentence, including parole or probation. FLA. CONST., Art. VI, s. 4 (a) and (b).

Voter Registration Ineligibility Determinations

Currently, DOS identifies ineligible voters contained in the FVRS.³³ The supervisor³⁴ whose jurisdiction includes that particular voter is then made aware of this finding and, after notifying the voter and giving him or her a chance to respond,³⁵ makes a final determination regarding the voter's eligibility.³⁶ A person determined to be ineligible by a supervisor may appeal the determination in circuit court.³⁷

Voter Registration

In 1993, the U.S. Congress passed the National Voter Registration Act of 1993 (NVRA),³⁸ requiring state motor vehicle agencies to offer persons applying or renewing a driver license the opportunity to register to vote.³⁹ Florida implemented the NVRA by requiring DHSMV to offer individuals applying, modifying, or renewing a driver license or identification card the opportunity to register to vote.⁴⁰ DHSMV is required to electronically submit completed voter registration applications, within 24 hours of receipt, to the FVRS.⁴¹

The Florida Election Code requires DHSMV to enter into an agreement with DOS to match the information contained in the FVRS with information in the DHSMV database to verify the accuracy of driver license numbers, identification numbers, or the last four digits of the social security numbered.⁴²

Driver Licenses and Identification Cards

DHSMV requires proof of identity whenever a person applies for a driver license or an identification card.⁴³ State law provides a list of documents a person may submit to satisfy the proof of identity requirement.⁴⁴ For instance, if a person is a U.S. citizen, he or she may provide a certified copy of a U.S. birth certificate, a valid unexpired passport, a Consular Report of Birth Abroad, or naturalization certificate issued by the U.S. Department of Homeland Security.⁴⁵ If the applicant is not a U.S. citizen, he or she may provide a valid unexpired alien registration receipt card (green card), an unexpired employment authorization card issued by the U.S. Department of Homeland Security, or other proof of nonimmigrant classification provided by the U.S. Department of Homeland Security, to satisfy the requirement that he or she provide proof of identity.⁴⁶

³³ Section 98.075, F.S.

³⁴ In some circumstances, supervisors are also able to remove the name of a voter based on evidence without DOS having notified them. *See s. 98.075(6)*, F.S.

³⁵ No notification is given to those determined to be deceased. Section 98.075(3), F.S.

³⁶ Section 98.075(7), F.S.

³⁷ Section 98.0755, F.S.

³⁸ National Voter Registration Act of 1993, P.L. 103-31 (1993).

³⁹ 52 U.S.C. s. 20504.

⁴⁰ Section 97.057(1), F.S.

⁴¹ Section 97.057(4), F.S.

⁴² Section 97.057(11), F.S.

⁴³ Sections 322.051 and 322.08, F.S.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

Clerks of the Circuit Court

A juror in Florida is required to be:

- At least 18 years of age;
- A citizen of the United States; and
- A legal resident of the state and of his or her respective county.⁴⁷

Each juror must either possess a driver license or identification card issued by DHSMV or have signed an affidavit attesting that he or she meets the qualifications to be a juror.⁴⁸ Each clerk of circuit court is required to generate a set of juror candidate lists from which potential jurors will be selected.⁴⁹ The list is derived from two sources: persons who have submitted an affidavit swearing that they meet the qualifications to be a juror, and those persons who have a driver license or identification card issued by DHSMV.⁵⁰ For the clerk to obtain the latter, DHSMV is required to submit, on a quarterly basis, to the clerk of the circuit of each county a list of names of persons in that county, who are:

- At least 18 years of age;
- Citizens of the United States; and
- Legal residents of Florida.⁵¹

III. Effect of Proposed Changes:

The bill requires each supervisor to enter into an agreement with the clerk of the circuit court in his or her jurisdiction to receive, on a monthly basis, change-of-address information for jurors and potential jurors and a list of potential jurors who have identified themselves as aliens.⁵² Specifically, the bill requires the list to contain the individual's name, address, date of birth, sex, and Florida driver license number or Florida identification card number.

The bill also requires DHSMV to furnish to DOS a list of persons who have identified themselves as aliens. Specifically, the bill requires the list to contain the individual's name, address, date of birth, sex, and Florida driver license number or Florida identification card number. DOS must compare the list received from DHSMV with the information in the FVRS. If DOS determines that a registered voter in the FVRS is an alien, it must provide the name of that voter to the supervisor of the county in which that voter is registered.

