

HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

BILL #: CS/HB 7013 **FINAL HOUSE FLOOR ACTION:**

SPONSOR(S): Appropriations Committee; Ethics & Elections Subcommittee; Boyd 115 Y's 1 N's

COMPANION (HB 25, HB 7021, SB 80, SB 82, **GOVERNOR'S ACTION:** Approved
BILLS: SB 388, CS/CS/CS/SB 600)

SUMMARY ANALYSIS

CS/HB 7013 passed the House on May 4, 2013, and subsequently passed the Senate on May 4, 2013. The bill makes several changes to Florida's elections laws, as follows:

| ISSUE | Provisions in CS/HB 7013 |
|--------------------------------------|--|
| Early Voting Days and Hours | <ul style="list-style-type: none"> • 8 days minimum, 14 days maximum, beginning on the 15th day before and ending on the 2nd day before an election; must be provided on the 10th through the 3rd day before the election; early voting optional at the supervisor of elections' (supervisor) discretion on the Sunday before the general election. • 64 hours minimum, 168 hours maximum for at least 8 but no more than 12 hours per day. |
| Early Voting Sites | <ul style="list-style-type: none"> • Expands currently authorized sites to include fairgrounds, civic centers, courthouses, county commission buildings, stadiums, convention centers, government-owned senior centers and government-owned community centers. • Allows a supervisor to designate one additional site per county in an area where no authorized sites exist. • Requires a supervisor to operate at least the same total number of early voting sites for a general election that the county operated in the 2012 general election. |
| Registering to Vote | Authorizes an individual or accompanying family member who returned from military deployment or activation to register to vote until 5pm on Friday before election. |
| Multi-Language Ballots | Authorizes a supervisor in a county subject to multi-language ballot requirements to petition the U.S. Department of Justice for authorization to print and deliver single-language ballots for each minority language required. |
| Absentee Ballots | <ul style="list-style-type: none"> • Requires requests for ballots not being sent to a voter's address on file in the Florida Voter Registration System to be in writing and signed by the elector, but exempts absent uniformed services voters and overseas voters; prohibits delivery of absentee ballots from a supervisor to a voter on Election Day except in emergencies, and requires an affidavit affirming the facts of the emergency. • Provides that otherwise acceptable ballots of absent uniformed services and overseas voters in a presidential preference primary or general election must be counted if postmarked or dated no later than Election Day and received by the supervisor no later than 10 days after the election. • Allows supervisors to use a voter's signature on the precinct register, in addition to the registration books, to determine if the elector is duly registered; provides a mechanism to "cure" unsigned absentee ballots by filing an affidavit under certain circumstances until 5 p.m. on the day before an election. |
| Election Preparation Report | Requires each supervisor to prepare and publish a report, at least 3 months before a general election, outlining preparations for the election, including anticipated staffing levels and the anticipated amount of automatic tabulating equipment at each voting site. |
| Primary Election | Provides that a primary election is held on the Tuesday 10 weeks, rather than 12 weeks, prior to the general election. |
| Vendor Penalties | <ul style="list-style-type: none"> • Creates a mechanism for the Department of State to investigate defective voting systems, suspend sales and use of systems, and impose civil penalties of \$25,000 per defect, plus actual costs, against vendors under certain circumstances. • Requires vendors to file disclosures with the department identifying defects in the vendor's voting system. |
| Solicitation Zones | Prohibits solicitation within 100 feet of a supervisor's office where absentee ballots are requested and printed on demand. |
| Special Registration | Changes from 2016 to 2020 the date by which supervisors are required to provide a voter interface device that meets the voter accessibility requirements for individuals with disabilities. |
| Voting in a Different Precinct | Allows a voter who moves to another county to vote a regular ballot in the precinct to which he or she has moved if the new precinct is in a county that uses an electronic database as a precinct register at the polling place. |
| Voting System Audit | Provides supervisors the option of using an automated, independent audit instead of conducting a manual audit and establishes requirements for automated audits; requires the Department of State to adopt rules for approval of an independent audit system. |
| Presidential Preference Primary Date | Provides that the presidential preference primary must be held in each year the number of which is a multiple of 4 on the first Tuesday that the rules of the major political parties allow state delegations to be allocated without penalty. |
| Canvassing Boards | Provides for alternate members of county canvassing boards; requires the results of early voting and absentee ballots canvassed and tabulated by the end of early voting to be uploaded to the county's election management system by 7pm on the day before election. |
| Legislative Ballot Summaries | Applies a 75-word limit to the first of multiple summaries in a joint resolution, while any remaining summaries, including a rewritten summary by the Attorney General, will not be subject to a 75-word limit; applies a 75-word limit to joint resolutions containing only one summary; removes language allowing the full text of an amendment or revision in a ballot statement; removes language requiring voting systems to allow placement of an amendment or revision's full text on the ballot by 2013. |

This bill does not appear to have a direct fiscal impact on state government or private parties. This bill may have a direct fiscal impact on local governments but will vary by county depending on current funding levels and resources available to local supervisors of elections. The bill was approved by the Governor on May 21, 2013, ch. 2013-57, and will become effective on January 1, 2014, unless otherwise provided in the bill.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Early Voting

A. Early Voting Days

Current Situation

Prior to the enactment of CS/CS/HB 1355 in 2011, counties were required to offer between 12 and 14 days of early voting in an election that contained a state or federal race, beginning on the 15th day before an election and ending on the 2nd day before the election.¹ Early voting on the Sunday before the general election was optional at the discretion of the supervisor of elections.

Current law requires 8 days of early voting in an election that contained a state or federal race, beginning on the 10th day before the election and ending on the 3rd day before the election.² Thus, early voting is not allowed on the Sunday before the general election.

Effect of Changes

This bill amends s. 101.657, F.S., to increase the number of days available for early voting by requiring a minimum of 8 days and allowing up to a maximum of 14 days, beginning on the 15th day before an election that contains state or federal races and ending on the 2nd day before the election. Early voting *must* be offered each day from the 10th day before an election that contains state or federal races through the 3rd day before the election. Early voting *may* be offered, at the discretion of each county's supervisor of elections, on the 15th, 14th, 13th, 12th, 11th, or 2nd day before an election that contains state or federal races. As such, early voting on the Sunday before the general election may be offered at the discretion of each county's supervisor of elections, but is not required.

B. Early Voting Hours

Current Situation

Prior to the enactment of CS/CS/HB 1355 in 2011, the law required counties to offer 96 hours of early voting, including 8 hours on each weekday and a total of 8 hours on each weekend during the authorized early voting period.³ Early voting was allowed only between 7 a.m. and 7 p.m., and all early voting sites in a county had to be open on the same days during the same hours.⁴

Currently, early voting must be offered for no less than 6 hours and no more than 12 hours per day, which means 48 hours of early voting is required but up to 96 hours is allowed at the discretion of each county's supervisor of elections.⁵ The law does not require early voting during specified hours or require all early voting sites in a county to be open on the same days for the same hours.

Effect of Changes

This bill amends s. 101.657, F.S., to increase the number of hours available for early voting by requiring counties to offer early voting for a minimum of 64 hours and allowing early voting for a maximum of 168 hours during the early voting period. Early voting must be offered for no less than 8 hours (instead of 6 hours required under current law) and no more than 12 hours per day at each site during the early voting period. However, the bill does not require early voting during specified hours or require all early voting sites in a county to be open on the same days for the same hours.

C. Early Voting Sites

Current Situation

¹ § 101.657(1)(d), F.S. (2010).

² § 101.657(1)(d), F.S.

³ § 101.657(1)(d), F.S. (2010).

⁴ *Id.*; § 101.657(1)(c), F.S. (2010).

⁵ § 101.657(1)(d), F.S.

Counties are allowed to have early voting at city halls, public libraries, and main or permanent branch offices of supervisors of elections.⁶ In order for a county to utilize a permanent branch office of a supervisor of elections as an early voting site, the office must have been used for at least a year prior to the election as a permanent facility of the supervisor.⁷ These were also the permissible early voting sites before the enactment of CS/CS/HB 1355 in 2011.⁸

Effect of Changes

This bill amends s. 101.657, F.S., to expand the types of sites at which early voting may be held by adding fairgrounds, civic centers, courthouses, county commission buildings, stadiums, convention centers, government-owned senior centers and government-owned community centers to the currently permissible early voting sites. This bill also allows a supervisor of elections to designate one additional site in an area of the county where none of the authorized sites exists. Supervisors of elections are required to operate at least the same total number of early voting sites for a general election that the county operated for the 2012 general election.

Late Voter Registration for Military Personnel and their Family Members

Current Situation

In order for a person to be eligible to vote in a Florida election, the person must be:

- At least 18 years of age;
- A citizen of the United States;
- A legal resident of the State of Florida;
- A legal resident of the county in which that person seeks to be registered; and
- Registered to vote pursuant to the Florida Election Code.⁹

An applicant for registration must mail or hand deliver a voter registration application to the county supervisor of elections' office, the Florida Division of Elections, a driver's license office, a voter registration agency,¹⁰ or an armed forces recruitment office.¹¹ In addition, third-party registration organizations may collect and deliver applications.¹²

In order to be eligible to vote, an applicant's completed application must be received or postmarked before the registration book closing for an election, which must occur 29 days before an election.¹³ However, an individual or accompanying family member who has been discharged or separated from the uniformed services, Merchant Marine, or employment outside the territorial limits of the United States, who shows sufficient documentation, may register at their local supervisor of elections office until 5:00 p.m. on the Friday before the election. This exception applies only to an individual or accompanying family member who has been "discharged or separated."¹⁴

Effect of Changes

This bill amends s. 97.0555, F.S., to allow military personnel and accompanying family members who have returned from a military deployment or activation, and who are otherwise eligible to vote, to register to vote after book closing if sufficient documentation is provided showing evidence of qualifying for late registration. This bill also changes the reference to "Merchant Marine" in the late registration statute¹⁵ to "United States Merchant Marine" for clarification purposes.

Multi-Language Ballots

Current Situation

⁶ § 101.657(1), F.S.

⁷ *Id.*

⁸ Ch. 2011-40, Laws of Fla.

⁹ § 97.041(1)(a), F.S.; A person who has been adjudicated mentally incompetent or a person who has been convicted of a felony may not vote until his or her right to vote has been legally restored. § 97.041(2), F.S.

¹⁰ § 97.021(41), F.S., defines "voter registration agency" as any office that provides public assistance or serves persons with disabilities, a center for independent living, or a public library.

¹¹ § 97.053(1), F.S.

¹² § 97.0575, F.S.

¹³ § 97.055, F.S.

¹⁴ § 97.0555, F.S.

¹⁵ *Id.*

Section 203 of the federal Voting Rights Act requires materials related to the electoral process, including ballots, to be provided in both English and a minority language in certain circumstances.¹⁶ Two Florida counties, for instance, print materials in English, Spanish, and Creole. This led to lengthy ballots in the 2012 elections because instead of having separate ballots for each language, all ballots were printed with all languages side by side. This also led to increased wait times because the voting machines were processing several pages for each ballot.

Effect of Changes

The bill amends s. 101.151, F.S., to authorize a supervisor in a county subject to multi-language ballot requirements to petition the U.S. Department of Justice for authorization to print and deliver single-language ballots for each minority language required. It appears that supervisors may already submit such requests, so the actual effects of this change may be minimal.

Canvassing Board Alternates and Uploading Elections Results

Current Situation

A. Alternates to the Canvassing Board

A county canvassing board serves to provide oversight to ensure the integrity of the electoral process. A canvassing board's responsibilities include: canvassing¹⁷ all ballots cast in an election, including absentee and provisional ballots; certifying election results and reporting them to the Department of State;¹⁸ determining when counting errors have occurred and correcting them; ordering¹⁹ and conducting recounts for candidate races with results within one-half of a percent or less and for ballot measures that are approved or rejected by one-half of a percent or less; employing clerical help to assist with the work of the board as it deems necessary; and filing a report with the Division of Elections on the conduct of the election once the official results are certified to the Department of State.²⁰

Under current law, each county canvassing board is composed of the supervisor of elections; a county court judge, who acts as chair; and the chair of the board of county commissioners.²¹ In the event any member of the canvassing board is unable to serve, is a candidate who has opposition in the election being canvassed, or is an active participant in the campaign or candidacy of any candidate who has opposition in the election being canvassed, such member is to be replaced as follows:

- If no county court judge is able to serve or if all are disqualified, the chief judge of the judicial circuit in which the county is located appoints as a substitute member a qualified elector of the county who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed. In such event, the members of the county canvassing board will meet and elect a chair.
- If the supervisor of elections is unable to serve or is disqualified, the chair of the board of county commissioners appoints as a substitute member a member of the board of county commissioners who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed. However, the supervisor acts in an advisory capacity to the canvassing board.
- If the chair of the board of county commissioners is unable to serve or is disqualified, the board of county commissioners appoints as a substitute member one of its members who is not a candidate with

¹⁶ 42 U.S.C. §§ 1973aa-1a.

¹⁷ Canvassing is the process of examining ballots for authenticity. Absentee ballots are canvassed by comparing the signature of the elector on the voter's certificate with the signature of the elector in the registration books to determine whether the elector is duly registered in the county. § 101.68(1), F.S. Provisional ballots are canvassed by reviewing the information provided in an elector's Voter's Certificate and Affirmation, any written evidence provided by the person casting the ballot pursuant to § 101.048(1), F.S., any other evidence presented by the supervisor of elections, and, in the case of a challenge, any evidence presented by the challenger to determine if the person voting the provisional ballot was entitled to vote at the precinct where the vote was cast and that the person had not already cast a ballot in the election. § 101.048(2)(a), F.S.

¹⁸ To certify an election, a county canvassing board must make and sign duplicate certificates containing the total number of votes cast for each person nominated or elected, the names of persons for whom such votes were cast, and the number of votes cast for each candidate or nominee. For offices for which the candidates or nominees have been voted for in more than one county, one of the certificates must be immediately transmitted to the Department of State, and the second copy must be filed in the supervisor's office. § 102.151, F.S.

¹⁹ While the Secretary of State is responsible for ordering recounts in federal, state, and multicounty races, the county canvassing board or the local board responsible for certifying the election is responsible for ordering recounts in all other races. § 102.141(7), F.S.

²⁰ § 102.141, F.S.

²¹ § 102.141(1), F.S.

opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed.

- If a substitute member cannot be appointed as provided above, the chief judge of the judicial circuit in which the county is located appoints as a substitute member a qualified elector of the county who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed.²²

Under current law, the members of the canvassing board sometimes experience stress and fatigue due to long hours near the election. In addition, there are sometimes scheduling conflicts with members of the canvassing board.

B. Reporting Election Results

Under current law, the canvassing board is required to report all early voting and tabulated absentee ballots to the Department of State within 30 minutes after the polls close on election-day. Thereafter, with the exception of provisional ballot results, the canvassing board is required to update results to the Department of State every 45 minutes until all results have been reported.²³ However, current law does not address when the canvassing board must begin to upload, into each county's internal database, the results of early voting or absentee ballots. Some counties begin uploading before election-day in order to ensure equipment is functioning properly and to make counting less burdensome on election-day. However, some counties do not begin the upload process before election-day.

