

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/CS/SB 1374

SPONSOR: Appropriations Subcommittee on General Government, Committee on Ethics and Elections and Senator Carlton

SUBJECT: Elections

DATE: April 23, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bradshaw	Bradshaw	EE	Favorable/CS
2.	Hayes	Martin	AGG	Favorable/CS
3.			AP	Withdrawn: Fav/CS
4.			RC	Withdrawn
5.				
6.				

I. Summary:

Committee Substitute for Committee Substitute for Senate Bill 1374 addresses a number of areas highlighted in the 2000 General Election. The bill contains the following major provisions:

- Eliminates punchcard voting systems, paper ballots, mechanical lever machines and central count optical scan voting systems, beginning with the 2002 primary election;
- Provides a minimum standard of precinct count tabulation for any voting system;
- Provides for provisional ballots for voters whose eligibility cannot be determined at the polls on election day;
- Revises the recount standards and mechanisms;
- Revises the deadlines for the certification of election returns;
- Authorizes any registered voter to vote an absentee ballot and modifies other portions of the absentee ballot laws which have not been precleared by the Justice Department or which have proven unworkable;
- Creates several sections to facilitate the provisions of the federal Uniformed and Overseas Citizens Absentee Voting Act;
- Eliminates the second primary election and moves the date of the remaining primary;
- Provides minimum standards for pollworker training and requires the Department of State to prescribe a uniform polling place procedures manual to be made available to each precinct on election day;
- Authorizes state, county and municipal workers to serve as pollworkers, in lieu of their normal work, and encourages the supervisors of elections to develop public-private programs to recruit pollworkers;

- Requires the Department of State to adopt rules prescribing minimum standards for voter education;
- Requires supervisors of elections to post a Voter's Bill of Rights and Responsibilities at each polling place;
- Changes the composition of the Elections Canvassing Commission and provides certain restrictions on members of the Canvassing Commission and the county canvassing boards;
- Modifies the grounds for contesting an election;
- Provides for the automatic restoration of ex-felon's voting rights under certain conditions, effective upon the voters' approval of a constitutional amendment;
- Requires the supervisors of elections to be elected on a nonpartisan basis;
- Revises procedures for school district millage elections;
- Appropriates funds to the Division of Elections for a statewide on-line voter registration database; and
- Provides an appropriation to the Division of Elections to be distributed to counties to implement the provisions of this act.

This bill substantially amends the following sections of the Florida Statutes: ss. 97.021, 97.041, 97.052, 97.053, 97.055, 97.071, 97.073, 97.1031, 98.015, 98.081, 98.255, 98.471, 99.061, 99.063, 99.095, 99.103, 100.061, 100.081, 100.111, 100.141, 100.341, 100.361, 101.015, 101.031, 101.045, 101.131, 101.151, 101.21, 101.24, 101.252, 101.292, 101.341, 101.43, 101.49; 101.5603, 101.5604, 101.5606, 101.5614, 101.58, 101.62, 101.64, 101.65, 101.657, 101.68, 101.69, 101.71, 101.75, 102.111, 102.112, 102.141, 102.166, 102.168, 103.021, 103.022, 103.091, 103.101, 104.047, 104.30, 105.031, 105.035, 105.041, 105.051, 105.061, 105.08, 106.07, 106.08, 106.29, 138.05, 236.25, 236.31, 236.32, and 582.18. The bill repeals the following sections of the Florida Statutes: ss. 98.0975, 100.071, 100.091, 100.096, 101.011, 101.141, 101.181, 101.191, 101.251, 101.27, 101.28, 101.29, 101.32, 101.33, 101.34, 101.35, 101.36, 101.37, 101.38, 101.39, 101.40, 101.445, 101.45, 101.46, 101.47, 101.54, 101.55, 101.56, 101.5609, 101.647, 101.685, and 102.012 (7), (8), and (9). The bill creates ss. 97.0555, 101.048, 101.6951, 101.6952, 101.697, 101.698, 101.595, 102.014, and 102.135 Florida Statutes.

II. Present Situation:

The 2000 General Election for President was one of the closest in the nation's history. Florida was in the forefront of the Presidential contest when it became apparent that the winner in Florida would gain Florida's 25 electoral votes and the Presidency. The litigation that ensued showed that Florida's election laws and procedures need to be revised in a number of areas.

Voting Systems

During the 2000 election cycle, there were four types of voting systems in use in the State.

- Forty-one counties used optical scan equipment (26 used a precinct count tabulator and 15 used a central tabulator);
- Twenty-four counties used a punchcard system;
- One county used mechanical lever machines; and

- One county used paper ballots.

Florida has adopted a stringent set of standards for voting systems. Voting systems must meet these standards in a testing process prior to their use in the State of Florida.

Currently, the county commission of each county is responsible for the purchase of voting equipment for that county. The commission, upon consultation with the supervisor of elections, has the authority to adopt, purchase or otherwise procure voting equipment for the county, as long as the equipment has been approved by the Department of State for use in the state.

The 2000 General Election highlighted a number of problems with voting systems and ballot designs. For example, recounts in counties using punchcard systems indicated a number of problems with “hanging chad.” Likewise, many ballot designs placed Presidential candidates’ names on two columns or pages, apparently confusing many voters and causing them to overvote their ballots.

Provisional Ballots

Florida law requires a person to meet certain eligibility requirements in order to vote. Supervisors of elections keep lists of all registered voters in their respective counties to insure that persons eligible to vote are allowed to do so and that those ineligible are not permitted to vote.

On election day, each election board is provided a precinct register, which includes names of registered voters in the county who have been assigned to that precinct. An elector is required to vote in the precinct in which he or she resides.

When a voter enters the polling place, he or she provides a picture identification to the poll worker, who locates the voter’s name on the precinct register. If the poll worker is satisfied that the person presenting himself or herself to vote is the same person as listed on the precinct register, the voter is allowed to vote. If the person’s name does not appear on the precinct register, the poll worker must contact the supervisor of elections to verify the person’s status as a registered voter. Upon such verification, the person is allowed to vote.

During the 2000 General Election, there were reports of voters presenting themselves at the polls only to find that their names were not on the precinct register. Numerous poll workers reported that they were unable to reach the supervisor of elections’ offices to verify whether the persons were registered to vote. Some voters were turned away, others were told to come back later, and still others were allowed to vote even though their eligibility was questionable.

Recounts

There are several different recount provisions in Florida Statutes – automatic recounts, *limited* manual recounts (1% of the votes cast), and *full* manual recounts.