This bill will take effect on July 1, 2019.

⁴⁷ Section 40.01, F.S.

⁴⁸ *Id.*

⁴⁹ Section 40.011(1), F.S.

⁵⁰ Section 40.011, F.S.

⁵¹ Section 40.011(2), F.S.

⁵² The term "alien" is defined to mean a person who is not a citizen of the United States. Section 327.02(2), F.S.

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

None. The bill appears to be exempt from the requirements of Art. VII, s. 18 of the Florida Constitution because it is a law relating to elections.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may result in a negative fiscal impact due to the new monthly report the bill requires DHSMV to provide to DOS. DHSMV estimates that the software programming necessitated by the new report and its implementation will require 486 hours in FTE and contracted resources resulting in overall cost of \$32,010.⁵³

The bill may have an indeterminate fiscal impact on local governments. Clerks of court will now be required to provide information to supervisors on a monthly basis.

VI. Technical Deficiencies:

None.

⁵³ DHSMV Agency Bill Analysis for SB 230 (2019), on file with the Senate Committee on Ethics and Elections.

VII. Related Issues:

DHSMV noted that while it could provide information obtained during driver license/identification card issuances that would indicate whether an individual is an ‘immigrant’ or ‘non-immigrant,’ a driver license/identification card can be valid for up to 8 years during which time an individual’s citizenship may change.⁵⁴

VIII. Statutes Affected:

This bill substantially amends sections 98.065 and 98.093 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.)

None.

B. Amendments:

None.

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

⁵⁴ *Id.*

By Senator Gruters

23-00492-19

2019230__

A bill to be entitled

An act relating to voter registration maintenance; amending s. 98.065, F.S.; requiring supervisors of elections to enter into agreements with clerks of the circuit courts to receive specified information; requiring supervisors of elections to compare the information with the statewide voter registration system; amending s. 98.093, F.S.; requiring the Department of Highway Safety and Motor Vehicles to furnish monthly to the Department of State a list of persons who identified themselves as aliens; requiring the Department of State to compare the list with the statewide voter registration system and provide the names of registered voters who are aliens to the supervisors of elections of the counties in which the voters are registered; providing an effective date.

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

Section 1. Present paragraphs (a), (b), and (c) of subsection (4) of section 98.065, Florida Statutes, are redesignated as paragraphs (b), (c), and (d), respectively, and a new paragraph (a) is added to that subsection, to read:

98.065 Registration list maintenance programs.—

(4)(a) The supervisor shall enter into an agreement with the local clerk of the circuit court to receive monthly from the clerk change-of-address information and a list of potential jurors who identified themselves as aliens, as defined in s. 327.02(2), during the preceding calendar month. Each list must

Page 1 of 3

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

23-00492-19

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include the name, address, date of birth, sex, and either the Florida driver license number or Florida identification card number, whichever is available, of each such person. The supervisor shall compare all of the information included in the list each month with the statewide voter registration system.

Section 2. Paragraph (h) is added to subsection (2) of section 98.093, Florida Statutes, to read:

98.093 Duty of officials to furnish information relating to deceased persons, persons adjudicated mentally incapacitated, ~~and~~ persons convicted of a felony, and persons identified as aliens.—

(2) To the maximum extent feasible, state and local government agencies shall facilitate provision of information and access to data to the department, including, but not limited to, databases that contain reliable criminal records and records of deceased persons. State and local government agencies that provide such data shall do so without charge if the direct cost incurred by those agencies is not significant.

(h) The Department of Highway Safety and Motor Vehicles shall furnish monthly to the department a list of persons who identified themselves as aliens, as defined in s. 327.02(2), during the preceding calendar month. Each list must include the name, address, date of birth, sex, and either the Florida driver license number or Florida identification card number, whichever is available, of each such person. The department shall compare all of the information included in the list each month with the statewide voter registration system and, if the department determines that a registered voter is an alien, provide the name of that voter to the supervisor of elections of the county in

Page 2 of 3

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

23-00492-19

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59 which the voter is registered.

60 Section 3. This act shall take effect July 1, 2019.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Banking and Insurance

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR JOE GRUTERS

23rd District

February 4th, 2019

The Honorable Dennis Baxley, Chair
Ethics and Elections Committee
420 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Baxley:

I am writing to request that Senate Bill 230, Voter Registration Maintenance, be placed on the agenda of the next Ethics and Elections Committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters".

