

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/SB 1504

SPONSOR: Governmental Oversight and Productivity and Senator Mitchell

SUBJECT: Elections; Poll Accessibility

DATE: March 13, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Rubinas	EE	Fav/1 amendment
2.	Rhea	Wilson	GO	Favorable/CS
3.			AGG	
4.			AP	
5.				
6.				

I. Summary:

Senate Bill 1504 amends several provisions in the Florida Election Code (“Code”) relating to voting and elections, and codifies recommendations made by the Secretary of State’s Select Task Force on Voting Accessibility in its final report, dated January 14, 2002. The Task Force recommended numerous changes and additions to Florida law to provide additional voting accessibility for persons having a disability.

Specifically, the bill:

1. Requires all forms used in the registration and voting process, including ballots, to be available in alternative formats, upon request; whenever possible, such forms, with the exception of absentee ballots, must be made available by the Department of State via the Internet;
2. Mandates that after November 30, 2002, the Division of Elections may not certify a voting system for use unless it meets certain disability requirements;
3. Provides that by the 2004 first primary election, each voting precinct must have at least one voting machine that would enable all voters, regardless of disability, to cast a secret, independent, and verifiable ballot;
4. No later than July 1, 2004, the portions of all polling places traversed by voters must be fully accessible to persons with disabilities, regardless of the function of the building in which they are housed;

5. Creates the “Disability Advisory Council” within the Department of State to look specifically at issues relating to voting accessibility for persons with disabilities; and
6. Encourages the use of closed captioning and descriptive narratives in television broadcasts by candidates, political parties, and political committees.

Senate Bill 1504 is effective July 1, 2002, except as otherwise provided in sections of the bill.

The bill amends the following sections of the Florida Statutes: 97.021, 98.065, 100.361, 100.371, 101.017, 101.018, 101.051, 101.71, 101.715, 102.014, 104.20, and 125.01.

The bill creates the following sections of the Florida Statutes: 97.026, 98.122, 101.56062 and 101.662.

II. Present Situation:

Article VI, s. 1, Fla. Const., provides in part, “[A]ll elections by the people shall be by direct and secret vote.” Section 101.041, F.S., implements this constitutional mandate and provides:

In all elections held on any subject which may be submitted to a vote, and for all or any state, county, district, or municipal officers, the voting shall be by secret, official ballot printed and distributed as provided by this code, and no vote shall be received or counted in any election, except as prescribed by this code.

Under current law, many persons with disabilities have no uniform method for casting an *absolutely* direct and secret ballot.

The Code provides that persons with disabilities be given assistance at the polls when casting a ballot. Sections 101.051(1)-(3), F.S., provide, in part:

(1) Any elector applying to vote in any election who requires assistance to vote by reason of blindness, disability, or inability to read or write may request the assistance of two election officials or some other person of the elector’s own choice, other than the elector’s employer, an agent of the employer, or an officer or agent of his or her union, to assist the elector in casting his or her vote. Any such elector, before retiring to the voting booth, may have one of such persons read over to him or her, without suggestion or interference, the titles of the offices to be filled and the candidates therefore and the issues on the ballot. After the elector requests the aid of the two election officials or the person of the elector’s choice, they shall retire to the voting booth for the purpose of casting the elector’s vote according to the elector’s choice.

(2) It is unlawful for any person to be in the voting booth with any elector except as provided in subsection (1).

(3) Any elector applying to cast an absentee ballot in the office of the supervisor, in any election, who requires assistance to vote by reason of blindness, disability,

or inability to read or write may request the assistance of some person of his or her own choice, other than the elector's employer, an agent of the employer, or an officer or agent of his or her union, in casting his or her absentee ballot.

In addition to allowing a disabled voter to receive assistance in casting a ballot at the polls, Florida law provides that **any** qualified and registered voter, including a disabled voter, may cast an absentee ballot.¹ This absentee ballot procedure requires voters with certain disabilities to seek third-party assistance in the preparation and casting of the ballot.

The Secretary of State's Select Task Force on Voting Accessibility ("Task Force") was composed of twenty-one citizens, appointed by Katherine Harris, Florida Secretary of State, on August 13, 2001. The Task Force was co-chaired by Senator Richard Mitchell and Representative Larry Crow.

The Task Force held five meetings from September 2001 to January 2002. Two meetings were held in Tallahassee and one each in Tampa, Orlando, and West Palm Beach. Testimony and comments were taken from a variety of persons and the public.