Automatic Recounts

An automatic recount is triggered when the returns for an office indicate that:

- A candidate was defeated or eliminated by one-half of one percent or less of the votes cast for the office;
- A judicial candidate was retained or not retained by one-half of one percent or less of the votes cast on the question of retention; or
- A ballot issue was approved or rejected by one-half of one percent or less of the votes cast on such issue.

The canvassing board responsible for certifying the results of the election orders the automatic recount upon a determination that a recount is warranted by the vote. The canvassing board conducting the recount is required to examine the counters on the machines or the tabulation of the ballots cast in each precinct and determine whether or not the returns correctly reflect the votes cast.

During the 2000 Presidential election, an automatic recount was ordered based on the vote totals reported election night. County canvassing boards immediately began the automatic recount. Counties conducted their recounts in different manners. Some counties ran their ballots back through the tabulators while other counties instead checked the memory cards on the automatic tabulating equipment for clerical or mathematical errors. Some counties looked at the ballots to determine if votes not counted by the automatic tabulating equipment should be counted as a vote.

Manual Recounts

Any candidate, any political committee supporting or opposing an issue on the ballot, or any political party whose candidates' names appeared on the ballot, may file a written request for a manual recount. The request must contain a statement of the reason the recount is being requested and must be filed prior to the time the canvassing board certifies the results of the election or within 72 hours after the election, whichever occurs later. The county canvassing board has the sole and complete discretion as to whether or not to authorize the manual recount. There are no standards to guide the canvassing board's decision. If the recount is authorized, all candidates in the affected race are notified of the time and place of the recount. The recount is required to include at least 3 precincts and at least 1% of the votes cast for such candidate or issue.

If the manual recount indicates an "error in the vote tabulation" which could affect the outcome of the election, the county canvassing board has the following options:

- Correct the error and recount the remaining precincts with the vote tabulation system;
- Request the Department of State to verify the tabulation software; or
- Manually recount all of the ballots.

In conducting the manual recount of the ballots, the canvassing board appoints teams of at least two voters with different party affiliations, where possible. The counting team reviews the

ballots to see if the voter's intent can be determined. If the counting team is unable to determine a voter's intent, the ballot is presented to the county canvassing board for its determination.

The 2000 Presidential election highlighted a number of problems with the current recount provisions. These problems included:

- Even though the election was a statewide election, manual recounts were only requested in a few selected counties.
- Large counties conducting manual recounts were not able to meet the certification deadline prescribed by statute.

The United States Supreme Court in *Bush v. Gore*, 121 S.Ct. 525, held that other problems with the Florida recount scheme violated equal protection and fundamental fairness:

- While the standard of effectuating the "intent of the voter" was an adequate starting point, there were inadequate substandards in effect prior to the recount as to what constituted a vote. The absence of substandards resulted in the use of varying standards both county-to-county and within the same county, where the same voting system was used.
- Some counties certified partial recounts while full recounts were certified in others.
- The Florida Supreme Court ordered all counties to count undervotes, but not overvotes.

Election Certification Deadlines

Florida law requires that each county canvassing board certify the results of all elections for a federal or state officer no later than 7 days after the first primary and the general election. Returns for the second primary are due 3 days after the election. These deadlines are problematic because, in many cases, manual recounts cannot be completed prior to the deadline. In addition, in *federal* general elections, *overseas absentee ballots* must be counted up to 10 days after the election.

As a practical matter, it is virtually impossible for larger counties to meet the certification deadlines if circumstances warrant a manual recount of *all* ballots. Florida law allows a losing candidate whose name appeared on the ballot, or the candidate's political party, to ask the county canvassing board for a manual recount. This request may be made up until 3 days after the election (or by the time the canvassing board certifies the result, whichever occurs later). In the *first primary* and *general election*, this 3-day manual recount request period potentially limits the county canvassing board to 4 days to complete a manual recount of hundreds of thousands of ballots.

In the case of the *second primary*, the certification deadline and time for requesting a manual recount are identical --- 3 days. The certification deadline is so close to election day because the second primary scenario in certain years contains a built-in delay in determining which candidates' names will appear on the general election ballot. The State Constitution provides that a gubernatorial candidate may run without a lieutenant governor running mate until *after* the second primary. Following certification of the second primary, the gubernatorial candidate has 3

more days under Florida law to designate a running mate, and for that designee to file the necessary qualification papers with the Department of State. Thus, the name of the lieutenant

governor candidate may not be known until almost a week after the date of the second primary, delaying the printing of general election ballots.

It is important for county canvassing boards to meet all certification deadlines. It is absolutely essential that they do so in the primaries, since ballots for subsequent elections must be printed almost immediately following the certification. The names of the candidates appearing on subsequent ballots are dependent on the certification.

The 2000 Presidential election demonstrated that the sheer volume of ballots to be counted during a recount in Florida's larger counties makes the current 7-day certification deadline unrealistic. While Miami-Dade, Broward, and Palm Beach received special scrutiny during the most recent election, the difficulties experienced in these counties would undoubtedly have been encountered by many other counties had recounts been required there.

In *general* elections for *federal* office, the State of Florida is required to count all ballots received from overseas voters which are postmarked or signed and dated by the date of the election, provided they are received no later than *10 days after the election*. Thus, Florida's one-week general election certification deadline *precedes* the date on which all valid ballots must be received.

The certification deadline for the 2000 Presidential general election was November 14, 2000, seven days after the election. On November 15, 2000, the results forwarded by the county canvassing boards to the Department of State indicated that the Bush/Cheney ticket was ahead of the Gore/Lieberman ticket by a mere *300 votes* (Bush/Cheney: 2,910,492; Gore/Lieberman: 2,910,192). At that time, as it turns out, there were 2,490 valid absentee ballots from overseas voters on their way to the county supervisors of elections but yet to be received and counted. Since the number of outstanding overseas ballots was greater than the Bush/Cheney margin of victory, any certification and declaration of a winner by the State Elections Canvassing Commission on November 15 would have essentially been a meaningless ministerial exercise.

In addition to these timing problems, there is a patent conflict in Florida law concerning the *effect* of a county missing the certification deadline. Section 102.111, Florida Statutes, mandates that late-filed returns "shall" not be included in the official results. Section 102.112, Florida Statutes, states that such late-filed returns "may be ignored," arguably vesting the Secretary of State with the discretionary authority to accept or reject late-filed returns. This ambiguity led to a tremendous amount of confusion, uncertainty, and litigation during the 2000 Presidential election.

