

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7133 PCB CRJS 11-03 Failure to Assist Officers at Polls

SPONSOR(S): Criminal Justice Subcommittee, Pilon

TIED BILLS: None **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Criminal Justice Subcommittee	13 Y, 1 N	Williams	Cunningham
1) Judiciary Committee	18 Y, 0 N	Williams	Havlicak

SUMMARY ANALYSIS

Section 104.101, F.S., makes it a first degree misdemeanor for a person summoned by a sheriff or deputy sheriff to fail or refuse to assist in maintaining the peace at the polls.

Since 2000, the Florida Department of Law Enforcement reported that there has been one arrest associated with this section of statute.

The bill repeals s. 104.101, F.S.

The bill is estimated to have no fiscal impact and is effective July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Section 104.101, F.S., was created in 1889.¹ The statute makes it a first degree misdemeanor² for any person summoned by the sheriff or deputy sheriff to fail or refuse to assist him or her in maintaining the peace at the polls.

Section 104.101, F.S., has not been amended in a substantive way since its creation. It was amended in 1971³ to update the associated penalty to a first degree misdemeanor from its original penalty. In 1995,⁴ the statute was amended to remove gender-specific references.

Since 2000, the Florida Department of Law Enforcement reported that there has been one arrest associated with this section of statute.

Effect of the Bill

The bill repeals s. 104.101, F.S.

B. SECTION DIRECTORY:

Section 1. Repeals s. 104.101, F.S., relating to failure to assist officers at polls.

Section 2. Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

¹ Section 27, ch. 3879, 1889; RS 181.

² A first degree misdemeanor is punishable by up to one year imprisonment and a \$1000 fine. Sections 775.082 and 775.083, F.S.

³ Section 29, ch. 71-136, L.O.F.

⁴ Section 619, ch. 95-147, L.O.F.

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES