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HOUSE OF REPRESENTATIVES
PROCEDURAL & REDISTRICTING COUNCIL
ANALYSIS

BILL #: HB 493
RELATING TO: Voter Registration
SPONSOR(S): Representative(s) Fiorentino
TIED BILL(S):

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

- (1) RULES, ETHICS & ELECTIONS (PRC) YEAS 13 NAYS 0
- (2) STATE ADMINISTRATION YEAS 5 NAYS 0
- (3) PROCEDURAL & REDISTRICTING COUNCIL YEAS 15 NAYS 0
- (4)
- (5)

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I. SUMMARY:

HB 493 amends several provisions in the Florida Election Code relating to the uniform statewide voter registration application, comparison of a voter's registration address with his or her address for homestead exemption, duties of voter registration agencies, and administration of the statewide voter registration database. Specifically, the bill:

- Allows private individuals to reproduce the voter registration application;
- Deletes the optional collection of a homestead address on a person's voter registration application;
- Eliminates the requirement that supervisors of elections and property appraisers share voter registration and homestead exemption information for the purpose of verifying the validity of claimed homestead exemptions;
- Requires the Department of Highway Safety and Motor Vehicles (DHSMV) to forward unsigned voter registration applications to the appropriate supervisor of elections;
- Requires other voter registration agencies to forward incomplete voter registration applications to the appropriate supervisor of elections; and
- Clarifies the procedure for removing ineligible voters from the statewide voter registration database.

This bill does not appear to have a fiscal impact on local governments, but does have a non-recurring impact of \$13,500 for fiscal year 2002-2003 on the Department of Highway Safety and Motor Vehicles.

On January 23, 2002, the Committee on Rules, Ethics, and Elections adopted a strike-all amendment that is traveling with the bill. Please see the "Amendments or Committee Substitute Changes" section for further description of that amendment.

See "Other Comments" section for comments by the Committee on State Administration.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

B. PRESENT SITUATION:

Uniform Statewide Voter Registration Application: Currently, the Department of State (Department), must prescribe a uniform statewide voter registration application for use in this state. The Department is also responsible for printing and distributing the application to certain individuals and entities listed in s. 97.052(1)(b), F.S. A supervisor of elections may produce an application with the supervisor's direct mailing address, if the application has first been approved by the Department. Private individuals or groups cannot reproduce the application. [s. 97.052(1)(c), F.S.].

Homestead Exemptions: The current voter registration application is designed to include the address of property for which an applicant has been granted a homestead exemption, if any. [s. 97.052(2)(f), F.S.] Homestead information is not required for the application to be deemed complete. [s. 97.053(5)(a), F.S.] The supervisor of elections is required to forward an applicant's homestead information, if provided, to the appropriate county property appraiser, if the applicant has registered to vote using an address that does not match the address for which he or she has claimed a homestead exemption. However, it has been the experience of supervisors that homestead information is not provided by most applicants.

Section 196.141, F.S., requires a property appraiser to terminate a person's homestead exemption who registers to vote other than in the county and precinct where the homestead property is located, and subjects the person to payment of back taxes, if appropriate. These homestead provisions were included in a 1998 election reform package (SB 1402; ch. 98-129, Laws of Fla.) designed to enhance voter registration information and identify incidents of voter fraud.

Statewide Voter Registration Database: In 2001, the Department was appropriated \$2 million to develop a statewide voter registration database containing voter registration information from all of the counties. The purpose of the database is to verify the eligibility of voters and to help maintain an up-to-date voter registration list that does not contain convicted felons, deceased persons and those adjudicated mentally incompetent. Section 98.0977, F.S., currently requires supervisors of elections to compare a voter's registration information with information held by the Department of Law Enforcement, the Board of Executive Clemency, the Office of Vital Statistics and other relevant sources. Supervisors are to notify voters through certified mail that they are potentially ineligible to register to vote. The notice requests information from the voter to help the supervisors finally determine if an elector is ineligible but provides no hearing or appeal mechanism for the elector to challenge that determination.