Through 1988, section 102.111, Florida Statutes, on its face, *required* the Secretary to reject late-filed returns. In *State of Florida on the relation of Bill Chappell v. Martinez*, 536 So.2d 1007 (1988), the Florida Supreme Court was faced with the question of whether to disregard 11,000 votes from Flagler County in a U.S. congressional general election because the returns were phoned in to the Department of State instead of "on file" by the certification deadline. The Court held that the Flagler votes had to be counted since the statute was "substantially complied" with.

The Court's rationale was that the purpose of an election is to effectuate the will of the voter, and hypertechnical compliance with statutes should not defeat that purpose.

In 1989, the Florida Legislature, as part of a major election reform package, enacted section 102.112, Florida Statutes. The new statute maintained the one-week certification deadline but provided that returns not timely filed "may be ignored." The statute also directed that civil fines of \$200 per day be assessed against the personal funds of each county canvassing board member for late-filed returns. The Legislature, however, did not repeal the provision in section 102.111, Florida Statutes, providing that late-filed returns "shall be ignored," thereby creating, on its face, a patent statutory conflict.

Military and Overseas Voters

The Uniformed and Overseas Citizens Absentee Voting Act ("the Act")(42 U.S.C. 1973ff *et seq.*) requires states to allow certain persons to register and vote absentee in federal elections. The Act covers citizens who are members of the Uniformed Services and Merchant Marine, and their spouses and dependents, and citizens residing outside of the United States. Members of the Armed Forces and Merchant Marine and their spouses and dependents are allowed to vote absentee while away from their place of voting residence, wherever stationed, either within or outside of the United States. Other U.S. citizens residing outside of the United States and its territories may vote in the state where they last resided prior to leaving the United States.

In addition, the Act requires states to accept a Federal Write-In Absentee Ballot from military and overseas voters under certain conditions.

- The voter must have requested a regular absentee ballot at least 30 days prior to the election and not have received the ballot;
- Voters must meet all of the regular requirements for voting in the state; and
- Voters must be overseas and have a foreign mailing address or an APO/FPO.

Florida holds three elections in a nine-week period. The first primary election is held 9 weeks prior to the general election and the second primary election is held 5 weeks prior to the general election. In the early 1980's, the Federal Government sued the State of Florida claiming that the state's system of holding three elections in nine weeks violated the Uniformed and Overseas Citizens Voting Rights Act and the Federal Voting Assistance Act. The suit alleged that the nine-week span did not provide sufficient time for supervisors of elections to prepare absentee ballots, mail them to overseas voters, and have the voters return them by election day. A federal district court entered a temporary restraining order on November 6, 1980, extending by 10 days the deadline for receipt of the 1980 general election ballots cast pursuant to the federal acts.

In early 1982, the State of Florida and the Federal Government entered into a consent decree covering federal contests. The decree required overseas absentee ballots in the 1982 general election to be counted if the ballots were postmarked by election day and received by the supervisors no later than 10 days after the election. In addition, the decree required that absentee ballots for the 1982 first primary be mailed to overseas electors at least 35 days before the first primary. Finally, the consent decree directed that a plan of compliance be drawn to provide for the mailing of overseas ballots at least 35 days prior to the deadline for the receipt of ballots.

In 1984, the federal district court approved Florida's plan of compliance, which modified the election schedule and resulted in the adoption of Rule 1C-7.013, F.A.C. (subsequently renumbered as 1S-7.013, F.A.C.). This rule required the supervisors of elections to mail overseas absentee ballots for federal office at least 35 days prior to the election. The rule also provided that, with respect to a presidential preference primary or general election for federal office, an otherwise proper overseas ballot postmarked or signed and dated no later than the date of the election must be counted if received up to 10 days after the election.

In an effort to further facilitate absentee voting by overseas electors, the 1989 Legislature adopted the advance ballot system still in use today. Under Florida's advance ballot system, supervisors of elections mail first primary absentee ballots to qualified overseas electors not less than 35 days before the first primary. Subsequently, the supervisors mail *advance* ballots for the second primary and general election at least 45 days prior to these elections, followed by regular second primary and general election ballots when they become available. If both ballots for the same election are returned, only the regular ballot is counted.

Absentee Ballots

In 1998, the Legislature enacted Ch. 98-129, Laws of Florida, as a comprehensive measure to combat voter fraud and abuses in the absentee balloting process highlighted in the 1997 City of Miami mayoral race. As a result of problems with a few of the provisions, staff was directed to draft an interim report recommending changes. Following the enactment of Ch. 98-129, Laws of Florida, the state of Florida law is as follows:

Absentee Ballot Signature & Witness Requirements

Chapter 98-129, Laws of Florida, made significant changes to the elector and witness requirements on the absentee ballot Voter's Certificate. Florida Statutes now provides that an elector voting absentee must include his or her signature and last 4 digits of the voter's social security number on the Voter's Certificate. s. 101.64, 101.65, F.S. The ballot must be witnessed by a notary or other officer authorized to administer oaths, or a registered Florida voter 18 years of age or older. If a registered Florida voter is witnessing the ballot, the witness must include his or her signature, printed name, voter identification number and county of registration, and address.

The federal Voting Rights Act of 1965 prevents state election laws which impact voting rights from going into effect until the United States Department of Justice (USDOJ) reviews the law and determines that it will not have a discriminatory effect. Five counties in Florida --- Collier, Hardee, Hendry, Hillsborough, and Monroe --- are subject to this federal preclearance requirement under section 5 of the Act. Florida law requires the Secretary of State to "maintain uniformity in the application, operation, and interpretation of the election laws." s. 97.012(1), F.S. Florida's Secretary of State decided not to enforce any section of Chapter 98-129, Laws of Florida, not precleared by USDOJ in *any* of Florida's counties for the 1998 and 2000 election cycles, in order to maintain uniform election laws throughout the state.

Focusing on the registered Florida voter witness requirement, the USDOJ refused to preclear Florida's new ballot signature and witnessing requirements. Thus, the absentee ballots in the 1998 and 2000 election cycles utilized the old law, requiring the elector's signature and the signature and address of one witness 18 years of age or older.

Another issue relating to absentee ballot signature requirements but not addressed by the preclearance decision involves overseas and military voters. Pursuant to a federal court order and state rule, the supervisors of elections must accept and count ballots from overseas and military voters received up to 10 days after the general election, provided they are postmarked or signed and dated by the date of the election. However, the absentee ballot Voter's Certificate does not provide a designated space for the voter to fill in the date. In the 2000 election, this led to litigation over a number of military ballots, which were invalidated because they did not contain a postmark (military mail is often sent without a postmark) or the date the ballot was voted.

