

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7037 PCB GAC 18-01 Election Dates for Municipal Office
SPONSOR(S): Government Accountability Committee, Caldwell
TIED BILLS: **IDEN./SIM. BILLS:** SB 1262

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Accountability Committee	18 Y, 1 N	Toliver	Williamson
1) Public Integrity & Ethics Committee	12 Y, 6 N	Poreda	Kiner

SUMMARY ANALYSIS

Under current law, elections for members of a municipality's governing body are conducted during the general election in November of even-numbered years unless the governing body of the municipality adopts an ordinance to change the date. A municipality that changes its election date is authorized to provide for the orderly transition of office resulting from the date change.

The bill expressly preempts to the state the authority to establish the dates of elections of municipal officers and provides the exclusive method for establishing those dates. Any state law, municipal charter, or municipal ordinance that conflicts with the bill is superseded to the extent of the conflict. As a result, a municipality will no longer have authority to establish unilaterally the date of its municipal officer elections.

The bill requires the governing body of a municipality to choose from among the following dates to hold its elections: the general election, the first Tuesday after the first Monday in November in an odd-numbered year, or the third Tuesday in March in an odd-numbered or even-numbered year. The bill sets a format for runoff elections and allows elected municipal officers to continue in office until the next municipal election held in accordance with the bill.

The provisions of the bill that establish the method of selecting municipal election dates do not affect the manner in which vacancies in municipal office are filled or the manner in which recall elections for municipal officers are conducted. However, the bill allows municipal recall elections to be held concurrently with municipal elections provided the municipal election occurs during a specific period.

In order to provide for an orderly transition of office, the bill provides that the terms of incumbent elected municipal officers affected by the change in election dates will be extended to the next municipal election.

Lastly, the bill repeals s. 101.75, F.S., which allows a municipality to change its election dates in order to hold its elections concurrently with a statewide or countywide election or, if the voting devices for a statewide or countywide election are not available, to hold its elections 30 days before or after the statewide or countywide election.

The bill does not appear to have a fiscal impact on the state, but it may reduce or increase election costs for certain municipalities.

The effective date for the bill is July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Article VI, s. 5(a) of the Florida Constitution requires a general election to be held in each county on the first Tuesday after the first Monday in November of each even-numbered year to choose a successor to each elective state and county officer whose term will expire before the next general election. Section 100.031, F.S., incorporates that constitutional provision into statute, but also requires a general election to be held in each county on the first Tuesday after the first Monday in November of each even-numbered year to choose a successor to each elective federal and district officer whose term will expire before the next general election.

Article VI, s. 6 of the Florida Constitution provides that registration and elections in municipalities must, and in other governmental entities created by statute may, be provided by general law. The Florida Election Code,¹ which is a collection of general laws, governs the conduct of municipal elections in the absence of an applicable special act, charter, or ordinance.² However, no act, charter, or ordinance may be adopted which conflicts with or exempts a municipality from any provision in the Florida Election Code that expressly applies to municipalities.³

Elections for municipal officers are conducted during the general election in November of even-numbered years unless the governing body of a municipality has adopted an ordinance to change the dates for qualifying and for the election of members of the governing body of the municipality.⁴ The ordinance may also provide for the orderly transition of office resulting from the date changes.⁵

Section 101.75, F.S., allows the governing body of a municipality to move the date of any municipal election to a date concurrent with any statewide or countywide election provided the election date and dates for qualifying for the election are specifically provided for in the ordinance.⁶ However, if the voting devices used in the county are not available to the municipality during the statewide or countywide election, the municipality may provide that its election will be held 30 days before or after the statewide or countywide election.⁷

Any member of the governing body of a municipality may be removed from office by the electors of the municipality provided certain requirements are met.⁸ If the requirements are met but the municipal officer does not resign his or her office, a municipal recall election is held for the removal of that officer.⁹ A municipal recall election is held in conjunction with a general or special election if such an election is held during the defined timeframe for conducting a recall election.¹⁰

A municipality pays for the printing and delivery of ballots and instruction cards for a municipal election.¹¹

¹ Chapters 97-106, F.S., are known as “The Florida Election Code.”

² Section 100.3605(1), F.S.

³ *Id.*

⁴ Section 100.3605(2), F.S.; *see also* s. 166.021(4), F.S.

⁵ Section 100.3605(2), F.S.

⁶ Section 101.75(3), F.S.

⁷ Section 101.75(1), F.S.

⁸ Section 100.361, F.S.

⁹ Section 100.361(4), F.S.

¹⁰ *Id.*

¹¹ Section 101.21, F.S.

Effect of the Bill

The bill expressly preempts to the state the authority to establish the dates of elections of municipal officers. Any state law, municipal charter, or municipal ordinance that conflicts with the bill is superseded to the extent of the conflict. As a result, a municipality will no longer have the authority to establish unilaterally the date of its municipal officer elections.

The bill requires the governing body of a municipality to choose from among the following dates:

- The general election in November of each even-numbered year;
- The first Tuesday after the first Monday in November of each odd-numbered year; or
- The third Tuesday in March of an even-numbered year or odd-numbered year.

If a municipal charter or ordinance requires the municipality to conduct its election in a runoff format, the bill requires the municipality to choose from among the following options:

Initial Election	Runoff Election
Primary Election (Tuesday, 10 weeks prior to General Election)	General Election
Tuesday 10 weeks before the first Tuesday after the first Monday in November of odd-numbered years	First Tuesday after the first Monday in November of odd-numbered years
Tuesday 10 weeks before the third Tuesday in March in an odd-numbered or even-numbered year	Third Tuesday in March in an odd-numbered or even-numbered year

The bill does not require a municipality to alter or amend its charter. Any municipal charter provision that conflicts with the bill is automatically superseded without further action by the municipality. Likewise, any ordinance that conflicts with the bill is automatically superseded without any further action of the municipality.

The provisions of the bill that establish the method of selecting municipal officer election dates does not affect the manner in which vacancies in municipal office are filled or the manner in which recall elections for municipal officers are conducted. However, the bill allows municipal recall elections to be held concurrently with municipal elections provided the municipal election occurs during a specific time-period.

In order to provide for an orderly transition of office, the bill provides that the terms of incumbent elected municipal officers affected by the change in election dates will be extended to the next municipal election held in accordance with the provisions of the bill.

The bill also repeals s. 101.75, F.S., which allows a municipality to change municipal officer election dates in order to hold its elections concurrently with a statewide or countywide election or, if the voting devices for a statewide or countywide election are not available, to hold its elections 30 days before or after the statewide or countywide election.

The bill will not impact any elections scheduled prior to July 1, 2020 which is the effective date.

B. SECTION DIRECTORY:

Section 1 amends s. 100.3605, F.S., relating to the conduct of municipal elections.

Section 2 amends s. 100.361, F.S., relating to municipal recall elections.

Section 3 repeals s. 101.75, F.S., relating to municipal elections.

Section 4 creates an unnumbered section of law requiring the terms of incumbent elected municipal officers to be extended to the next municipal election held in accordance with this bill.

Section 5 provides an effective date of July 1, 2020.

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:

The bill may decrease or increase the cost of conducting elections for certain municipalities. The bill does not require municipalities to amend their charters because all conflicting charter provisions are automatically superseded.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill may require some municipalities to spend funds or take action requiring the expenditure of funds in order to comply with the new election date requirements created by the bill; however, Art.

VII, section 18 of the Florida Constitution explicitly exempts election laws from the county/municipality “mandates” provision within that section.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.