Joe Gruters

cc: Dawn Roberts, Staff Director
Diane Vause, Committee Administrative Assistant

REPLY TO:

- 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

APPEARANCE RECORD

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

3/20/2019

Meeting Date

SB 230

Bill Number (if applicable)

Topic Voter Registration Maintenance

Amendment Barcode (if applicable)

Name KENNETH C. MORROW JR

Job Title President

Address P.O. Box 467605

Phone

Street Pompano Beach FL 33066

Email

City State Zip

Speaking: [] For [] Against [] Information

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

Representing FLIMEN, FLORIDIANS FOR IMMIGRATION ENFORCEMENT

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [] Yes [x] 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.

THE FLORIDA SENATE

APPEARANCE RECORD

Tab #1

3/20/2019

Meeting Date

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

SB 230

Bill Number (if applicable)

Topic Voter Registration Maintenance

Amendment Barcode (if applicable)

Name Marilyn Wills

Job Title LWVF member

Address 2326 Kilkenny Drive West

Phone 858 893-4104

Street

TALLAHASSEE

FL

32309

Email marilynwills@msn.com

City

State

Zip

Speaking: [] For [] Against [] Information

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

Representing League of Women Voters of Florida

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] 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)

Tab #1

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/20/2019

SB 230

Meeting Date

Bill Number (if applicable)

Topic Voter Registration Maintenance

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

32311

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 Southern Poverty Law Center Action Fund

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)

APPEARANCE RECORD

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

3/20/19
Meeting Date

SB 230
Bill Number (if applicable)

Topic Anti-immigrant voter lists

Amendment Barcode (if applicable)

Name Kara Gross

Job Title LEGISLATIVE DIRECTOR

Address 4343 W. Flagler St.
Street

Phone 786-363-4436

Miami FL 33134
City State Zip

Email _____

Speaking: For Against Information

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

Representing ACLU 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.

APPEARANCE RECORD

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

3/20/19

SB 230

Meeting Date

Bill Number (if applicable)

Topic Voter Registration Maintenance

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec Director

Address 579 E Call St.

Phone 850-321-9386

Street

Tallahassee

FL

32301

Email fcsep@yahoo.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing Florida Center for Fiscal + Economic Policy

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.

APPEARANCE RECORD

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

3/20/2019

230

Meeting Date

Bill Number (if applicable)

Topic Voter Registration Main

Amendment Barcode (if applicable)

Name Ida V-Eskamani

Job Title Public Policy

Address 126 N-Mills Ave

Phone 407376 4801

Orlando FL 32801

Email _____

City State Zip

Speaking: For Against Information

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

Representing Florida Immigrant Coalition

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.

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: SB 342

INTRODUCER: Senator Lee

SUBJECT: Public Records/Voters and Voter Registration

DATE: March 14, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Mitchell</u>	<u>Roberts</u>	<u>EE</u>	Favorable
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 342 makes all information concerning 16 and 17-year-olds who preregister to vote while they are minors confidential and exempt from public inspection and copying requirements. Once they reach the age of 18, their information will become available like the information of any other voter registrant or voter.

The bill provides for repeal of the exemption on October 2, 2024, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

This bill will take effect July 1, 2019, but will apply to all currently pre-registered 16 and 17-year-olds.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

¹ FLA. CONST., Art. I, s. 24(a).

² *Id.*

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that it is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person and that providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹³ Records designated as ‘confidential and exempt’ may

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also, see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” as “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., Art. I, s. 24(c).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.¹⁴

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSRA).

The OGSRA prescribes a legislative review process for newly created or substantially amended public records.¹⁵ The OGSRA provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment. In order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.¹⁷ If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.¹⁸

Public Record Exemption for Voter Registration Information

Current law provides a public record exemption for certain information held by an agency¹⁹ for purposes of voter registration.²⁰ Specifically, the following information is confidential and exempt from public record requirements:

- All declinations to register to vote made pursuant to ss. 97.057 and 97.058, F.S.
- Information relating to the place where a person registered to vote or where a person updated a voter registration.
- The social security number, driver’s license number, and Florida identification number of a voter registration applicant or voter.

¹⁴ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 683 (Fla. 5th DCA 1991).

¹⁵ Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSRA does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSRA process is currently being followed; however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one legislature cannot bind a future legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

¹⁶ Section 119.15(3), F.S.

¹⁷ FLA. CONST., Art. I, s. 24(c).