The Secretary of State charged the Task Force with the following purposes:

To ascertain the obstacles persons with disabilities face in voting in Florida's elections;

To develop and implement solutions for overcoming these obstacles;

To devise a mandatory training program for all elections officials and poll workers that includes instruction from persons with disabilities; and

To propose a funding mechanism for the recommended changes.

For purposes of defining "accessibility," in the context of persons having a disability, the Task Force looked at different stages of the election process, including:

1. Registering to vote;
2. Getting to and from the polling places;
3. Getting in and out of the polling places;
4. Utilizing the voting systems certified by the Department of State;
5. Having access to and participating in election information gathering, such as candidate forums and campaign advertising; and
6. Participating in candidate forums, political action committees, and candidate activities.

¹ Sections 97.021(1), 101.62-101.698, F.S.

III. Effect of Proposed Changes:

Section 1. Amends s. 97.021, F.S., to include a definition of “alternative formats” mirroring the definition contained in the Americans with Disabilities Act of 1990 (ADA), including specifically the technical-assistance manuals promulgated under it, as amended.

Section 2. Creates s. 97.026, F.S., to require that **all** forms used in the Florida Election Code be available upon request in alternative formats. The forms must include absentee ballots as alternative formats as they become available. If possible, such forms must be made available by the Department of State through the Internet.

Section 3. Amends s. 98.065, F.S., relating to registration list maintenance, to clarify that the term “nondiscriminatory” as used in that section also applies to persons having a disability.

Section 4. Creates s. 98.122, F.S., relating to closed captioning and descriptive narrative in television broadcasts. This section requires all candidates, political parties and political committees to use closed captioning and descriptive narrative in all television broadcasts or file a statement with the Department of State detailing the reasons for not doing so. It provides rulemaking authority to the department to establish and enforce penalties for failure to file the statement.

Section 5. Amends s. 100.361, F.S., relating to municipal recall, to provide that the contents of a petition for recall should, but is not required to, be provided by the proponent in alternative formats.

Section 6. Amends s. 100.371, F.S., relating to citizen initiatives, to require that a proposed amendment and related documents be made available upon request in alternative formats.

Section 7. Amends s. 101.017, F.S., to require the Bureau of Voting Systems Certification (Department of State) to cooperate and consult with the Disability Advisory Council (as created in s. 101.018, F.S., which is created in the bill).

Section 8. Creates s. 101.018, F.S., to establish a primarily advisory body, the Disability Advisory Council, within the Department of State. Provides that the council shall be comprised of nine members appointed by the Secretary of State and prescribes the terms of its members and the council’s duties.

Section 9. Amends s. 101.051(4), F.S., which requires a person to complete a “Declaration to Secure Assistance” before receiving assistance in voting, by eliminating the requirement that the person identify the reason for receiving assistance in the form.

Section 10. Amends s. 101.51, F.S., deleting the 5-minute time limit for occupying a voting booth. (A voter is permitted additional time under current law if he or she gives a sufficient reason.)

Section 11. Effective upon becoming law, creates s. 101.56062, F.S., relating to standards for accessible voting systems. It requires that, after November 30, 2002, each voting system certified

by the Department of State and used for local, state, or federal elections must include accessible voter interface devices in the system configuration which allow the system to meet the following minimum standards:

- A tactile-input or speech-input device, or both;
- A method by which voters can confirm any tactile or audio input by having the capability of audio output;
- Any controls which are needed for voters with visual impairments must be discernible tactilely without actuating the keys;
- Audio and visual access approaches must work separately and simultaneously;
- If a nonaudio access approach is provided, the system may not require color perception, but must use black text or graphics, or both on white background or white text or graphics, or both, on black background, unless the Department of State approves other high-contrast color combinations that do not require color perception;
- Any voting system that uses visual perception must be capable of being adjusted to a minimum of 14 point font size to a maximum of 24 point font size;
- The voting system must provide audio information, including any audio output using synthetic or recorded human speech or any auditory feedback tones that are important for the use of the audio approach, through at least one mode, by handset or headset, in enhanced auditory fashion, and must provide incremental volume control with output amplification up to a level of at least 97 db SPL;
- All controls must be operable with one hand including operability with a closed fist, and the force to operate such controls cannot exceed five pounds of force; and
- Any audio ballots must provide the voter with certain functionalities such as: which candidates are available in a particular race; and, how many candidates may be selected in a race.

The bill does not decertify any currently certified voting system. For elections after September 1, 2004, any voting system must have at least one voter interface device installed in each precinct which meets the requirements of the section except for the requirement that audio and visual access approaches must be able to work both separately and simultaneously. For elections after November 30, 2004, the Department of State must adopt rules establishing requirements and timeframes for the installation of additional accessible voter interface devices throughout the state.