C. EFFECT OF PROPOSED CHANGES:

Reproduction of the Voter Registration Application: The bill amends s. 97.052, F.S., allowing a voter registration application to be reproduced by private individuals or groups, so long as the application is in the same format as that prescribed by the Department.

Homestead Exemption Information: The bill deletes the requirement that an applicant submit the address for which he or she has claimed a homestead exemption, if applicable. In addition, the bill deletes a statement on the application explaining that a person may lose his or her homestead exemption, if he or she has registered in a precinct other than the one in which the homestead is located. Next, it deletes the requirement in s. 98.015, F.S., that supervisors of elections forward to the county property appraiser the names of persons who have registered with an address that is different from the location of the claimed homestead. Finally, the bill eliminates the property appraisers' duties with regard to examining referrals from the supervisors and terminating a person's homestead exemption, if appropriate. [s.196.141, F.S.]

Voter Registration: As part of the National Voter Registration Act of 1993 (also known as the "NVRA" or "Motor Voter Act"), [42 U.S.C. 1973gg-5(a), (b)], a person may register to vote at a DHSMV office at the same time he or she obtains a driver's license (a person may also register at a number of other agencies). Some applicants, however, decline to register or simply do not complete the voter registration application at the DHSMV office.

The bill amends s. 97.057, F.S., to require the DHSMV to forward copies of "unsigned" voter registration applications to the appropriate supervisor of elections within five days of receipt. [Formerly, the law was silent as to the DHSMV's duties relative to maintenance of unsigned applications and simply required that the agency retain declinations to register to vote for two years.] No requirements are imposed on a supervisor of elections after an application is received, but supervisors would like to be able to follow through with these applications, if possible.

The bill also amends s. 97.058, F.S., to require other voter registration agencies to forward "incomplete" applications to the appropriate supervisor of elections within five days of receipt of the applications.

[NOTE: This provision differs from the requirement that DHSMV forward "unsigned" rather than "incomplete" voter applications.]

Voter Registration Identification card: The bill deletes the requirement in s. 97.071, F.S., that the I.D. card contains the actual signature of a supervisor and will now require that the card include simply the name of the applicable supervisor of elections.

Voter's Change of Address: The bill amends s. 97.1031, F.S., regarding an elector's change of address. The amendment will allow an elector to provide a signed, written notice, or notify an elections official by telephone or electronically (via e-mail). If an elector opts to use telephonic or electronic notice, the elector must provide his or her date of birth.

Administration of the Statewide Voter Registration Database: The bill clarifies the requirements in s. 98.0977, F.S., relative to how the voter registration database is administered and ineligible voters are removed. Specifically, it requires a supervisor of elections to:

- remove any person listed as deceased;
- treat information in the database indicating that a person has subsequently registered in another county as a request to remove that person from the voter rolls in the county of

previous registration (these registrations are commonly known as duplicate registrations); and

- remove convicted felons and persons who have been adjudicated mentally incompetent through a uniform notice and hearing procedure. A supervisor is then required to notify those persons by certified mail that they are potentially ineligible to vote because of information contained in the database. The notice must contain an opportunity for persons to request a hearing before the supervisor to show cause why they should not be removed from the voter rolls. If the supervisor has evidence that the person did not receive the notice, the supervisor must publish a notice in a newspaper of general circulation. If an elector fails to respond to the notice within 30 days or fails to attend a hearing, the supervisor must remove the elector from the voter rolls.

The hearing procedure referred to above is designed to track similar requirements contained in s. 98.075, F.S., with regard to a supervisor's voter registration list maintenance duties. Section 98.075, F.S., provides for an appeal to the circuit court, if an elector is dissatisfied with the supervisor's decision at the hearing.

NOTE: The NVRA places limitations on removal of voters from registration lists, specifically prohibiting purges for not voting, and allows voters to be removed from the registration rolls only at their request, because of criminal convictions, death or mental incapacity, or due to a change of address (provided that particular safeguards are followed).

The bill provides an effective date upon becoming a law.

