

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1262

INTRODUCER: Ethics and Elections Committee and Senator Hutson

SUBJECT: Election Dates for Municipal Office

DATE: February 6, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Ulrich	EE	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1262 expressly preempts to the state the authority to establish the dates of elections of municipal officers and provides the exclusive method for establishing those dates. Any state law, municipal charter, or municipal ordinance that conflicts with the bill is superseded to the extent of the conflict. As a result, a municipality will no longer have authority to establish unilaterally the date of its municipal officer elections.

The bill requires the governing body of a municipality to choose from among the following dates to hold its elections: the general election, the first Tuesday after the first Monday in November in an odd-numbered year, or the third Tuesday in March. The bill specifies that a municipality may not conduct more than one municipal general election cycle in a calendar year. The bill sets a format for runoff elections and allows elected municipal officers to continue in office until the next municipal election held in accordance with the bill.

The provisions of the bill that establish the method of selecting municipal election dates do not affect the manner in which vacancies in municipal office are filled or the manner in which recall elections for municipal officers are conducted. However, the bill allows municipal recall elections to be held concurrently with municipal elections provided the municipal election occurs during a specific period.

In order to provide for an orderly transition of office, the bill provides that the terms of incumbent elected municipal officers affected by the change in election dates will be extended to the next municipal election.

Lastly, the bill repeals s. 101.75, F.S., which allows a municipality to change its election dates in order to hold its elections concurrently with a statewide or countywide election or, if the voting devices for a statewide or countywide election are not available, to hold its elections 30 days before or after the statewide or countywide election.

II. Present Situation:

Article VI, s. 5(a) of the Florida Constitution requires a general election to be held in each county on the first Tuesday after the first Monday in November of each even-numbered year to choose a successor to each elective state and county officer whose term will expire before the next general election. Section 100.031, F.S., incorporates that constitutional provision into statute, but also requires a general election to be held in each county on the first Tuesday after the first Monday in November of each even-numbered year to choose a successor to each elective federal and district officer whose term will expire before the next general election.

Article VI, s. 6 of the Florida Constitution provides that registration and elections in municipalities must, and in other governmental entities created by statute may, be provided by general law. The Florida Election Code,¹ which is a collection of general laws, governs the conduct of municipal elections in the absence of an applicable special act, charter, or ordinance.² However, no act, charter, or ordinance may be adopted which conflicts with or exempts a municipality from any provision in the Florida Election Code that expressly applies to municipalities.³

Elections for municipal officers are conducted during the general election in November of even-numbered years unless the governing body of a municipality has adopted an ordinance to change the dates for qualifying and for the election of members of the governing body of the municipality.⁴ The ordinance may also provide for the orderly transition of office resulting from the date changes.⁵

Section 101.75, F.S., allows the governing body of a municipality to move the date of any municipal election to a date concurrent with any statewide or countywide election provided the election date and dates for qualifying for the election are specifically provided for in the ordinance.⁶ However, if the voting devices used in the county are not available to the municipality during the statewide or countywide election, the municipality may provide that its election will be held 30 days before or after the statewide or countywide election.⁷

¹ Chapters 97-106, F.S., are known as “The Florida Election Code.”

² Section 100.3605(1), F.S.

³ *Id.*

⁴ Section 100.3605(2), F.S.; *see also* s. 166.021(4), F.S.

⁵ Section 100.3605(2), F.S.

⁶ Section 101.75(3), F.S.

⁷ Section 101.75(1), F.S.

Any member of the governing body of a municipality may be removed from office by the electors of the municipality provided certain requirements are met.⁸ If the requirements are met but the municipal officer does not resign his or her office, a municipal recall election is held for the removal of that officer.⁹ A municipal recall election is held in conjunction with a general or special election if such an election is held during the defined timeframe for conducting a recall election.¹⁰

A municipality pays for the printing and delivery of ballots and instruction cards for a municipal election.¹¹

III. Effect of Proposed Changes:

The bill expressly preempts to the state the authority to establish the dates of elections of municipal officers. Any state law, municipal charter, or municipal ordinance that conflicts with the bill is superseded to the extent of the conflict. As a result, a municipality will no longer have the authority to establish unilaterally the date of its municipal officer elections.

The bill requires the governing body of a municipality to choose from among the following dates:

- The general election in November;
- The first Tuesday after the first Monday in November in an odd-numbered year; or
- The third Tuesday in March.

If a municipal charter or ordinance requires the municipality to conduct its election in a runoff format, the bill requires the municipality to choose from among the following options:

Initial Election	Runoff Election
Primary Election (Tuesday, 10 weeks prior to General Election)	General Election
Tuesday 10 weeks before the first Tuesday after the first Monday in November of an odd-numbered year	First Tuesday after the first Monday in November of an odd-numbered year
Tuesday 10 weeks before the third Tuesday in March	Third Tuesday in March

The bill does not require a municipality to alter or amend its charter. Any municipal charter provision that conflicts with the bill is automatically superseded without further action by the municipality. Likewise, any ordinance that conflicts with the bill is automatically superseded without any further action of the municipality.

⁸ Section 100.361, F.S.

⁹ Section 100.361(4), F.S.

¹⁰ *Id.*

¹¹ Section 101.21, F.S.

The provisions of the bill that establish the method of selecting municipal officer election dates does not affect the manner in which vacancies in municipal office are filled or the manner in which recall elections for municipal officers are conducted. However, the bill allows municipal recall elections to be held concurrently with municipal elections provided the municipal election occurs during a specific time-period.

In order to provide for an orderly transition of office, the bill provides that the terms of incumbent elected municipal officers affected by the change in election dates will be extended to the next municipal election held in accordance with the provisions of the bill.

The bill also repeals s. 101.75, F.S., which allows a municipality to change municipal officer election dates in order to hold its elections concurrently with a statewide or countywide election or, if the voting devices for a statewide or countywide election are not available, to hold its elections 30 days before or after the statewide or countywide election.

The bill is effective July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill may require some municipalities to spend funds or take action requiring the expenditure of funds in order to comply with the new election date requirements created by the bill; however, Art. VII, section 18 of the Florida Constitution explicitly exempts election laws from the county/municipality “mandates” provision within that section.

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:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 100.3605, 100.361, and 101.75.

IX. Additional Information:

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

CS by Ethics and Elections on February 6, 2018:

The Committee Substitute differs from the original bill in that it:

- Clarifies that a municipality can choose to conduct its general election on a general election day, on the first Tuesday after the first Monday in an odd-numbered year, or on the third Tuesday in March; and
- Clarifies that a municipality may only conduct one municipal election per calendar year.

- B. **Amendments:**

None.