Effect of Changes

This bill amends s. 102.141, F.S., to require the appointment of two alternate members to each county canvassing board in order to alleviate the stress, fatigue, and scheduling conflicts with members of the canvassing board. The chief circuit judge must appoint a qualified county court judge as an alternate, and the chair of the board of county commissioners must appoint a qualified member of the board of county commissioners as an alternate. If all county court judges or members of the board of county commissioners are unable to serve or are disqualified, an alternate must be appointed using the procedures provided in s. 102.141, F.S.

If a member of a county canvassing board is unable to serve in a meeting, the chair of the canvassing board designates one of the two alternate members to serve during the meeting. During any meeting of a canvassing board, two of the three members then serving must agree on any decision or determination. An alternate member of the canvassing board may be present, observe, and communicate with the three members serving on the county canvassing board during a meeting, but the alternate may not vote in the board's decisions or determinations.

This bill also requires each supervisor of elections to upload into the county's election management system, by 7 p.m. the day before the election, the results of all early voting and absentee ballots that have been canvassed and tabulated by the end of the early voting period. These results cannot be made public until the close of polls on election-day.²⁴

Absentee Ballots

Current Situation

Absentee ballots may be requested in person, in writing, or over the phone from the supervisor of elections.²⁵ The ballot may be requested in writing or over the phone by the voter, or, if directly instructed by the voter, a member of the voter's immediate family, or the voter's legal guardian.²⁶ The person making the request for an absentee ballot must provide the following information: the name of the voter, the voter's address, the voter's date of birth, the requester's name, the requester's address, the requester's driver's license number (if available), the requester's relationship to the voter, and the requester's signature (for written requests only).²⁷ Requests for ballots being sent to an address not on file in the Florida Voter Registration System do not have to be in writing or signed. For each absentee ballot request, the supervisor of elections is required to record the date of the request, the date of delivery to the voter or the post office or other carrier, the date the ballot was received by the supervisor, and any other information the supervisor deems necessary.²⁸

²² *Id.*

²³ § 102.141(4), F.S.

²⁴ §§ 101.5614(9), 101.657, & 101.68(2), F.S.

²⁵ § 101.62(1)(a)-(b), F.S.

²⁶ *Id.*

²⁷ *Id.*

²⁸ § 101.62(3), F.S.

Absentee ballots must be received by the supervisor of elections by 7 p.m. on election day in order to be counted.²⁹

When a voter casts his or her vote using an absentee ballot, the ballot must be placed in the mailing envelope provided with the ballot and the voter must sign the Voters Certificate on the back of the envelope.³⁰ An absentee ballot is rejected and not counted if the voter does not sign the Voter's Certificate or the signature does not match the signature on the registration books.³¹

Under current law, there is no restriction on the number of ballots that any person may possess.³² However, it is a third degree felony for a person to provide, offer to provide, or accept a pecuniary benefit in exchange for distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing absentee ballots, with intent to alter, change, modify, or erase any vote on the absentee ballot.³³

Effect of Changes

The bill amends s. 101.62, F.S., to require requests for ballots not being sent to a voter's address on file in the Florida Voter Registration System to be in writing and signed by the voter. Absent uniformed services voters and overseas voters are exempted from this requirement. The bill also requires the supervisor of elections to record the absence of a signature if the absentee ballot was returned without a signature on the Voter's Certificate.

The bill prohibits a supervisor of elections from providing or delivering an absentee ballot to a voter or his or her immediate family member on the day of an election unless there is an emergency that prevents the voter from going to his or her polling place. If the ballot is provided, the voter or his or her designee must execute an affidavit attesting to the facts constituting an emergency. The Department of State is required to adopt the form for the affidavit by rule.

The bill amends s. 101.68, F.S., to allow the supervisor of elections to use the signature on the precinct register to verify the signature on a Voter's Certificate. This bill also provides a mechanism to "cure" unsigned absentee ballots by requiring the supervisor of elections, until 5 p.m. the day before an election, to accept a completed affidavit from an elector who did not sign the voter's certificate. If the voter correctly completes and submits the affidavit, the ballot will be counted assuming all other requirements are met.

In order to cure an unsigned absentee ballot, the voter must provide identification to the supervisor of elections and complete an Absentee Ballot Affidavit in substantially the following form:

ABSENTEE BALLOT AFFIDAVIT

I, ..., am a qualified voter in this election and a registered voter of ... County, Florida. I do solemnly swear or affirm that I requested, voted, and returned the absentee ballot and that I have not and will not vote more than one ballot in this election. I understand that if I commit or attempt any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I can be convicted of a felony of the third degree and fined up to \$5,000 and/or imprisoned for up to 5 years. I understand that my failure to sign this affidavit provides that my absentee ballot will remain rejected.

...(Voter's Signature)...

...(Address)...

...(City/State)...

