

STORAGE NAME: h1465.er

DATE: March 4, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ELECTION REFORM
ANALYSIS**

BILL #: HB 1465 (PCB ER 99-05)

RELATING TO: Elections - Open Primaries

SPONSOR(S): Committee on Election Reform, Rep(s). Flanagan & Others

COMPANION BILL(S): SB 710

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) ELECTION REFORM (PRC) YEAS 9 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

HB 1465 implements the recent amendment to Article VI, Section 5 of the Florida Constitution by allowing all voters, regardless of party affiliation, to vote in a primary election when all candidates have the same party affiliation and there will be no opposition in the ensuing general election.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Presently Florida law provides for a closed primary system whereby votes are cast by voters having the same party affiliation as the candidate. In instances where only one party holds a primary and there is no opposition in the general election, the outcome of that primary decides who will occupy the office.

The amendment to Article VI, section 5, Florida Constitution, will provide all qualified voters, regardless of party affiliation, the opportunity to vote in a primary election if two conditions are met: 1) all candidates in the primary have the same party affiliation; and 2) the winner will have no opposition in the general election for the office sought. These changes effectively create an "open" primary under the circumstances noted above.

The amendment to the Constitution takes effect January 5, 1999. The effective date of this bill is January 1, 2000.

B. EFFECT OF PROPOSED CHANGES:

HB 1465 implements the necessary changes to the Florida Election Code dictated by the recent amendments to the Florida Constitution allowing for open primaries in certain instances. If all candidates for an office are seeking the nomination of the same political party and there will be no opposition in the general election, all voters will be allowed to vote for that office in the first primary election and, if necessary, the general election.

When an open primary is held, those offices affected will be grouped together and placed under the separate heading of "Universal Primary" on the ballot or on a separate ballot. In cases where no candidate has received a majority of votes cast, the two candidates receiving the highest number of votes will be placed on the general election ballot.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Local Supervisors of Elections will be required to add a new category to the ballot to accommodate the names of the candidates for an "open" primary.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

This bill amends ss. 101.021, 101.251, and 101.5606, F.S. and creates s. 100.065, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Creates § 100.065, F.S., allowing electors, regardless of party affiliation, to vote in a primary election if all candidates have the same party affiliation and there will be no opposition in the general election.

Candidates in an "open" primary will have their names grouped on a separate portion of the ballot or on a separate ballot under the heading "Universal Primary."

In instances where a candidate does not receive a majority vote in an "open" primary, the two candidates receiving the highest number of votes will advance to the general election.

Section 2: Amends § 101.021, F.S., relating to electors voting in primary elections to conform.

Section 3: Amends § 101.251, F.S., relating to information required to be printed on ballots to conform.

Section 4: Amends § 101.5606, F.S., relating to requirements for approval of electronic or electromechanical voting systems to conform.

Section 5: Provides the bill will be effective upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Unavailable at this time.

2. Recurring Effects:

Unavailable at this time.

3. Long Run Effects Other Than Normal Growth:

Unavailable at this time.

4. Total Revenues and Expenditures:

Unavailable at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Unavailable at this time.

2. Recurring Effects:

Unavailable at this time.

3. Long Run Effects Other Than Normal Growth:

Unavailable at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

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3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Election laws are exempt from the requirements of Article VII, Section 18, Florida Constitution.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON ELECTION REFORM:

Prepared by:

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