¹⁸ Section 119.15(7), F.S.

¹⁹ Section 119.011(2), F.S., defines “agency” to mean “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

²⁰ Section 97.0585, F.S.

In addition, the signature of a voter registration applicant or a voter is exempt from copying requirements.²¹

Voter Pre-Registration for Minors

An individual may register to vote in accordance with Florida law if he or she is at least 18 years old, a United States citizen, a legal resident of Florida, and a legal resident of the county in which he or she seeks to register.²² However, individuals who are otherwise qualified to register to vote but are not yet 18 may pre-register to vote on or after the individual's 16th birthday.²³

Publication of Voter Information

Since 1998 when the State first began compiling all 67 counties' "official" voter registration lists into a unified statewide voter registration database,²⁴ anyone has been able to request an electronic copy of every Florida voters' non-exempt information.²⁵ The rise of the Internet has enabled publication of this information for literally the entire world to see at little to no cost, thereby giving rise to serious personal privacy issues.

At least one web site²⁶ that contains commercial or sponsored links, provides extensive details about every registered and pre-registered voter in the State — including the voter's name, date of birth, residence address, mailing address, voter ID number, when the person registered to vote, what political party the person is affiliated with, the voter's telephone number, e-mail address, race, precinct number, as well as other information about district races in which the person is eligible to vote. This information can be accessed by voter's name, birth date, or address.

III. Effect of Proposed Changes:

SB 342 makes all information concerning 16 and 17-year-olds who preregister to vote while they are minors confidential and exempt from public inspection and copying requirements. Once they become adults, their non-exempt information will become available to the same degree as the information of any other adult voter registrant or voter.

The bill provides for repeal of the exemption on October 2, 2024, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

²¹ Section 97.0585(2), F.S.

²² Section 97.041(a)(a), F.S.

²³ Section 97.041(1)(b), F.S.

²⁴ Ch. 97-13, ss. 39, 56, LAWS OF FLA. (effective January 1, 1998).

²⁵ In 2001, the Legislature sought to adopt a much more restrictive public records scheme similar to the one proposed in the original bill, in connection with a then-newly-authorized statewide voter registration database. Ch. 2001-40, s. 70-72, LAWS OF FLA. (codified at s. 98.0979, F.S. (2002)). Three years later, a Leon County circuit court judge struck the statute down void ab initio on procedural grounds, finding that it was adopted in a general elections bill without the requisite statement of public necessity in violation of Art. I, s. 24 of the Florida Constitution — the effect being that the statute never existed or was never on the books. See *Cable News Network, et al. v. Florida Dep't of State*, Case No. 2004 CA 001259 (2nd Jud. Cir., July 1, 2004) (Final Declaratory Summary Judgment). The Legislature repealed the statute the following year. See, Ch. 2005-278, s. 55, LAWS OF FLA.; Ch. 2005-277, s. 77, LAWS OF FLA.

²⁶ See <http://flvoters.com/> (last visited on March 19, 2019).

This bill will take effect July 1, 2019, but will apply to all currently pre-registered 16 and 17-year-olds.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Section 24(c) of Article I of the Florida Constitution requires a two-thirds vote of the members present and voting for passage of a newly created or expanded public-records or public-meetings exemption. Therefore, this bill requires a two-thirds vote for passage.

Public Necessity Statement

Section 24(c) of Article I of the Florida Constitution requires a public necessity statement for a newly created or expanded public records or public meetings exemption. The Florida Constitution provides that an exemption must state with specificity the public necessity for the exemption.

This public necessity statement provides that disclosure of information held by an agency concerning preregistered voter registration applicants who are 16 or 17 years of age could be misused to solicit, harass, stalk, or intimidate such individuals, and without such protection, a minor may be less likely to take advantage of preregistering to vote.

Breadth of Exemption

Section 24(c) of Article I of the Florida Constitution requires a public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law.

SB 342 expands the public record exemption to include all information concerning preregistered voter registration applicants who are 16 or 17 years of age which is held by an agency.

Generally, the exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may adversely impact commercial web sites and businesses that profit from sharing Florida voter registration data. However, since the bill only protects the information of minors before they become age-eligible to vote, the fiscal impact, if any, is unclear.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 97.0585 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.)

None.

B. Amendments:

None.