The bill amends ss. 101.65, 101.6923, and 101.6952, F.S., to specify that an otherwise acceptable absentee ballot from an absent uniformed services or overseas voter in a presidential preference primary or general election must be counted if the absentee ballot is postmarked or dated no later than election day. The absentee ballot must be received by the supervisor of elections no later than 10 days after the election.

The bill amends s. 104.0616, F.S., to make it a first degree misdemeanor for any person to possess more than two absentee ballots that do not belong to the person or his or her immediate family member. "Immediate family member" means a person's spouse, or the parent, child, grandparent, or sibling of the person or the person's spouse.

²⁹ § 101.67(2), F.S.

³⁰ § 101.65, F.S.

³¹ § 101.68(2)(c), F.S.

³² § 104.0616, F.S.

³³ *Id.*

Legislative Ballot Summaries

Current Situation

A. Florida Constitution

Article XI of the Florida Constitution provides the following methods for amending the State Constitution:

- Joint resolution passed by 3/5 of the membership of each house of the Legislature;
- Initiative petition;
- Proposal by the Constitution Revision Commission;
- Proposal by the Taxation and Budget Reform Commission; or
- Proposal by a constitutional convention.

A proposed amendment to or revision³⁴ of the constitution, or any part of it, must be submitted to the electors at the next general election held more than 90 days after the joint resolution or the report of the revision commission, constitutional convention, or taxation and budget reform commission proposing it is filed with the Secretary of State, unless, pursuant to law enacted by 3/4 of the membership of each house of the Legislature and limited to a single amendment, it is submitted at an earlier special election held more than 90 days after such filing.³⁵

Once during the tenth week, and once during the sixth week immediately preceding the week in which the election is held, each proposed amendment, with notice of the date of the election at which it will be submitted to the electors, must be published in one newspaper of general circulation in each county in which a newspaper is published.³⁶ The Department of State ensures compliance with this constitutional requirement by overseeing publication of the ballot title, ballot summary, and amendment text in newspapers throughout the state.

Unless otherwise specifically provided for elsewhere in the constitution, if the proposed amendment is approved by a vote of at least 60% of the electors voting on the measure, it is effective as an amendment to the constitution 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.³⁷

With respect to joint resolutions of the Legislature proposing an amendment or revision, the constitution does not:

- Contain explicit requirements governing the form or manner in which amendments or revisions proposed by joint resolution appear on the ballot. Specifically, the constitution does not require a joint resolution proposing an amendment or revision to contain a title or ballot summary or limit the length of either, nor does the constitution contain an explicit requirement regarding the accuracy or content of ballot titles, summaries, or the text of proposed amendments;
- Limit the number of proposed amendments or revisions the Legislature may place on a ballot;
- Limit proposed amendments or revisions to a single subject; or
- Otherwise limit the subject matter of a proposed amendment or revision.

B. Statutory Requirements

Section 101.161, F.S., establishes requirements regarding the form and manner in which amendments or revisions to the Florida Constitution appear on the ballot. That section requires each joint resolution that proposes a constitutional amendment or revision to include one or more ballot statements in order of priority. Each ballot statement must consist of a ballot title, by which the measure is commonly referred to, not exceeding 15 words in length, and either a ballot summary that describes the chief purpose of the amendment or revision in clear and unambiguous language, or the full text of the amendment or revision. In 2000, after the court invalidated a legislative ballot summary that had been

³⁴ An "amendment" amends one section of the constitution, while a "revision" amends one or more articles of the constitution. Art. XI, s. 1, Fla. Const.; "The function of a section amendment is to alter, modify or change the substance of a single section of the Constitution containing particularized statements of organic law....The function of an article revision is to restructure an entire class of governmental powers or rights, such as legislative powers, taxation powers, or individual rights." *Smathers v. Smith*, 338 So. 2d 825, 829 (Fla. 1976).

³⁵ Art. XI, s. 5(a), Fla. Const.

³⁶ Art. XI, s. 5(d), Fla. Const.

³⁷ Art. XI, s. 5(e), Fla. Const.

approved by the voters,³⁸ the Legislature exempted legislatively proposed ballot summaries from the statutory 75-word limit that currently applies to ballot summaries of constitutional amendments proposed by other methods.³⁹

Legal challenges to one or more ballot statements in a joint resolution must be filed within 30 days after the joint resolution is filed with the Secretary of State. Unless otherwise provided in the joint resolution, if a court finds that all ballot statements are defective and further appeals are declined, abandoned, or exhausted, the Attorney General must, within 10 days, prepare and submit to the Department of State a revised ballot title or ballot summary that corrects the deficiencies identified by the court. Any legal challenge to a revised ballot title or ballot summary must be filed within 10 days after the revised ballot title or ballot summary is submitted to the Department of State.

A ballot statement that consists of the full text of an amendment or revision must be presumed by a court to be a clear and unambiguous statement of the substance and effect of the amendment or revision, providing fair notice to the electors of the content of the amendment or revision and sufficiently advising electors of the issue upon which they are to vote.