5-Ballot Witnessing Limit

Chapter 98-129, Laws of Florida, made it a first-degree misdemeanor for any person other than a notary, other officer authorized to administer oaths, or an absentee ballot coordinator to witness more than five ballots in any single election. The purpose of the 5-ballot witnessing limit was to discourage persons from fraudulently witnessing dozens and, in at least one documented case, hundreds of ballots.

The USDOJ refused to preclear the 5-ballot witnessing limit, citing concerns that minority voters in certain geographic areas might have a more difficult time finding absentee ballot witnesses who were registered voters or notaries.

Absentee Ballot Coordinators

Chapter 98-129, Laws of Florida, created an exemption to the 5-ballot witnessing limit. Political parties were authorized to appoint specific numbers of persons as absentee ballot coordinators,[@] who were then certified by the Division of Elections. Absentee ballot coordinators were entitled to witness an *unlimited number of ballots* per election. However, this provision is moot since USDOJ's decision not to preclear the 5-ballot witnessing limit effectively means that anyone over 18 can witness an *unlimited number* of absentee ballots, without having to register as an absentee ballot coordinator.

Requests for Absentee Ballots

In order to request an absentee ballot, a Florida voter or eligible third party must provide the supervisor of elections with the voter's registration number. When a voter registers to vote, he or she is issued a voter identification card containing a voter registration number. The number and the card serve no practical purpose in Florida law.

This requirement was adopted as part of the Voter Fraud Act of 1998. It has proven problematic since many voters do not keep their voter I.D. cards and do not know their registration number. This may result in voters not being able to obtain absentee ballots.

Return of Absentee Ballots

Florida law restricts the return of absentee ballots to personal delivery by the elector or mail delivery, except that electors unable to return the ballot in person or by mail may designate someone in writing to return their ballots. Designees are limited to returning two ballots per election, other than the designee's own ballot and ballots for members of the designee's immediate family. Each designee must present the supervisor with a written authorization from the elector and a picture identification. s. 101.647, F.S.

In the 1998 and 2000 election cycles, the requirement that a designee produce a written note from the elector in order to personally return a ballot to the supervisor of elections did not have any practical voter fraud deterrent effect. While supervisors could not accept ballots presented to them by designees without a written authorization from the voter, nothing prevented the designee from simply mailing the ballot for the voter.

Definition of "Absent Elector"

Prior to the adoption of the Voter Fraud Act in 1998, any person who was "unable to attend the polls on election day" could vote absentee. This law was only about two years old. Until 1997, an elector had to have a *statutory reason* for voting absentee. Except when mandated by federal law, the ability to *vote by absentee ballot*, as opposed to the right to vote, is a *privilege conferred by statute and not a constitutional right*. *In re Miami Election*, 707 So.2d at 1173. Until the law changed in 1997, Florida's "for cause" statutory reasons for voting absentee were that the elector:

- Was unable without another's assistance to attend the polls on election day;
- Was an inspector, poll worker, deputy voting machine custodian, deputy sheriff, supervisor of elections, or deputy supervisor assigned to a different precinct than that in which he or she is registered to vote;
- On account of the tenets of his or her religion, cannot attend the polls on election day;
- Had changed residency to another county in the state after the books are closed for the election;
- For presidential ballots, had changed residency to another state and is ineligible under the laws of that state to vote in the general election; or,
- *Will not* be in the precinct of his or her residence during the hours the polls are open for voting on the day of the election.

Ch. 96-57, s. 1, at 45-46, Laws of Fla. The Voter Fraud Act essentially re-adopted the "for cause" reasons for voting absentee with two exceptions, one of which is notable for purposes of this analysis. Instead of having the elector swear that he or she will not be in the precinct during voting hours on election day (assuming none of the other reasons apply), the Voter Fraud Act mandates only that the elector swear that he or she may not be in the precinct during voting hours.

This change effectively authorizes unlimited absentee voting in Florida. *Any person* who fills out an absentee ballot and Voter's Certificate in advance of an election can justifiably claim that he or she "may" not be in the precinct on election day, even if he or she has no present intention of

being absent at the time he or she fills out the Certificate. It is always possible that someone “may” not be in their precinct on election day --- unexpectedly called out of town on business, need to visit a relative who is suddenly hospitalized in Atlanta, hurricane evacuation, etc. However, there is no judicial or administrative opinion on this point.

USDOJ precleared the new definition of “absent elector” in section 97.021, Florida Statutes. Unfortunately, USDOJ refused to preclear the section of the Act amending signature and witnessing requirements to the absentee ballot Voter’s Certificate. The “for cause” reasons for voting absentee which were to be included on the Voter’s Certificate were, therefore, also not precleared. Thus, no elector is currently required to swear that he or she is qualified to vote absentee. And, even if they were, the “for cause” requirements as currently written do not serve any practical purpose since any person can justifiably vote absentee.

Primary Elections

Florida holds three elections in a nine-week period. The first primary election is held 9 weeks prior to the general election and the second primary election is held 5 weeks prior to the general election. Because of this schedule, Florida is required to count ballots from overseas voters 10 days following the general election. (see *infra* this subsection “Military and Overseas Voters”)

Pollworker Recruitment and Training

The supervisors of elections appoint pollworkers for election day. Each precinct has one clerk, who is in charge of the precinct, several inspectors and a deputy sheriff. Each member of the election board must be able to read and write the English language and must be a registered voter of the county. The supervisors of elections are required to provide training for clerks, inspectors and deputy sheriffs prior to each first primary, general and special election and only those persons who have completed the training are allowed to serve. If there is a vacancy on election day and no person is available who has had training, a person who has not completed training may serve.

Voter Education

Section 101.031, F.S., requires the Department of State to print instructions to voters and to provide them to counties upon request. Supervisors of elections are required to post two of these instruction cards at each precinct. These notices provide basic instructions to voters. In addition, section 98.255, Florida Statutes, authorizes the supervisor of elections to provide voter education programs and materials as he or she deems appropriate.

Elections Canvassing Commission

The Elections Canvassing Commission is composed of the Governor, the Secretary of State and the Director of the Division of Elections. In the event that any member of the Commission is unable to serve, a new member is appointed by the Director of the Division of Elections. The Elections Canvassing Commission is responsible for certifying the results of state and federal elections.

Activities of Election Officials

The county canvassing board is composed of the supervisor of elections, a county court judge and the chair of the board of county commissioners. If any of these officials 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, that member is replaced as provided by statute. There are no prohibitions on the political activities of members of the state Elections Canvassing Commission.

Contests of Elections

Under s. 102.168, F.S., the certification of election or nomination of any person to office, or the result of any question submitted by referendum, may be contested in circuit court by any unsuccessful candidate for such office or nomination or by any elector qualified to vote in the election related to such candidacy, or by any taxpayer, respectively. The statutes articulate the grounds for contesting an election.

