

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 364

SPONSOR: Committee on Ethics and Elections, Senator Saunders and others

SUBJECT: Primary elections

DATE: December 1, 1999

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bradshaw</u>	<u>Bradshaw</u>	<u>EE</u>	<u>Favorable</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

Senate Bill 364 implements the amendment to Article VI, section 5, Florida Constitution, which was approved by the voters at the November 1998 General Election. The bill allows all voters to vote in primary election contests where the winner of the primary will have no further opposition in the general election, except from a write-in candidate.

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

## II. Present Situation:

Effective January 5, 1999, Article VI, section 5(b), Florida Constitution, provides -

If all candidates for an office have the same party affiliation and the winner will have no opposition in the general election, all qualified electors, regardless of party affiliation, may vote in the primary elections for that office.

Prior to the constitutional amendment, a voter was prohibited from voting in a primary election for any candidate running for nomination from a political party other than the party in which such voter was registered. Therefore, in instances where only one party had candidates who had qualified for an office and there was no general election opposition, only the voters in that political party determined the eventual officeholder. The statutes have not been amended to reflect the constitutional change.

There have been several special elections since the effective date of the constitutional amendment. For these special elections, the Governor has issued executive orders setting forth the procedures to be followed based on the terms of the amendment. The portion of the executive order issued in January 1999 which related to the primary election issue read:

If all candidates for the offices to be filled in any of the special elections have the same party affiliation and the special primary election winner will have no opposition in the special general election, all qualified voters, regardless of party affiliation, may vote in the special primary election for that office.

Similar language was contained in the executive orders calling for the special elections in other House and Senate districts. On December 14, 1999, all voters in Senate District 34 will be allowed to vote in the special primary election to fill the vacancy in that district. This will be the first time the open primary has been used in Florida.

### **III. Effect of Proposed Changes:**

Senate Bill 364 allows all voters to vote in certain primary election contests. The bill provides that if all candidates for an office are seeking the nomination of the same political party and there will otherwise be no opposition in the general election except from a write-in candidate, all voters are allowed to vote for that office in the first primary election and, if necessary, the general election.

The names of such candidates to appear on the first primary election ballot will be grouped together on a separate portion of the ballot under the heading of "Universal Primary." Any registered voter will be allowed to vote in the Universal Primary election contests. If any candidate receives a majority of the votes in the Universal Primary and no write-in candidate has qualified, the candidate receiving a majority will not have his or her name on any other ballot. If a write-in candidate has qualified, the name of the candidate receiving a majority in the Universal Primary will have his or her name on the general election ballot, along with a space for the write-in candidate to have his or her name written in. If no candidate receives a majority of the votes cast for the office in the Universal Primary, the names of the two persons receiving the highest number of votes will have their names placed on the general election ballot, along with a space for a write-in candidate, if one has qualified.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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