By December 31, 2013, state voting systems must allow for the placement on ballots of the full text of constitutional amendments.⁴⁰

Effect of Changes

The bill amends s. 101.161, F.S., to apply a 75-word limit to the first of multiple summaries in a joint resolution; however any remaining summaries are not subject to a 75-word limit. If the joint resolution contains only one ballot summary, that ballot summary is subject to a 75-word limit. The bill specifies that the 75-word limitation does not apply to any ballot summary revised by the Attorney General to correct deficiencies identified by a court.

The bill removes the option to submit the full text of an amendment or revision in place of a ballot summary and removes the presumption that the full text is a clear and unambiguous statement of the substance and effect of the amendment or revision; that it provides fair notice to the electors of the content of the amendment or revision; and sufficiently advises electors of the issue upon which they are to vote. A conforming change is made by repealing s. 101.591, F.S., which requires all equipment to be able to place the full text of an amendment or revision, with insertions and deletions, on the ballot.

Election Preparation Report

Current Situation

Current law does not require supervisors of elections to prepare or publish a report prior to a general election regarding election preparations.

Effect of Changes

The bill creates s. 100.032, F.S., which requires each supervisor of elections to post on his or her official website, at least 3 months before a general election, a report outlining preparations for the upcoming general election. The report must include, at a minimum, the anticipated staffing levels during the early voting period, on election day, and after election day; and the anticipated amount of automatic tabulating equipment at each early voting site and polling places.

Primary Election Date

Current Situation

Prior to 2011, the primary date was on the Tuesday occurring 10 weeks before the general election.⁴¹ Currently, s. 100.061, F.S., sets the primary date on the Tuesday occurring 12 weeks before the general election.⁴²

Effect of Changes

³⁸ *Armstrong v. Harris*, 773 So. 2d 7 (Fla. 2000) (invalidating the amendment after approval by voters).

³⁹ Ch. 2000-361, Laws of Fla.

⁴⁰ § 101.56075, F.S.

⁴¹ Ch. 2011-40, L.O.F.

⁴² § 100.061, F.S.

The bill amends s. 100.061, F.S., to move the primary date back to the Tuesday occurring 10 weeks before the general election.

Vendor Penalties

Current Situation

Section 101.015, F.S., requires the Department of State (Department) to adopt rules establishing the minimum standards for certification and provisional certification of hardware and software for electronic and electromechanical voting systems. The Department reviews these rules every odd-numbered year.⁴³ The Bureau of Voting Systems Certification is responsible for the standards and certifications of the systems.⁴⁴

The Electronic Voting Systems Act (Act) allows a county commission to provide for the adoption of an electronic or electromechanical voting system.⁴⁵ The Act sets out the process for the approval of, and requirements for, electronic and electromechanical voting systems.⁴⁶ The Act also provides the authority to seek funds from the federal government for improving equipment and access to voting.⁴⁷

Effect of Changes

The bill amends s. 101.5605(3), F.S., to require, before approval of an electronic or electromechanical voting system, that the individual who submits the system for approval designate a registered agent in Florida. The bill requires the same designation before entering a contract for the sale or lease of such voting systems. The registered agent and contact information is required to be updated upon changing.

The bill also addresses the reporting and investigation of defects. The bill creates s. 101.56065, F.S, which defines the term defect as any failure, fault, or flaw in an electronic or electromechanical voting system approved pursuant to s. 101.5605, F.S., which results in nonconformance with the standards in a manner that affects the timeliness or accuracy of the casting or counting of ballots, or any failure or inability of the voting system manufacturer or vendor to make available or provide approved replacements of hardware or software to the counties that have purchased the approved voting system, the unavailability of which results in the system's nonconformance with the standards in a manner that affects the timeliness or accuracy of the casting or counting of ballots.

In addition, the bill amends s. 101.56065, F.S., to require that no later than December 31, 2013, and thereafter on January 1 of every odd-numbered year, each vendor (as defined in the bill) shall file a written disclosure with the Department identifying any known defect in the voting system, or the fact that there is no known defect, the effect of any defect on the operation and use of the approved voting system, and any known corrective measures to cure a defect. The bill specifies that if a vendor becomes aware of the existence of a defect, that vendor must file a new disclosure with the Department within 30 days after the date the vendor determined or reasonably should have determined that the defect existed. If a vendor discloses that a defect exists, the Department may suspend all sales or leases of the voting systems in the state and may suspend use of the system in any election in the state. The Department shall provide written notice of any such suspension to each affected vendor and supervisor of elections. If the Department determines that the defect no longer exists, it shall lift the suspension and provide written notice to each affected vendor and supervisor of elections. If a vendor fails to file a required disclosure for a voting system previously approved by the Department, that system may not be sold, leased or used for election in Florida until the system has been submitted for examination and approval and adopted for use pursuant to s. 101.5605, F.S. The Department shall provide written notice to all supervisors of elections that the system is no longer approved.