Ex-Felons Right to Vote

The restoration of the civil rights of a convicted felon is a form of executive clemency, a power granted by the Florida Constitution to the Governor with the consent of at least three members of the Cabinet. Art. IV, s. 8(a), Fla. Const. The Florida Constitution also specifically bars any person convicted of a felony from being qualified to vote until that person's *civil rights* have been restored. Art. VI, s. 4(a), Fla. Const. (Senate Joint Resolution 434 has been filed to modify this provision of the Florida Constitution.) Florida Statutes implement the constitutional bar against felons voting by providing that any person convicted of a felony who has not had his or her right to vote restored pursuant to law may not register or vote. s. 97.041(2)(b), F.S.

In contrast, the majority of states automatically restore a convicted felon's right to vote upon release from imprisonment or completion of the sentence --- including such major states as California, New York, Texas, Ohio, Pennsylvania, and Georgia.

The review process for restoring the civil rights of the majority of felons convicted in a Florida state court is designed to be automatic, and should take place without the need for the individual to file any application or request. Upon final release of a felon from prison or supervision (i.e., probation), the Department of Corrections is required to submit each individual's name to the Florida Parole Commission. The Parole Commission then reviews specified criteria to determine whether the individual is eligible to have his or her civil rights restored. Florida Rules of Executive Clemency, Rule 9. The specific criteria for eligibility for restoration of civil rights are:

- Completion and satisfaction of all sentences and all conditions of supervision have expired or been completed, including but not limited to, parole, probation, community control, control release, and conditional release;
- No outstanding detainers or pending criminal charges;
- No outstanding pecuniary penalties resulting from a criminal conviction or traffic infraction, including, but not limited to, fines, court costs, restitution, or unpaid costs of supervision;

- No conviction of a capital or life felony;
- Civil rights have not previously been restored in the State of Florida;
- No more than two felony convictions of record;
- The applicant must be a citizen of the United States;
- If convicted in a court other than a Florida state court, the applicant must be a legal resident of Florida; and
- The applicant was not a public official who, during his or her term of office, committed a criminal offense for which he or she was subsequently convicted.

Florida Administrative Code, Title 27, Appendix (Florida Rules of Executive Clemency, Rule 9A). If determined eligible and if no member of the Board of Executive Clemency objects to the restoration of civil rights, the Clemency Coordinator, pursuant to an executive order signed by the Board, is supposed to issue a certificate restoring the individual's civil rights (without the specific authority to own, possess or use firearms) without a hearing.

The review process typically takes anywhere from 8-12 months to complete, but can be accelerated by the individual if he or she contacts the Board directly and files an application for clemency.

An individual's civil rights are often not automatically restored because he or she fails to meet the requirements under Rule 9A. Such an individual must either petition the Board for restoration or may be precluded altogether from having the rights restored (i.e., those convicted of capital offenses, persons with more than 2 felony convictions, etc.).

A felon who has lost his or her civil rights is required to re-register to have his or her name restored to the voter registration books. s. 98.093(4), F.S. At that time, the convicted felon must sign an oath essentially swearing to the fact that his or her right to vote has been restored.

According to a 1998 joint report by Human Rights Watch & The Sentencing Project, over 647,000 convicted felons in Florida have lost the right to register or vote (including 436,900 ex-felons no longer incarcerated or subject to supervision). Frank Davies, "Florida No. 1 in Stripping the Vote," *Miami Herald* (10/23/98); Human Rights Watch & The Sentencing Project, *Losing the Vote: The Impact of Felony Disenfranchisement Laws in the United States*, at Part III (www.hrw.org/reports98/vote/). This figure placed Florida first among the states in denying the right to vote because of a criminal record. According to these figures, the disenfranchisement hit black males particularly hard, with an estimated one-in-three voting-age, black men being denied the right to vote because of a felony conviction.

The Florida Department of Law Enforcement ("FDLE"), however, placed the number of disenfranchised felons and ex-felons in Florida at 343,675, not 647,000. FDLE, "Counting Florida's Felons & Ex-Felons (Assessment of Florida Statistics cited in 'Losing the Vote' by Human Rights Watch and the Sentencing Project 1998)" (March, 1999) (Office of Research & Planning). Also, FDLE estimated that 17% of voting-age, black males in Florida were disenfranchised in 1996, not one-in-three as reported.

FDLE's review of the Human Rights Watch & Sentencing Project's joint report identified several problems with the Florida data. One problem is that the report's estimate of 647,000 disenfranchised felons and ex-felons included almost 55,000 individuals on probation with a sentence of "adjudication withheld." Such persons do not lose their right to vote under Florida law. Also, the 647,000 figure fails to account for the fact that over 150,000 ex-felons have had their civil rights *restored*. These two discrepancies alone serve to reduce the number of disenfranchised felons and ex-felons in Florida by over 200,000 persons.

Election of Supervisors of Elections

Each of Florida's 67 counties has a supervisor of elections whose responsibilities include voter registration and conducting elections. With the exception of Miami-Dade County, each of the supervisors of elections is an elected constitutional officer. The supervisor of elections in Miami-Dade County is appointed by the County Manager. Most of the supervisors of elections run on a partisan basis; however, a few supervisors are elected on a nonpartisan basis pursuant to county charter.

School District Elections

Section 236.25, F.S., authorizes local school boards to levy taxes on the value of nonexempt property in the school district at a millage rate that meets the required local effort standard necessary for the district to participate in the Florida Education Finance Program. The required local effort millage rate is set in the General Appropriations Act. School boards may also levy nonvoted current operating discretionary millage at a rate also prescribed in the appropriations act. In addition to the nonvoted operating millage, a school board may levy up to 2 mills for capital outlay projects and major equipment purchases. The combined rate of these millage levies may not exceed the 10-mill nonvoted millage limit for school boards established in section 9(b), Article VII of the State Constitution.

Section 236.31, F.S., authorizes a school board to adopt a resolution at a regular meeting directing the county commission to hold an election at which the electors of the school district may approve an ad valorem tax millage as authorized in section 9, Article VII of the State Constitution. Only one such election may be held during any 12-month period, and any millage approved by the voters may be levied for no more than 2 years. The procedures for holding and conducting a school board millage election, plus the recommended ballot form are contained in s. 236.32, F.S. The recommended ballot may contain, at the school board's discretion, a proposed millage for operating purposes and a proposed millage for capital improvements. The proposals must be voted on separately. All the costs of a millage election are the responsibility of the local school board.