By Senator Lee

20-00625-19

2019342__

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 97.0585, F.S., and reenacting subsection (3), relating
 4 to a public records exemption for information
 5 regarding voters and voter registration; providing an
 6 exemption from public records requirements for
 7 information concerning preregistered voter
 8 registration applicants who are minors; providing for
 9 future legislative review and repeal; providing for
 10 retroactive application; providing a statement of
 11 public necessity; providing an effective date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Subsection (1) of section 97.0585, Florida
 16 Statutes, is amended, and subsection (3) of that section is
 17 reenacted, to read:
 18 97.0585 Public records exemption; information regarding
 19 voters and voter registration; confidentiality.—
 20 (1) The following information held by an agency, as defined
 21 in s. 119.011, and obtained for the purpose of voter
 22 registration is confidential and exempt from s. 119.07(1) and s.
 23 24(a), Art. I of the State Constitution and may be used only for
 24 purposes of voter registration:
 25 (a) All declinations to register to vote made pursuant to
 26 ss. 97.057 and 97.058.
 27 (b) Information relating to the place where a person
 28 registered to vote or where a person updated a voter
 29 registration.

Page 1 of 2

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

20-00625-19

2019342__

30 (c) The social security number, driver license number, and
 31 Florida identification number of a voter registration applicant
 32 or voter.
 33 (d) All information concerning preregistered voter
 34 registration applicants who are 16 or 17 years of age. This
 35 paragraph is subject to the Open Government Sunset Review Act in
 36 accordance with s. 119.15 and shall stand repealed on October 2,
 37 2024, unless reviewed and saved from repeal through reenactment
 38 by the Legislature.
 39 (3) This section applies to information held by an agency
 40 before, on, or after the effective date of this exemption.
 41 Section 2. The Legislature finds that it is a public
 42 necessity that all information concerning preregistered voter
 43 registration applicants who are 16 or 17 years of age which is
 44 held by an agency and obtained for the purpose of voter
 45 registration be confidential and exempt from public records
 46 requirements and be used only for purposes related to voter
 47 registration. Information concerning preregistered 16-year-old
 48 and 17-year-old voter registration applicants could be misused
 49 if released. Minors are more vulnerable members of society, and
 50 the widespread release of information acquired through
 51 preregistration activities may be used to solicit, harass,
 52 stalk, or intimidate them. Without such protection, a minor may
 53 be less likely to take advantage of preregistering to vote, thus
 54 hindering the effective and efficient administration of a
 55 program that otherwise encourages greater participation in the
 56 democratic process.
 57 Section 3. This act shall take effect July 1, 2019.

Page 2 of 2

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The Florida Senate

Committee Agenda Request

To: Senator Dennis Baxley, Chair
Committee on Ethics and Elections

Subject: Committee Agenda Request

Date: January 25, 2019

I respectfully request that **Senate Bill# 342**, relating to Public Records/Voters and Voter Registration, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Tom Lee".

Senator Tom Lee
Florida Senate, District 20

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Infrastructure and Security, *Chair*
Appropriations
Appropriations Subcommittee on
Transportation,
Tourism, and Economic Development
Banking and Insurance
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR TOM LEE
20th District

MEMORANDUM

To: Senator Dennis Baxley
From: Senator Tom Lee
Subject: SB 342- Public Records/ Voter and Voter Registration
Date: March 19, 2019

I am writing to respectfully request that Senator Kathleen Passidomo be allowed to present SB 342, relating to Minor Voter Privacy, in tomorrow's meeting of the Senate Committee on Ethics and Elections.

I will be chairing the Senate Committee on Infrastructure and Security during this time.

Thank you for your consideration.

REPLY TO:

- 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
- 418 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

APPEARANCE RECORD

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

3/20/19

Meeting Date

342

Bill Number (if applicable)

Topic PUBLIC RECORDS

Amendment Barcode (if applicable)

Name DAVID RAMBA

Job Title _____

Address 120 S MONROE ST.

Phone 850 443 4444

Street

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 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.

