 1

 2   An act relating to rulemaking authority of the

 3   Department of State (RAB); amending s. 20.10,

 4   F.S.; authorizing the department to adopt rules

 5   to administer laws conferring duties upon it;

 6   amending s. 99.061, F.S.; authorizing the

 7   department to prescribe rules for filing papers

 8   to qualify as a candidate for federal, state,

 9   county, or district office; amending s.

10   101.161, F.S.; providing for ballot initiatives

11   to be numbered in the order of filing or

12   certification and as provided by department

13   rule; amending s. 101.62, F.S.; authorizing the

14   department to adopt rules for preparing and

15   mailing absentee ballots to electors who are

16   overseas; amending s. 106.07, F.S.; authorizing

17   the department to adopt requirements for filing

18   campaign treasurers' reports; amending s.

19   106.22, F.S.; providing for rules prescribing

20   requirements for filing complaints of voter

21   fraud and for investigating those complaints;

22   amending s. 106.23, F.S.; requiring that

23   requests for advisory opinions by the Division

24   of Elections be submitted in accordance with

25   department rule; amending s. 120.54, F.S.;

26   authorizing the department to prescribe rules

27   under which a state agency may incorporate

28   materials by reference in adopting an agency

29   rule; amending s. 267.061, F.S.; providing

30   additional duties of the Division of Historical

31   Resources with respect to protecting and

                                1

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

1   administering historical resources; authorizing

2   the division to issue certain permits;

3   requiring that the division adopt rules for

4   issuing permits and administering the transfer

5   of certain objects; amending s. 872.05, F.S.;

6   authorizing the department to adopt procedures

7   for reporting an unmarked human burial and

8   determining jurisdiction of the burial;

9   providing effective dates.

10

11   Be It Enacted by the Legislature of the State of Florida:

12

13   Section 1.   Section 20.10, Florida Statutes, is amended

14   to read:

15   20.10   Department of State.--There is created a

16   Department of State.

17   (1)   The head of the Department of State is the

18   Secretary of State.

19   (2)   The following divisions of the Department of State

20   are established:

21   (a)   Division of Elections.

22   (b)   Division of Historical Resources.

23   (c)   Division of Corporations.

24   (d)   Division of Library and Information Services.

25   (e)   Division of Licensing.

26   (f)   Division of Cultural Affairs.

27   (g)   Division of Administration.

28   (3)   The Department of State may adopt rules pursuant

29   to ss. 120.536(1) and 120.54 to administer the provisions of

30   law conferring duties upon the department.

31

2

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

1   Section 2. Effective January 7, 2003, section 20.10,
2   Florida Statutes, as amended by section 4 of chapter 2000-258,
3   Laws of Florida, is amended to read:
4   20.10 Department of State.--There is created a
5   Department of State.
6   (1) The head of the Department of State is the
7   Secretary of State. The Secretary of State shall be appointed
8   by the Governor, subject to confirmation by the Senate, and
9   shall serve at the pleasure of the Governor. The Secretary of
10 State shall perform the functions conferred by the State
11 Constitution upon the custodian of state records.
12   (2) The following divisions of the Department of State
13 are established:
14   (a) Division of Elections.
15   (b) Division of Historical Resources.
16   (c) Division of Corporations.
17   (d) Division of Library and Information Services.
18   (e) Division of Licensing.
19   (f) Division of Cultural Affairs.
20   (g) Division of Administration.
21   (3) The Department of State may adopt rules pursuant
22 to ss. 120.536(1) and 120.54 to administer the provisions of
23 law conferring duties upon the department.
24   Section 3. Subsection (9) is added to section 99.061,
25 Florida Statutes, to read:
26   99.061 Method of qualifying for nomination or election
27 to federal, state, county, or district office.--
28   (9) The Department of State may prescribe by rule
29 requirements for filing papers to qualify as a candidate under
30 this section.
31

3

 1   Section 4. Subsection (2) of section 101.161, Florida
 2 Statutes, is amended to read:
 3   101.161 Referenda; ballots.--
 4   (2) The substance and ballot title of a constitutional
 5 amendment proposed by initiative shall be prepared by the
 6 sponsor and approved by the Secretary of State in accordance
 7 with rules adopted pursuant to s. 120.54. The Department of
 8 State shall give each proposed constitutional amendment a
 9 designating number for convenient reference. This number
10 designation shall appear on the ballot. Designating numbers
11 shall be assigned in the order of filing or certification <u>and</u>
12 <u>in accordance with rules adopted by the Department of State</u> <s>of</s>
13 <s>the amendments</s>. The Department of State shall furnish the
14 designating number, the ballot title, and the substance of
15 each amendment to the supervisor of elections of each county
16 in which such amendment is to be voted on.
17   Section 5. Paragraph (a) of subsection (4) of section
18 101.62, Florida Statutes, is amended to read:
19   101.62 Request for absentee ballots.--
20   (4)(a) To each absent qualified elector overseas who
21 has requested an absentee ballot, the supervisor of elections
22 shall, not fewer than 35 days before the first primary
23 election, mail an absentee ballot. Not fewer than 45 days
24 before the second primary and general election, the supervisor
25 of elections shall mail an advance absentee ballot to those
26 persons requesting ballots for such elections. The advance
27 absentee ballot for the second primary shall be the same as
28 the first primary absentee ballot as to the names of
29 candidates, except that for any offices where there are only
30 two candidates, those offices and all political party
31 executive committee offices shall be omitted. Except as