Statewide Voter Registration Database

The supervisors of elections in the 67 counties are responsible for receiving voter registration applications and maintaining the voter registration records of the county. The Division of Elections maintains a statewide central database of registered voters in the state; however, this system relies on a quarterly "batch" update and is therefore never current.

III. Effect of Proposed Changes:

Voting Systems

Committee Substitute for Committee Substitute for Senate Bill 1374 prohibits the use of punchcard voting systems, paper ballots, mechanical lever machines and central count optical scan voting systems in the state, beginning with the 2002 Primary Election. The bill maintains the authority for each county to determine which voting system will be used in the county, as long as the system has been certified by the Division of Elections and meets the minimum standards required. Each voting system must provide for a precinct count tabulation system.

The bill requires the Division of Elections to review the voting systems certification standards currently in use in the state to ensure that new technologies are appropriately certified in a timely manner.

To address the problems with ballot design highlighted in the 2000 General Election, the bill requires the Department of State to adopt rules prescribing a uniform primary and general election ballot design for each certified voting system. The rules will provide for uniform ballot instructions and directions, individual race layout and overall ballot layout. In addition, a sample ballot depicting the requirements for the ballot must be included. Current provisions of Chapter 101 dealing with ballots are revised or repealed to eliminate confusing language.

Finally, the bill requires each supervisor of elections to review ballots with overvotes and undervotes following each general election and report the number of each to the Department of State, along with the likely reasons for the errors. The Department of State is required to prepare a report using the information from the counties that will show the overall error rate for each system, an identification of problems with the ballot design or instructions which may have contributed to voter confusion, and recommendations for correcting any problems identified.

Provisional Ballots

Committee Substitute for Committee Substitute for Senate Bill 1374 provides for provisional ballots in Florida. A provisional ballot will be issued to a person who goes to the polls on election day and whose name does not appear on the precinct register and whose eligibility cannot be determined. A voter who has requested an absentee ballot but who appears at the polls to vote and who does not return the absentee ballot to the pollworkers will also use a provisional ballot.

The provisional ballot will be similar to an absentee ballot in that the person votes the ballot, places it in a secrecy envelope, then places the secrecy envelope in another envelope containing a Provisional Ballot Voter's Certificate. The Voter's Certificate contains pertinent information about the person to assist the supervisor of elections in determining the person's eligibility. All provisional ballots are returned unopened to the supervisor of elections. The county canvassing board will review the information on the Voter's Certificate and determine if the person was eligible to vote in the election. If it is determined that the person was registered and entitled to vote, the ballot is counted for those races in which the voter was entitled to vote. If it is

determined that the person voting the provisional ballot was not registered or entitled to vote, the ballot is never removed from the envelope containing the Voter's Certificate.

Allowing persons whose names do not appear on the precinct register and whose eligibility cannot be determined to vote a provisional ballot will assure that voters who are entitled to vote are given the opportunity to do so and that ineligible persons will not be allowed to cast a vote.

Recounts

The propriety and scope of recounts were two of the most hotly contested and litigated issues in the 2000 Presidential election.

Where to Recount

The bill provides for the same manner of recount in all affected jurisdictions. For statewide elections, recounts will be conducted in every county in Florida to insure fair and equal treatment of all Florida voters. For multicounty races, all counties comprising the district of the candidacy or ballot measure at issue will be required to recount.

When and What to Recount

The bill eliminates the election protest and the statutory limited manual recount (1% of votes cast), and also removes all discretion from local canvassing boards in ordering manual recounts. Specifically, the bill requires:

- An automatic machine recount, if the margin of victory in any race or ballot question is one-half of one percent or less;
- A manual recount of the overvotes and undervotes, if the margin of victory in any race or ballot question is one-quarter of one percent or less; and,
- A manual recount of the overvotes and undervotes where the margin of victory in any race or ballot question is between one-quarter and one-half of one percent, provided:
 - An eligible party makes a written request no later than 5 p.m. on the second day after the election; and,
 - The requesting party posts a bond in an amount prescribed by rule of the Department of State sufficient to cover the costs of the recount, said bond to be forfeited if the recount is unsuccessful in changing the outcome of the election.

With regard to the automatic machine recount, the bill provides that counties using optical scan technology run the ballots through the tabulators a second time instead of just adding up summary totals from the tabulators.

How to Recount (Recount Standards and Procedures)

The bill clarifies the current statutory "voter intent" standard in a number of provisions of Florida's election code. Under the bill, a vote for a candidate or ballot question will count if there is a "clear indication on the ballot that the voter has made a definite choice." The Department of State is charged with adopting rules for each certified voting system prescribing precisely what

constitutes a “clear indication on the ballot that the voter has made a definite choice.” In addition to developing these administrative substandards, the bill also charges the Department to adopt rules prescribing uniform recount *procedures*.

Certification of Election Results

The bill establishes certification deadlines as follows:

- Primary Election – 7 days after the election
- General Election – 11 days after the election (currently 7 days)

The bill maintains the certification deadline for the primary at one week. Reducing the scope of manual recounts to overvotes and undervotes combined with the fact that historically there are fewer ballots cast in a primary contest than a general election will enable county canvassing boards to meet the certification deadline.

The bill moves the certification deadline for the *general election* from 7 to 11 days after the election. This change will allow adequate time for the receipt and counting of all valid overseas ballots, if Florida continues to have to count overseas ballots 10 days after the election. It will also allow sufficient time to complete the limited manual recounts of overvotes and undervotes.

Given these changes, local county canvassing boards should have little or no reason to file late returns. To further encourage timely filing, existing penalties for county canvassing boards filing late returns should be increased from \$200 to \$500 per day.

The bill also eliminates a conditionality in Florida law allowing a candidate or other eligible party to request a manual recount in an election protest scenario up to 3 days after the election *or until the canvassing board certifies the results of the election, whichever occurs later*. The bill provides that a request for a manual recount must be made by 5 p.m. on the second day after the date of the election, thereby allowing canvassing boards to meet certification deadlines.

The bill prohibits the Department of State from accepting late-filed election returns in *primary* contests and in the *U.S. Presidential election* race. Conversely, the Department is required to accept late-filed *general* election returns through the following dates:

- For U.S. Senate and U.S. House races, until 5 p.m. on January 2 of the year following the election.
- For statewide races, until 5 p.m. on first Monday in January following the election.
- For state legislative races, until 5 p.m. on the day before the State Legislature convenes for organizational session.
- For multi-county races, until 5 p.m. on the day before the successful candidate is to take office.
- For ballot issues, until 5 p.m. on the day prior to the measure taking effect or until the certification deadline, whichever occurs later.