NOTE: See "Amendments" section below.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes" section.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Please see the fiscal comments section for comments provided by the Committee on State Administration.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Comments by the Committee on State Administration

The Department of Highway Safety and Motor Vehicles (DHSMV) believes that HB 493 will result in a non-recurring fiscal impact for fiscal year 2002-2003 of \$13,500. HB 493 requires DHSMV to deliver unsigned voter registration applications in addition to completed voter registration applications within five days after receipt of such applications to the appropriate supervisor of elections. According to DHSMV, this will require 100 hours of contracted programming modifications to the Driver License software system at a cost of \$13,500.¹

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

A. APPLICABILITY OF THE MANDATES PROVISION:

Election laws are exempt from the mandates of Art. VII, s. 18, of the Florida Constitution.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Election laws are exempt from the mandates of Art. VII, s. 18, of the Florida Constitution.

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

Election laws are exempt from the mandates of Art. VII, s. 18, of the Florida Constitution.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

As of December 17, 2001, the statewide voter registration database provisions enacted in ch. 2001-40, Laws of Fla., have not been precleared by the United States Department of Justice, and pursuant to its request, additional information is being provided to the Department of Justice.

Comments by the Committee on State Administration

At present, any registered voter that the supervisor of elections believes is not at least 18 years of age, is not a citizen of the United States, is a fictitious person, or has listed a residence on his or her voter registration that is not his or her legal residence, must be notified by the supervisor at his or her last known address by United States certified mail that such individual's registration is

¹ Pursuant to the DHSMV Bill Analysis on HB 493 prepared on December 5, 2001 by the Division of Driver Licenses.

allegedly invalid. If there is evidence that the notice was not received, notice must be given one time by publication in a newspaper of general circulation. The notice must state a time and place for the person notified to appear before the supervisor to show cause why his or her name should not be removed from the list of registered voters. Upon hearing all evidence in an administrative hearing, the supervisor must determine whether there is sufficient evidence to strike the person's name from the registration list. Appeal by the affected person may be taken to the circuit court. In contrast, any person that has been (a) adjudicated mentally incapacitated with respect to voting in the State of Florida or in any other state, and has not had his or her right to vote restored pursuant to law, or (b) convicted of a felony by any court of record and has not had his or her right to vote restored pursuant to law, is not entitled to receive notice from the supervisor and is simply removed from the voter registration list with no opportunity for challenge.

HB 493 provides persons adjudicated mentally incapacitated as well as convicted felons with the same rights as other individuals that the supervisor of elections finds ineligible to vote. The supervisor must notify such individuals by certified United States mail of their allegedly invalid voting status, and such individuals may attend a hearing at a time and place specified in the notice to challenge his or her voting designation. HB 493 further provides that appeal by the affected person may be taken to the circuit court.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Rules, Ethics & Elections adopted a "strike all" amendment to HB 493 at its meeting on January 23, 2002, that retains all proposed changes of HB 493 except the following:

- **Amendment No. 1** - The amendment leaves intact the homestead exemption provisions whereby supervisors of elections and property appraisers share voter registration and homestead exemption information for the purpose of verifying the validity of claimed homestead exemptions. A supervisor of elections is currently required to forward an applicant's homestead information, if provided on the voter registration application, to the appropriate county property appraiser, if the applicant has registered to vote using an address that does not match his or her claimed homestead address. Supervisors of elections will continue to forward homestead information obtained from voter registration applications to the appropriate property appraisers for follow-up.

The amendment clarifies the hearing procedure in s. 98.0977, F.S., which will be used by supervisors of elections when they identify a person from the statewide voter registration database who may have been convicted of a felony or adjudicated mentally incapacitated. It also allows for an appeal in circuit court of any decision resulting from a hearing. This change is designed to make the hearing procedure consistent with the list maintenance procedure contained in s. 98.075, F.S.

VII. SIGNATURES:

COMMITTEE ON RULES, ETHICS & ELECTIONS:

Prepared by:

Emmett Mitchell, IV

Staff Director:

Richard Hixson

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AS REVISED BY THE COMMITTEE ON STATE ADMINISTRATION:

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