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

THE FLORIDA SENATE

Tab # 2

APPEARANCE RECORD

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

3/20/2019

Meeting Date

OB 342

Bill Number (if applicable)

Topic Public Records/Voters + Voter Registration

Amendment Barcode (if applicable)

Name Marilyn Wills

Job Title member LWVF

Address 2326 Kilkenny Drive West

Phone 850 893-9104

Street

Jalassie

Florida

32309

Email marilyn.wills@msn.com

City

State

Zip

Speaking: [] For [] Against [] Information

Waive Speaking: [X] 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 [X] No

Lobbyist registered with Legislature: [] Yes [X] 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
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 1428

INTRODUCER: Ethics and Elections Committee; and Senator Perry and others

SUBJECT: Disposition of Surplus Funds by Candidates

DATE: March 20, 2019

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1428 places a limitation on the current charitable option for the disposition of surplus campaign funds. It prohibits a candidate, the candidate's spouse, parent, child, and sibling from: being a principal of the 501(c)(3) organization to which surplus funds are donated; and, receiving compensation, such as earnings, tips, or paid employment, from the organization *in exchange for* such donation.

The bill takes effect July 1, 2019.

II. Present Situation:

A candidate who withdraws his or her candidacy, becomes unopposed, or is eliminated or elected to office must dispose of surplus funds in his or her campaign account within 90 days and file a termination report reflecting the disposition of all remaining funds.¹ Florida law generally provides former candidates with 7 nonexclusive options for disposing of surplus funds:²

- Return funds *pro rata* to contributors;

¹ Section 106.141, F.S.

² Sections 106.09(5) and 106.141(4)(a), F.S. Successful candidates have the additional option to transfer a certain amount of the surplus funds to an "office account," to be used for "legitimate expenses in connection with the candidate's public office." Section 106.141(5), F.S. Candidates receiving public campaign financing must return *all* excess funds to the State General Revenue Fund after paying for any items for which the campaign was liable before withdrawing, becoming unopposed, or being eliminated or elected. Section 106.141(4)(b), F.S.

- **Make a charitable donation;**
- Rebate up to \$25,000 to the candidate's political party;
- Deposit funds to General Revenue Fund of State (candidates for state office) or local political subdivision (local candidates);
- Purchase "thank you" advertising for up to 75 days;
- Pay for items obligated before the candidate withdrew, became unopposed, or was eliminated or elected; and,
- Pay for necessary expenses to close down the campaign office and prepare final reports.

The specific statutory language for the charitable option authorizes candidates to:

Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the requirements of s. 501(c)(3) of the Internal Revenue Code.³

Thus, the only limitation is that funds must be given to a 501(c)(3) organization(s).

III. **Effect of Proposed Changes:**

CS/SB 1428 plainly provides that, for charitable donations involving surplus campaign funds, the candidate, and the candidate's spouse, parent, child, or sibling, may not:

- Be a principal of the 501(c)(3) organization; or
- Receive a direct benefit in the form of compensation, such as earnings, stipend, tips, or paid employment, from the organization in exchange for such donation.

The first restriction on being a principal is based on the *position* held within the charity, such as a member of the board of directors. The second restriction prohibits a *quid pro quo* arrangement: something of monetary value in exchange for the donation.

Any candidate who violates these restrictions commits a first-degree misdemeanor, and may be subject to additional administrative penalties.

IV. **Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³ Section 106.141(4)(a)2., F.S.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 106.141 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Ethics and Elections on March 20, 2019:

Narrows the scope of the restriction regarding candidates donating surplus campaign funds to certain charitable organizations.

B. Amendments:

None.



153890

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/20/2019	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 25 - 27

and insert:

may not be a principal of the organization, and he or she may not receive a direct benefit in the form of compensation, such as any earnings, stipend, tips, or paid employment, from the organization in exchange for such donation.

===== T I T L E A M E N D M E N T =====



153890

11 And the title is amended as follows:

12 Delete lines 5 - 7

13 and insert:

14 or sibling, from serving as a principal of a
15 charitable organization that receives surplus funds or
16 from receiving a direct financial benefit from such
17 organization in exchange for the donation of surplus
18 funds; providing an effective date.

By Senator Perry

8-01394-19

20191428__

A bill to be entitled

An act relating to the disposition of surplus funds by candidates; amending s. 106.141, F.S.; prohibiting a candidate, or the candidate's spouse, parent, child, or sibling, from receiving anything of value in exchange for a donation of surplus funds to a charitable organization; providing an effective date.

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

Section 1. Paragraph (a) of subsection (4) of section 106.141, Florida Statutes, is amended to read:

106.141 Disposition of surplus funds by candidates.—

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. Return pro rata to each contributor the funds that have not been spent or obligated.

2. Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code. If a donation is made to any charitable organization, the candidate, or the candidate's spouse, parent, child, or sibling, may not receive, either directly or indirectly, anything of value, including a gift, loan, reward, promise of future employment, favor, or service, in exchange for such donation.