The legal reasoning underlying this approach is detailed in Part IV. D. “Other Constitutional Issues.”

Military and Overseas Voters

The bill creates a number of new provisions to facilitate the provisions of the federal Uniformed and Overseas Citizens Absentee Voting Act.

Under the provisions of the bill persons who have been overseas and have been discharged or separated from the service or from employment are allowed to register to vote after the books have closed for an election. To be allowed to register late, the person must provide documentation indicating that they were discharged or separated after the books closed and, therefore, would have otherwise been precluded from registering to vote.

The bill allows an overseas voter who anticipates that he or she will not be able to vote an absentee ballot during the regular absentee ballot voting period to request a state-write in ballot. The state write-in ballot will contain a list of all offices for which the voter would otherwise be entitled to vote. The voter may designate his or her choice by writing in the name of the candidate or by writing in the name of the political party, in which case the ballot will be counted for the candidate of that political party, if there is such a party candidate on the ballot.

The bill requires the supervisors of elections to inform an overseas voter of the names of candidates who will be on the ballot via electronic transmission, if the e-mail address of the overseas absentee voter is known.

The bill adds a date line to the Voter’s Certificate on the absentee ballot envelope and provides that for overseas voters, there is a presumption that the ballot was mailed on the date stated and witnessed on the outside of the envelope, regardless of the absence of a postmark or a postmark which is later than the date of the election.

The bill requires the Department of State to adopt rules providing for the receipt of absentee ballot requests and for the receipt of voted absentee ballots by facsimile machine or other electronic means from overseas voters. The rule must provide that in order to accept a voted ballot, the verification of the voter must be determined, the security of the transmission must be established and each ballot received must be recorded.

Finally, the bill authorizes the Elections Canvassing Commission to adopt rules during national or local emergency situations, which provide procedures or requirements to facilitate absentee voting by persons directly affected by the emergency.

Absentee Ballots

Absentee Ballot Signature & Witness Requirements

The bill modifies the current absentee ballot signature and witnessing requirements, which were not precleared by USDOJ. The Voter’s Certificate and corresponding instructions are amended to require the following:

For the elector ---

- Signature
- Date Signed

One Witness, 18 Years or Older ---

- Signature
- Address

The requirements that the witness be a Florida registered voter or notary and that the elector include the last 4 digits of his or her social security number have been deleted. Because the bill goes back to the one witness over 18 years of age requirement which existed prior to the adoption of Ch. 98-129, Laws of Florida, all references to notaries or other officers authorized to administer oaths have been removed from the Voter's Certificate.

Although the Voter's Certificate is amended to direct the voter to indicate the date that he or she signed the Certificate, ballots received prior to the polls closing on election day will not be invalidated if the date is not filled in.

Absentee Ballot Coordinators

The bill repeals the provision of Florida law authorizing absentee ballot coordinators. The purpose of the absentee ballot coordinator provision was to allow political parties to appoint a limited number of persons to witness in excess of 5 ballots per election, the limit imposed in Chapter 98-129, Laws of Florida. However, the USDOJ refused to preclear the 5-ballot witnessing limit, which in effect allows every person to witness an unlimited number of absentee ballots. The USDOJ's actions have rendered the absentee ballot coordinator provision moot.

5-Ballot Witnessing Limit

The bill eliminates the first-degree misdemeanor penalty for witnessing more than 5 ballots in any single election, effectively allowing any person over 18 years of age to witness an unlimited number of absentee ballots.

Requests for Absentee Ballots

The bill replaces a requirement that persons requesting absentee ballots provide the voter's registration number with the voter's date of birth.

Return of Absentee Ballots

The bill deletes the provision of law limiting third parties to returning no more than 2 absentee ballots per election for persons other than themselves or members of their immediate family. The limit is essentially unenforceable, since anyone can drop an unlimited number of absentee ballots into a mailbox without anyone else knowing about it. The bill also deletes the corresponding misdemeanor penalty for returning more than 2 absentee ballots.

Definition of Absent Elector

The bill re-defines “absent elector” to mean any registered and qualified voter who “casts an absentee ballot.” This change will clearly allow any registered and qualified Florida voter 18 years of age or older to cast an absentee ballot if it would be inconvenient for the voter to go to the polls. Simplifying the definition will also alleviate space problems on the absentee ballot envelope in bi-lingual counties.

Absentee Ballot Processing

The bill authorizes canvassing boards to run absentee ballots through the tabulators up to 4 days before the election, provided no result or tabulation is made until after the polls close on election day. Currently, ballots may be run through the tabulators beginning at 7 a.m. on election day.

Primary Elections

Committee Substitute for Committee Substitute for Senate Bill 1374 eliminates the second primary election. The bill moves the remaining primary to the second Tuesday following the first Monday in September to assure that the primary will not be the day after Labor Day. This date change will allow 8 weeks between the primary and general election, which should provide sufficient time for overseas ballots to be printed, mailed and returned, without the need to count those ballots 10 days following the general election.

Pollworker Recruitment and Training

The bill creates a new section relating to pollworker training and recruitment. The supervisor of elections in each county will be responsible for training inspectors and clerks according to the minimum standards provided by statute. A clerk is required to receive 4 hours of training biannually in off-election years and 2 hours of quarterly training in election years, with a minimum of 6 hours of total training. Clerks must demonstrate a working knowledge of the laws and procedures relating to voter registration, voting system operation, and balloting and polling-place procedures, in addition to problem-solving and conflict resolution. An inspector is required to receive at least 2 hours of training biannually in off-election years and 1 hour of quarterly training in election years, with a minimum of three hours total training.

The Department of State is required to prescribe a uniform polling place procedures manual, to be made available in each precinct on election day. The manual, to be used as a guide for pollworkers on election day, must provide specific examples of common problems encountered at the polls and provide specific procedures for resolving those problems.

To increase the available pool of pollworkers, the bill authorizes state, county and municipal workers to serve as inspectors and clerks in lieu of their normal work and encourages the supervisors of elections to develop public-private programs with businesses and the local community to recruit skilled pollworkers.

Voter Education

The bill requires the Department of State to adopt rules prescribing minimum standards for voter education in Florida. Each supervisor is required to implement the minimum standards and is authorized to conduct additional voter education as necessary in the county.

The bill provides that the instructions for voters currently posted at the polls include a list of rights and responsibilities afforded to voters. The form of the Voter's Bill of Rights and Voter Responsibilities is provided in the bill. The bill provides that nothing in the instructions to voters posted at the polls shall give rise to a legal cause of action.