The bill directs that the state standards regarding accessibility be maintained so that the state is eligible to receive any federal funds that may become available. Further, legislative intent is stated that state requirements are to meet or exceed the minimum federal requirements for voting systems and polling place accessibility.

Section 12. Creates s. 101.622, F.S., stating legislative intent that absentee ballot procedures and forms permit any voter, including voters with a disability, to cast an absolutely secret, independent, and verifiable ballot.

Section 13. Amends s. 101.71, F.S., to require supervisors to move a polling place (not less than 30 days before an election) that does not comply with the polling place accessibility requirements created in s. 101.715, F.S.

Section 14. Substantially rewords s. 101.715, F.S., relating to accessibility to polling places for persons having a disability. The requirements provide that by July 1, 2004, the portion of all polling places traversed by voters must:

- Be accessible and usable by persons having a disability;
- Comply with ss. 553.501-553.513, F.S. (Florida Americans with Disabilities Accessibility Implementation Act); and
- Have at least one parking space assigned to persons having a disability; and sufficient lighting and unobstructed paths of travel to the polling place.

The bill requires the supervisor of elections to survey each existing and newly-designated polling place by September 1, 2003, for compliance with these requirements (using the survey adopted pursuant to rule by the department).

The bill also requires the department to adopt rules to administer the section.

Section 15. Amends s. 102.014, F.S., to add training for poll workers on issues of etiquette and sensitivity toward persons with disabilities. The department is required to develop a mandatory program to be conducted by each supervisor of elections for his or her poll workers.

Section 16. Amends s. 104.20, F.S., to delete prohibition for remaining in a voting booth for an extended period of time.

Section 17. Amends s. 125.01, F.S., to correct a cross-reference.

Section 18. Authorizes the Comptroller and the State Board of Administration, in coordination with the Department of State, to develop a consolidated financing mechanism for the purchase or lease-purchase of voting equipment for individuals having a disability. The provision authorizes financing to be issued under one or more financing agreements at those intervals and in those amounts to fund any approved purchase or lease-purchase made under the act. The provision authorizes the Department of State to apply for federal funds to be used as reimbursement for the cost of eligible purchases made under the act.

Section 21. Provides an effective date of July 1, 2002, except as otherwise provided in the bill.

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:

The Department of State estimates the cost to provide one disability-friendly voting machine meeting the limited requirements in Section 11 of the bill at approximately \$8.7 million.

However, s. 101.715(6), F.S., as created by the bill, would at a minimum, require one voting machine in each precinct that allows a person having any disability to cast a secret, independent, and verifiable ballot. There is currently no voting system in production that could meet this requirement. The department estimates a cost of approximately \$9,000 per machine/device to develop and produce for sale a piece of voting equipment that does comply. With an estimated 6,500 precincts in Florida and the directive that at least one such device be available in each precinct, the total cost to either the state or county government is over \$58 million.

Travel and per diem expenses for the newly created Disability Advisory Council are estimated at \$108,000 per year for fiscal years 2002-03 and 2003-04, dropping to \$54,000 in fiscal year 2004-05.

The Department of State's fiscal estimate identifies, but fails to quantify, other potentially significant costs, including the cost of:

- *Making the portion of all polling places traversed by voters accessible to **all** disabilities.*

While most county polling places are accessible in one form or another and meet ADA requirements, there is no way to determine the cost to make "all" polling places traversed by voters accessible to persons with disabilities. Many polling places throughout Florida would have to be changed, because churches, which are exempt from some provisions of the ADA, often serve as polling places.

- *Alternative voting forms*

The Division of Elections is unable to determine the cost of all forms to be made available in all alternative, disability-friendly formats, but it has determined that to provide its 80 forms in Braille alone would be in excess of \$200 per form, per printing. Cost would vary depending on the number of pages of the form, layout times requested, and other factors of which the division may not be aware. It is estimated that one additional full time Document Specialist (pay grade 14) will be required to implement and manage the production of forms in alternative formats with increases in expenses for production of alternative formats and training material for poll worker training. (The FTE cost is estimated at \$24,650 per year, with other expenses expected to run about \$26,500 per year.)

In addition, the cost of providing absentee ballots and other ballots in alternative format is not available at this time. For example, Miami-Dade County alone produced over 500 different ballot styles for the 2000 primary election. Senate Bill 1504 would require alternative formats for hundreds and potentially thousands of ballot styles statewide. Of course, the number of printed ballots will be reduced from the last election because a number of large counties, such as Miami-Dade, Broward, Hillsborough, etc., have moved to touch screen voting systems that do not require printed ballots.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.