3. Give not more than \$25,000 of the funds that have not been spent or obligated to the affiliated party committee or

Page 1 of 2

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8-01394-19

20191428__

political party of which such candidate is a member.

4. Give the funds that have not been spent or obligated:

a. In the case of a candidate for state office, to the state, to be deposited in either the Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or

b. In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.

Section 2. This act shall take effect July 1, 2019.

Page 2 of 2

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The Florida Senate

Committee Agenda Request

To: Senator Dennis Baxley, Chair
Committee on Ethics and Elections

Subject: Committee Agenda Request

Date: March 5, 2019

I respectfully request that **Senate Bill #1428**, relating to Disposition of Surplus Funds by Candidates, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

W. Keith Perry

Senator Keith Perry
Florida Senate, District 8

Tab # 3

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/20/2019

Meeting Date

SB1428

Bill Number (if applicable)

Topic DISPOSITION OF SURPLUS FUNDS BY CANDIDATES

Amendment Barcode (if applicable)

Name Marilynn Wills

Job Title member, LWVF

Address 2326 Kilkenny Drive West

Phone 850 893-4104

Street

Jalichassee

City

Florida

State

32309

Zip

Email marilynnwills@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
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 232

INTRODUCER: Senator Baxley

SUBJECT: Percentage of Elector Votes Required to Approve an Amendment or a Revision

DATE: March 14, 2019

REVISED: _____

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

I. Summary:

SJR 232 increases the percentage of elector votes required to pass a constitutional amendment or revision from 60 percent to two-thirds (66 2/3%) of those voting on the measure.

The SJR requires an affirmative supermajority 3/5ths vote of each body of the Legislature for passage.

If adopted by at least 60% of those voting on the measure at the 2020 general election, the passage threshold change would apply to all proposed amendment or revisions voted on or after January 5, 2021.

II. Present Situation:

The Florida Constitution mandates that all proposed amendments or revisions be adopted by at least a 60% affirmative vote of those electors voting on the measure. The voters adopted the current threshold in 2006, approving a legislative proposal to increase the percentage from a simple majority of those voting on the measure.

Since adopting the 60% passage threshold, voters have weighed-in on 44 proposed constitutional amendments, approving 27 (61%) and rejecting 17 (39%).¹ However, in the last two general election cycles, voters have approved an overwhelming ***15 of 17, or 88%*** of all proposed amendments. This limited data suggests a *possible* recent trend toward easier voter approval.

¹ Florida Div. of Elections, Initiatives/Amendments/Revisions Database, available at <https://dos.elections.myflorida.com/initiatives/> (last accessed March 14, 2019).

III. Effect of Proposed Changes:

SJR 232 is straightforward; it increases the minimum threshold for passing an amendment or revision to the State Constitution from 60% to 66 2/3% (two-thirds) of those voting on the measure.

Had the SJR’s two-thirds passage threshold been in place since 2008, when the 60% threshold went into effect, more than half of the amendments that passed (15 of 27) would have been defeated — reducing the overall passage rate from almost two-thirds (61%; 27/44) to just over a quarter (27%; 12/44). The passage rate for the 2018 election cycle would have been significantly reduced, from over 90% to just one-third (33%) — with 7 additional amendments failing. The following chart summarizes the general election breakdown of approved amendments under each passage rate:

YEAR	60% Passage Rate	66 2/3% (two-thirds) Passage Rate
2008	71% (5 of 7)	29% (2 of 7)
2010	50% (3 of 6)	17% (1 of 6)
2012	27% (3 of 11)	0% (0 of 11)
2014	33% (1 of 3)	33% (1 of 3)
2016	80% (4 of 5)	80% (4 of 5)
2018	92% (11 of 12)	33% (4 of 12)

The available data indicates that increasing the passage rate from 60% to 66 2/3% could have a consequential impact on marginal amendments and revisions.

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:

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 either booklets or posters displaying the full text of proposed amendments.

The Division has not completed an agency bill analysis for this bill or for the identical House Bill. Using the Division's 2018 general election estimate of \$120.31 per word, this 391-word amendment should cost about **\$47,041**.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends Article XI, s. 5 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 Baxley

12-00580-19

2019232__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 5 of Article XI of the State Constitution to increase the percentage of elector votes required to approve an amendment or a revision to the State Constitution from 60 percent to 66 and 2/3 percent.

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

That the following amendment to Section 5 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 5. Amendment or revision election.—

(a) A proposed amendment to or revision of this constitution, or any part of it, shall be submitted to the electors at the next general election held more than ninety days after the joint resolution or report of revision commission, constitutional convention or taxation and budget reform commission proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.

(b) A proposed amendment or revision of this constitution,

Page 1 of 3

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

12-00580-19

2019232__

or any part of it, by initiative shall be submitted to the electors at the general election provided the initiative petition is filed with the custodian of state records no later than February 1 of the year in which the general election is held.

(c) The legislature shall provide by general law, prior to the holding of an election pursuant to this section, for the provision of a statement to the public regarding the probable financial impact of any amendment proposed by initiative pursuant to section 3.

(d) Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, shall be published in one newspaper of general circulation in each county in which a newspaper is published.

(e) Unless otherwise specifically provided for elsewhere in this constitution, if the proposed amendment or revision is approved by vote of at least sixty-six and two-thirds ~~sixty~~ percent of the electors voting on the measure, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

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

CONSTITUTIONAL AMENDMENT

ARTICLE XI, SECTION 5

PERCENTAGE OF ELECTOR VOTES REQUIRED TO APPROVE

Page 2 of 3

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

12-00580-19

2019232

59 CONSTITUTIONAL AMENDMENT OR REVISION.—Proposing an amendment to
60 the State Constitution to increase the percentage of elector
61 votes required to approve an amendment or a revision to the
62 State Constitution from 60 percent to 66 and 2/3 percent.

THE FLORIDA SENATE

Tab # 4

APPEARANCE RECORD

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

03/20/2019 Meeting Date

SJR SB 232 Bill Number (if applicable)

Topic PERCENTAGE OF ELECTOR VOTES REQUIRED TO APPROVE AN AMENDMENT

Amendment Barcode (if applicable)

Name CESAR GRAJALES

Job Title DIRECTOR OF COALITIONS

Address 200 W COLLEGE AVE Street

Phone 786.260.9283

TALLAHASSEE FL City State Zip

Email cgrajas@HOTMAIL.COM

Speaking: For Against Information

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

Representing AMERICANS FOR PROSPERITY

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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

Ethics
412K Tab #4

SJR
SB 232

3/20/19

Meeting Date

Bill Number (if applicable)

Topic Percentage of Elector Votes

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior VP

Address 516 N. Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: For Against Information

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

Representing Associated Industries 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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

Tab # 4

3/20/2019

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

SJR 232

Meeting Date

Bill Number (if applicable)

Topic Raises %age of Vote to approve a Const. Amendment

Amendment Barcode (if applicable)

Name MARILYNN WILLS

Job Title Member, LWVF

Address 2326 Kilkenny Drive West

Phone 850 893-4104

Street

Jalokassee

City

Florida

State

32309

Zip

Email marilyn.wills@msa.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.

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S-001 (10/14/14)

Tab # 4

THE FLORIDA SENATE
APPEARANCE RECORD

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

SJR 232

~~SB 232~~

3/20/2019

Meeting Date

Bill Number (if applicable)

Topic Amendment Percentage

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

32311

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 Southern Poverty Law Center Action Fund

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)

APPEARANCE RECORD

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

3/20/19

Meeting Date

232

Bill Number (if applicable)

Topic Percentage of Election Votes . . .

Amendment Barcode (if applicable)

Name JONATHAN Webber

Job Title Deputy Director

Address 1700 N. WASHINGTON ST.

Phone 954-593-4449

Street

Tallahassee

FL

32301

City

State

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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APPEARANCE RECORD

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

3/20/19

Meeting Date

SJR 232

Bill Number (if applicable)

Topic Electoral Votes Needed for Constitution Amend Amendment Barcode (if applicable)

Name Karen Woodell

Job Title Exec. Director

Address 579 E Call St.

Street

Phone 850-321-9386

Tallahassee FL

City

State

32301

Zip

Email kewoodell@yahoo.com

Email

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing Fla. Center for Fiscal & Economic Policy

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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APPEARANCE RECORD

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

3/20/2019

232

Meeting Date

Bill Number (if applicable)

Topic Percentage of Elector Voters

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title Public Policy

Address 126 N Mills

Phone 4073 764801

Street

Orlando FL 32801

City

State

Zip

Email ida.eskamani

Speaking: [] For [] Against [] Information

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

Representing New Florida Majority

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [x] 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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