                                4

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

1 provided in s. 99.063(4), the advance absentee ballot for the
2 general election shall be as specified in s. 101.151, except
3 that in the case of candidates of political parties where
4 nominations were not made in the first primary, the names of
5 the candidates placing first and second in the first primary
6 election shall be printed on the advance absentee ballot. The
7 advance absentee ballot or advance absentee ballot information
8 booklet shall be of a different color for each election and
9 also a different color from the absentee ballots for the first
10 primary, second primary, and general election. The supervisor
11 shall mail an advance absentee ballot for the second primary
12 and general election to each qualified absent elector for whom
13 a request is received until the absentee ballots are printed.
14 The supervisor shall enclose with the advance second primary
15 absentee ballot and advance general election absentee ballot
16 an explanation stating that the absentee ballot for the
17 election will be mailed as soon as it is printed; and, if both
18 the advance absentee ballot and the absentee ballot for the
19 election are returned in time to be counted, only the absentee
20 ballot will be counted. The Department of State may prescribe
21 by rule the requirements for preparing and mailing absentee
22 ballots to absent qualified electors overseas.
23   Section 6. Subsection (9) is added to section 106.07,
24 Florida Statutes, to read:
25   106.07 Reports; certification and filing.--
26   (9) The Department of State may prescribe by rule the
27 requirements for filing campaign treasurers' reports as set
28 forth in this chapter.
29   Section 7. Subsection (11) of section 106.22, Florida
30 Statutes, is amended to read:
31

                                  5

 1   106.22 Duties of the Division of Elections.--It is the
 2   duty of the Division of Elections to:
 3   (11) Conduct preliminary investigations into any
 4   irregularities or fraud involving voter registration or voting
 5   and report its findings to the state attorney for the judicial
 6   circuit in which the alleged violation occurred for
 7   prosecution, where warranted. The Department of State may
 8   prescribe by rule requirements for filing a complaint of voter
 9   fraud and for investigating any such complaint.
10   Section 8. Subsection (2) of section 106.23, Florida
11   Statutes, is amended to read:
12   106.23 Powers of the Division of Elections.--
13   (2) The Division of Elections shall provide advisory
14   opinions when requested by any supervisor of elections,
15   candidate, local officer having election-related duties,
16   political party, political committee, committee of continuous
17   existence, or other person or organization engaged in
18   political activity, relating to any provisions or possible
19   violations of Florida election laws with respect to actions
20   such supervisor, candidate, local officer having
21   election-related duties, political party, committee, person,
22   or organization has taken or proposes to take. Requests for
23   advisory opinions must be submitted in accordance with rules
24   adopted by the Department of State.A written record of all
25   such opinions issued by the division, sequentially numbered,
26   dated, and indexed by subject matter, shall be retained. A
27   copy shall be sent to said person or organization upon
28   request. Any such person or organization, acting in good
29   faith upon such an advisory opinion, shall not be subject to
30   any criminal penalty provided for in this chapter. The
31   opinion, until amended or revoked, shall be binding on any

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

 1   person or organization who sought the opinion or with

 2   reference to whom the opinion was sought, unless material

 3   facts were omitted or misstated in the request for the

 4   advisory opinion.

 5   Section 9. Paragraph (i) of subsection (1) of section

 6   120.54, Florida Statutes, is amended to read:

 7   120.54 Rulemaking.--

 8   (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER

 9   THAN EMERGENCY RULES.--

10   (i) A rule may incorporate material by reference but

11   only as the material exists on the date the rule is adopted.

12   For purposes of the rule, changes in the material are not

13   effective unless the rule is amended to incorporate the

14   changes. A ~~No~~ rule may <u>not</u> be amended by reference only.

15   Amendments must set out the amended rule in full in the same

16   manner as required by the State Constitution for laws. <u>The</u>

17   <u>Department of State may prescribe by rule requirements for</u>

18   <u>incorporating materials by reference pursuant to this</u>

19   <u>paragraph.</u>

20   Section 10. Paragraph (p) is added to subsection (3)

21   of section 267.061, Florida Statutes, to read:

22   267.061 Historic properties; state policy,

23   responsibilities.--

24   (3) DIVISION RESPONSIBILITY.--It is the responsibility

25   of the division to:

26   <u>(p) Protect and administer historical resources</u>

27   <u>abandoned on state-owned lands or on state-owned sovereignty</u>

28   <u>submerged lands. The division may issue permits for survey and</u>

29   <u>exploration activities to identify historical resources and</u>

30   <u>may issue permits for excavation and salvage activities to</u>

31   <u>recover historical resources. The division may issue permits</u>

                              7

1   for archaeological excavation for scientific or educational

2   purposes on state-owned lands or on state-owned sovereignty

3   submerged lands. The division may also issue permits for

4   exploration and salvage of historic shipwreck sites by

5   commercial salvors on state-owned sovereignty submerged lands.

6   The division shall adopt rules to administer the issuance of

7   permits for all such activities. In addition, the division

8   shall adopt rules to administer the transfer of objects

9   recovered by commercial salvors under permit in exchange for

10 recovery services provided to the state.

11   Section 11. Subsection (11) is added to section

12 872.05, Florida Statutes, to read:

13   872.05 Unmarked human burials.--

14   (11) RULES.--The Department of State may prescribe by

15 rule procedures for reporting an unmarked human burial and for

16 determining jurisdiction over the burial.

17   Section 12. Except as otherwise expressly provided in

18 this act, this act shall take effect upon becoming a law.

19

20

21

22

23

24

25

26

27

28

29

30

31

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.