Elections Canvassing Commission

The composition of the Elections Canvassing Commission is changed from the Governor, the Secretary of State and the Director of the Division of Elections to the Governor and two members of the Cabinet.

Activities of Election Officials

The bill prohibits a member of the Elections Canvassing Commission or a member of the county canvassing board from rendering any post-election decision in his or her official capacity that may affect the outcome of a race in which he or she publicly endorsed or solicited contributions on behalf of a candidate.

Contests of Elections

The bill provides minor modifications to the grounds for contesting the results of an election.

Ex-Felons Right to Vote

The provisions in this bill relating to an ex-felon's right to vote are effective only upon approval of the voters of a constitutional amendment that authorizes the enactment of these sections of law. The bill maintains portions of the current law disqualifying convicted felons from being eligible to register or vote while incarcerated or under supervision (i.e. parole, probation, community control). However, the bill provides that a non-violent ex-felon's right to vote is automatically restored one year after paying all court costs and court-ordered restitution and completing and satisfying all other non-monetary components of the sentences imposed, unless a majority of the members of the Board of Executive Clemency object. For ex-felons who have committed a forcible felony, the right to vote is automatically restored 5 years after satisfying these conditions, if no objection is made. If a majority of the Clemency Board does object, the convicted felon must petition the Board for restoration of the right to register or vote.

Election of Supervisors of Elections

The bill requires the supervisors of elections to be elected on a nonpartisan basis.

School District Elections

The legislation under consideration authorizes school boards to levy additional millage for operating purposes, subject to voter approval via a local referendum which may be part of a general election. The approved millage may be levied for up to 4 years and the rate, when combined with the rate of non-voted millage authorized by law, may not exceed the 10-mill cap established in the State Constitution. The millage election must be conducted according to the procedures in ss. 236.31 and 236.32, F.S. Funds from the additional millage, if approved, are not to be included in any of the calculations for components of the FEFP formula.

The bill amends s. 232.31, F.S., to allow a school board to direct its county commissioners to call an election at which the electors may approve additional ad valorem millage as authorized under s. 236.25(6), F.S. It amends s. 232.32, F.S., prescribing procedures by which a school district millage election shall be held. It provides that a school district may propose a single millage or two millages, with one for operating expenses and another for a local capital improvement reserve fund. When two millages are proposed, each shall be voted on separately. The school board shall pay all expenses related to the election.

Statewide Voter Registration Database

The bill appropriates \$2 million from general revenue to the Department of State to provide a statewide voter registration database. The bill provides that the Department may contract with the Florida Association of Court Clerks to analyze, design, develop, operate, and maintain the database. The Department is prohibited from contracting with any other private entity for this purpose. State and local government entities are required to facilitate the provision of information and access to data for the purpose of comparing the information in the database with other databases to identify ineligible voters.

Assistance to Counties

Funds provided in the FY 2001-2002 general appropriations act are appropriated to the Division of Elections to be distributed to the counties to implement the provisions of this act. Counties with a population of 75,000 or less will receive a total of \$7,500 per precinct, distributed in two installments. Other counties will receive a total of \$3,750 per precinct, also distributed in two installments.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:*Certification of Election Results*

The Florida courts have held that the fundamental purpose of the election laws is to “facilitate and safeguard the right of each voter to express his or her will in the context of our representative democracy. Technical statutory requirements must not be exalted over the substance of this right.” Therefore, insofar as the certification deadline constitutes a “technical requirement,” it cannot defeat the will of the voter and late returns must be counted.

In a primary election contest, the certification deadline is a substantive, not a technical, requirement. The effective administration of subsequent elections turns on the timeliness of the certification and the determination of which candidates’ names will appear on subsequent ballots. Ballots for subsequent elections are designed, printed, *and distributed* almost immediately following the certification. The Secretary should have no discretion to accept late-filed results as they would interfere with the State’s compelling interest and duty to administer elections, potentially disenfranchising thousands or millions of Floridians in subsequent elections.

Similarly, because of federal Constitutional considerations, the certification deadline in the U.S. Presidential election must be viewed as a substantive, not a technical, requirement. For U.S. Presidential races, the certification deadline must be mandatory and the Secretary should not have discretion to include late-filed returns in the official results. As a practical matter, the certification process cannot drag on in the U.S. Presidential race, since such delay further shortens an already truncated contest period. Federal law requires all contests and controversies to be resolved by early December or Congress is not obligated to count the votes of Florida’s Presidential electors, potentially disenfranchising the entire State.

In the case of other general election contests and ballot questions, however, the certification deadline is *initially* a technical requirement. It becomes a substantive requirement only when the current officeholder’s term expires and the successor is due to be sworn into office, or when a ballot question is to take effect.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:*Recounts*

Candidates and political committees supporting or opposing ballot questions may incur additional expenses in posting bonds to cover some manual recounts. The amounts are indeterminable.

C. Government Sector Impact:*Provisional Ballots*

Supervisors of elections will incur some additional printing costs for the Provisional Ballot Voter's Certificate envelope. In addition, any county using a voting system which does not use a paper ballot will be required to print a sufficient number of ballots for use at the polling place as provisional ballots.

Recounts

Florida counties may receive revenue from forfeited bonds posted for manual recounts, whereas under current law counties are required to pay for a manual recount. The amounts are indeterminable.

Absentee Ballots

Supervisors will be required to have new absentee ballot envelopes printed incorporating the changes to the Voter's Certificate.

Primary Elections

The elimination of the second primary election should result in a cost savings to the counties statewide of approximately \$5 million every two years.

Pollworker Training

The bill requires the supervisors of elections to make the uniform polling place procedures manual available at every precinct in either hard copy or electronic form. There will be associated printing costs to both the supervisors and the Department of State to produce hard copies of the manual. The amount is indeterminate at this time.

Statewide Voter Registration Database

The bill appropriates \$2 million to the Department of State for on on-line voter registration database. The bill authorizes the Department of State to contract with the Florida Association of Court Clerks for the development, operation and maintenance of the database. The Association has estimated the cost of the design, development, and

implementation of a statewide voter registration database by June 1, 2002, and an associated website to be \$1,903,422 with a recurring cost of \$525,000.

Assistance to Counties

Funds that are appropriated in the FY 2001-2002 general appropriations acts are appropriated to the Division of Elections to be distributed to the counties to implement the provisions of this act.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Ex-Felons Right to Vote

The provisions of this bill relating to the restoration of voting rights for ex-felons will not take effect until the adoption of a constitutional amendment modifying Art. VI, s. 4, of the State Constitution.

VIII. Amendments:

None.