If the Department has reasonable cause to believe that an approved voting system contains a defect before, during or after an election and that defect has not been disclosed, the Department may investigate whether the system has such a defect. If the Department determines by a preponderance of the evidence that a defect exists, or that a vendor failed to timely disclose a defect, the Department shall provide written notice to the affected vendor and the supervisor of elections. If the defect has been cured, the vendor shall provide an explanation of how the defect was cured. If after receiving the vendor's explanation, the Department determines that a defect does not exist or has been cured within the timeframe established by the Department, the Department shall take no further action. If the Department determines that a vendor

⁴³ § 101.015, F.S.

⁴⁴ § 101.017, F.S.

⁴⁵ §§ 101.5601-101.5614, F.S.

⁴⁶ §§ 101.5604-101.56062, F.S.

⁴⁷ §§ 101.56063-101.56064, F.S.

failed to timely disclose a defect, that a defect exists and a vendor has not filed a written response or has failed to cure within the timeframe established by the Department, or that the defect cannot be cured, the Department shall impose a civil penalty of \$25,000 for the defect plus an amount equal to the actual costs incurred by the Department in conducting the investigation.

If the Department finds that a defect existed, the Department may suspend all sales and leases of the voting system and may suspend its use in any county in this state. If the Department determines that a defect no longer exists in a voting system that has been suspended from use, the Department shall lift the suspension and authorize the sale, lease and use of the voting system in any election in the state.

The bill also specifies that the Department's authority is supplemental to any other legal authority and that all proceedings are exempt from the Administrative Procedures Act in Ch. 120, F.S.

Solicitation at the Polls

Current Situation

People, political committees, committees of continuous existence, or other groups or organizations are prohibited from soliciting voters inside the polling place or within 100 feet of the entrance to a polling place, polling room, or early voting site.⁴⁸ Before opening an early voting site or polling place, each supervisor of elections must designate the no-solicitation zone and mark the boundaries.⁴⁹ The supervisor of elections or the clerk may take any reasonable actions to ensure order at the polls, including removing disruptive and unruly persons from the polls and/or the no-solicitation zone.⁵⁰

Effect of Changes

The bill amends s. 102.031, F.S., to clarify that solicitation of voters may not occur within 100 feet of the entrance of the office of a supervisor of elections where absentee ballots are requested and printed on demand for the convenience of electors who appear in person to request them. The bill also prohibits a supervisor from designating any other no-solicitation zone or otherwise restricting access to any person, political committee, committee of continuous existence, candidate, or other group or organization for the purposes of soliciting voters.

⁴⁸ § 102.031(4)(a), F.S.

⁴⁹ *Id.*

⁵⁰ § 102.031(4)(c), F.S.

Special Registration for Electors Requiring Assistance

Current Situation

Individuals needing assistance at the poll due to illiteracy or a disability are entitled to receive the assistance of two election officials or another person of his or her choosing, other than the individual's employer, an agent of the employer, or an officer or agent of the individual's union.⁵¹ A supervisor of elections must register such an individual and designate in the individual's registration record that he or she needs assistance in voting.⁵² By 2016, supervisors of elections are required to provide a voter interface device that meets the voter accessibility requirements for individuals with disabilities.⁵³

Effect of Changes

The bill amends s. 101.56075, F.S., to postpone from 2016 to 2020 the date by which supervisors are required to provide a voter interface device that meets the voter accessibility requirements for individuals with disabilities.

Voting in a Different Precinct

Current Situation

Individuals who move to a different precinct than where they are registered to vote may vote in the precinct to which they have moved if the change of residence is within the same county, and the elector completes an affirmation.⁵⁴ Except for active uniformed services voters or their families, an elector whose change of address is from outside the county must vote a provisional ballot.⁵⁵

Effect of Changes

The bill amends s. 101.045, F.S., to allow a voter who moves from the precinct in which the voter is registered may vote a regular ballot in the precinct to which he or she has moved if the new precinct is in a county that uses an electronic database as a precinct register at the polling place.

Voting System Audit

Current Situation

Each canvassing board or local board responsible for certifying an election must conduct a manual audit of the voting systems used in randomly selected precincts.⁵⁶ The audit must be completed by the end of the 7th day following certification.⁵⁷ The audit consists of a public manual tally of the votes cast in one randomly selected race that appears on the ballot.⁵⁸ The tally must include election day, absentee, early voting, provisional, and overseas ballots in at least 1 percent, but no more than 2 percent, of the randomly-selected precincts.⁵⁹ If one percent of precincts is less than that one entire precinct, the audit must be conducted using an entire precinct.⁶⁰

Effect of Changes

The bill amends s. 101.591, F.S., to authorize the use of an automated, independent audit instead of conducting a manual audit, and establish the requirements for an automated audit. The automated audit must consist of a public automated tally of the votes cast across every race appearing on the ballot. The tally sheet must consist of election day, absentee, early voting, provisional, and overseas ballots in at least 20 percent of the precincts chosen at random by the county canvassing board or the local board responsible for certifying the election.

⁵¹ § 101.051(1), F.S.

⁵² § 101.051(3), F.S.

⁵³ § 101.56075(3), F.S.

⁵⁴ § 101.045(2)(a), F.S.

⁵⁵ § 101.045(2)(b), F.S.

⁵⁶ § 101.591(1), F.S.

⁵⁷ § 101.591(4), F.S.

