Prepared By: The Professional Staff of the Ethics and Elections Committee

BILL: CS/SB 880

INTRODUCER: Committee on Ethics and Elections and Senator Rich

SUBJECT: Elections/Mail Ballots

DATE: April 3, 2008   REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE		ACTION
1.	Fox	Rubinas	EE	**Fav/CS**	
2.			CA		
3.			JU		
4.			TA		
5.					
6.					

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... ☒ Statement of Substantial Changes

B. AMENDMENTS....................... ☐ Technical amendments were recommended

☐ Amendments were recommended

☐ Significant amendments were recommended

I.   Summary:

Committee Substitute for Senate Bill 880 authorizes the use of all mail ballot elections for local, intra-county candidate elections: current law provides that only local *referendum* elections may be conducted by mail ballot.

The CS also provides that an elector's absentee ballot request will be valid for all future elections, unless the elector's ballot request indicates otherwise or the request is cancelled.

The CS takes effect January 1, 2009.

The CS substantially amends the following sections of the Florida Statutes: 101.6102, 101.6103, and 101.62.

II.   Present Situation:

Mail Ballot Elections

The Legislature enacted the Mail Ballot Election Act in 1987.[1] The act was created to develop procedures and limitations for the mail balloting process.[2] Under the act, the supervisor of elections shall be responsible for the conduct of any elections held under sections 101.6101-101.6107, which includes mail ballot elections.[3]

Currently, section 101.6102 defines criteria necessary to hold mail ballot elections and sets limits for these elections. To use mail balloting, an election must be a referendum election where all or a portion of the qualified electors eligible to vote are from one of four subdivisions of government. The four subdivisions of government eligible under the section are counties, cities, school districts covering no more than one county, and special districts. Electors from these subdivisions must be the only electors eligible to vote in the referendum election.[4] Subsection (b) allows for mail balloting on annexation referenda when the election only includes qualified electors of one county.[5]

Use of mail ballots for the specified election must be authorized by the governing body and the supervisor of elections.[6] Additionally, the supervisor of elections must create a written plan for the conduct of the election. This plan must include a timetable for the conduct of the election that is approved by the Secretary of State before a mail ballot election is allowed.[7]

The second subsection of 101.6102 lists the elections not to be held through mail balloting. Elections that nominate, elect, retain or recall candidates may not be conducted by mail ballot.[8] Mail balloting is disallowed if another election is scheduled for the same date, unless the second election is a mail ballot election where the qualified electors of the political subdivision are eligible to cast ballots.[9]

Section 101.6103 describes the procedures required to conduct a mail ballot election. All official ballots are to be mailed with secrecy and return mailing envelopes to each elector no sooner than the 20th day before the election, and no later than the 10th day before the date of the election.[10] The elector shall mark and return the ballot so that it reaches the supervisor of elections no later than 7 p.m. on the day of the election. If the ballot is returned in the correct return mailing envelope by 7 p.m. on the day of the election and the elector's signature can be verified the ballot shall be counted.[11] Section 101.6103 provides procedures for the mailing and return of mail

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[1] Ch. 87-364, Laws of FL.
[2] § 101.6102, F.S. and § 101.6103, F.S.
[3] § 101.6102 (3), F.S.
[4] § 101.6102 (1)(a) 1., F.S.
[5] § 101.6102 (1)(b), F.S.
[6] § 101.6102 (1)(a) 2., F.S.
[7] § 101.6102 (1)(a) 3., F.S.
[8] § 101.6102 (2) (a), F.S.
[9] § 101.6102 (2)(b), F.S.
[10] § 101.6103 (1), F.S.
[11] § 101.6103 (2), F.S.

ballots overseas, as well as protocol for the handling of ballots cast by individuals who die after mailing the ballot.

Absentee Ballot Requests

Florida law provides that an absentee ballot request entitles a voter to receive an absentee ballot for all elections through and including the second general election following the date of the request, unless the request indicates the elections for which he or she desires an absentee ballot.[12]

III. Effect of Proposed Changes:

Mail Ballots

The CS expands the use of mail ballot elections to include local, **candidate** elections where all or a portion of the qualified electors are from one of the following subdivisions of government:

➤ Counties.

➤ Municipalities.

➤ School districts covering no more than one county.

➤ Special districts, *provided* the district covers no more than one county.

The supervisor of elections must keep a record of all ballots mailed and all ballots returned.

Further, the CS specifies that an elector must pay return postage if the elector decides to return a ballot by mail. An elector may return a mail ballot in person to the main or branch offices of the supervisor of elections. These offices must remain open until 7 p.m. on the day of the mail ballot election to receive ballots.

Absentee Ballots

One request from an elector to the supervisor of elections entitles an elector to receive an absentee ballot for all future elections, unless the elector indicates otherwise. The CS provides that an elector may cancel this request by notifying the supervisor in person or in writing that he or she no longer wishes to receive an absentee ballot.

IV. Constitutional Issues:

A.   Municipality/County Mandates Restrictions:

      None.

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[12] § 101.62(1), F.S.

B.   Public Records/Open Meetings Issues:

None.

C.   Trust Funds Restrictions:

None.

V.   Fiscal Impact Statement:

A.   Tax/Fee Issues:

None.

B.   Private Sector Impact:

None.

C.   Government Sector Impact:

There will likely be an indeterminate cost savings for local governments that decide to hold mail ballot elections.

VI.   Technical Deficiencies:

None.

VII.   Related Issues:

The sponsor may wish to add a transitional section to the bill, providing that all electors with a current absentee ballot request on the effective date of the bill are entitled to receive an absentee ballot for *all* future elections.

VIII.   Additional Information:

A.   Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

The Committee Substitute differs from the original bill in that it: narrows the scope of candidate elections that may be conducted by mail ballot to include only local, intra-county races; deletes a requirement that supervisors of elections set-up drop box sites for ballots; requires supervisors' offices to remain open until 7 p.m. on the day of a mail ballot election; eliminates a two-tiered absentee ballot request process, providing instead that an absentee ballot request shall be valid for all future elections.

B.   Amendments:

None.