⁵⁸ § 101.591(2), F.S.

⁵⁹ § 101.591(2), F.S.

⁶⁰ *Id.*

The bill requires the Division of Elections to adopt rules for the approval of such automated audit equipment. The rules must provide that the system be:

- Completely independent of the primary voting system;
- Fast enough to produce final results within the current statutory time limit; and
- Capable of demonstrating that the ballots of record have been accurately adjudicated by the audit system.

Presidential Preference Primary

Current Situation

Pursuant to s. 103.101, F.S., the Presidential Preference Primary Date Selection Committee, as created and governed by that section, sets the date for the presidential preference primary.⁶¹ The Committee elects one person to be the candidate for nomination of such party for President of the United States or selects delegates to the national nominating convention, as provided by party rule.⁶²

By October 31 of the year preceding the presidential preference primary, each political party is required to submit its list of presidential candidates.⁶³ The Secretary of State must prepare a list of the names of the presidential candidates no later than the first Tuesday after the first Monday in November of the year preceding the presidential preference primary.⁶⁴ No later than the second Tuesday after the first Monday in November, a candidate can submit to the Department of State an affidavit stating that he or she is not now, and does not presently intend to become, a candidate for President at the upcoming nominating convention.⁶⁵ No later than the third Tuesday after the first Monday in November, the Department of State must certify to each supervisor of elections the name of each candidate for political party nomination.⁶⁶

Effect of Changes

The bill amends s. 103.101, to abolish the Presidential Preference Primary Date Selection Committee and set the presidential preference primary date as the first Tuesday in each year that is a multiple of 4 that the rules of both parties provide for state delegations to be allocated without penalty. Any party rule directing the vote of delegates at a national nominating convention must reasonably reflect the results of the presidential preference primary, if one is held.

The bill also changes the date from October 31 to November 30 by which a political party is required to submit its list of presidential candidates. All other events noted above take place in December instead of November: The Secretary of State must prepare a list of the names of the presidential candidates no later than the first Tuesday after the first Monday in *December* of the year preceding the presidential preference primary. No later than the second Tuesday after the first Monday in *December*, a candidate can submit to the Department of State an affidavit stating that he or she is not now, and does not presently intend to become, a candidate for President at the upcoming nominating convention. No later than the third Tuesday after the first Monday in *December*, the Department of State must certify to each supervisor of elections the name of each candidate for political party nomination.

Committees of Continuous Existence Gift Ban

Current Situation

On May 1, 2013, the Governor signed into law the Ethics Reform Bill (CS/SB 2),⁶⁷ and the Campaign Finance Reform Bill (CS/CS/CS/HB 569).⁶⁸ The Campaign Finance Reform Bill eliminates committees of continuous existence (CCEs) by revoking all CCE certifications on September 30, 2013. The Ethics Reform Bill includes conforming changes to remove references to CCEs in ss. 112.3148 and 112.3149, F.S., which govern gifts, honoraria, and expenses related to honorarium events provided by CCEs to reporting individuals and procurement employees. Because the Ethics Reform Bill was effective upon becoming a law, the references to CCEs in ss. 112.3148 and 112.3149, F.S., were removed as of May 1, 2013. Therefore, between May 1, 2013, and September 30, 2013, CCEs will continue to exist, but the provisions

⁶¹ § 103.101(1)(a), F.S.

⁶² § 103.101(1)(b), F.S.

⁶³ § 103.101(2), F.S.

⁶⁴ *Id.*

⁶⁵ § 103.101(3), F.S.

⁶⁶ *Id.*

⁶⁷ Ch. 2013-36, L.O.F.

⁶⁸ Ch. 2013-37, L.O.F.

that should govern gifts, honoraria, and expenses related to honorarium events provided by CCEs to reporting individuals and procurement employees will no longer be applicable.

Effect of Changes

Section 22 of the bill creates an unnumbered section of law to specify that between May 1, 2013 and September 30, 2013, CCEs, reporting individuals, and procurement employees remain subject to the provisions of ss. 112.3148 and 112.3149, F.S., with respect to gifts, honoraria, and expenses related to honorarium events provided by CCEs.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: The Department of State does not expect any direct fiscal impacts from this bill and expects to absorb any costs by using current agency resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: The fiscal impact on local governments will vary by county depending on current funding levels and resources available to local supervisors of elections. For example, counties that successfully petition the Department of Justice for authorization to print and deliver single-language ballots for each minority language required in those counties may experience additional printing and handling costs for additional ballots. Counties may also experience an increase or decrease in printing and handling costs relative to the length of the ballot depending on the ballot summaries contained therein. Counties that choose to implement an independent audit system will experience an increase in costs relative to that system. There may also be de minimis costs associated with the printing of new forms and new supplies such as the absentee ballot secrecy sleeves and certificate envelopes because of the changes in the required printed information on each. HAVA (Help America Vote Act) matching grant dollars are available for advancing technologies for election administration and may help defray portions of these fiscal impact for certain counties. Conversely, counties may experience a cost savings with the delay of the requirement to provide a voter interface device that meets the voter accessibility requirements for individuals with disabilities.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.