

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 965 Election Board Composition

**SPONSOR(S):** Daniels

**TIED BILLS:** IDEN./SIM. BILLS: SB 782

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ethics, Elections & Open Government Subcommittee		Skinner	Toliver
2) State Affairs Committee			

**SUMMARY ANALYSIS**

The election board consists of poll workers known as clerks and inspectors that are appointed to conduct an election. The supervisor of elections (supervisor) of each county appoints an election board for each precinct in the county and conducts training for board members before each election. Election boards have a number of statutory duties relating to the conduct of elections, including:

- Attending the polling place by 6:00 a.m. of the day of the election.
- Checking in voters and confirming their identity.
- Overseeing the casting of ballots by eligible voters.
- Counting the ballots cast and securing the voting devices against further voting.
- Proclaiming the results.

Current law provides that an election board may not be composed solely of members of one political party. However, in any primary in which only one party has candidates appearing on the ballot, all clerks and inspectors may be of that party.

The bill requires each election board to include at least one member from each of the two largest political parties in the state.

The bill does not appear to have a fiscal impact on state or local governments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

The election board consists of poll workers known as clerks<sup>1</sup> and inspectors that are appointed to conduct an election.<sup>2</sup> The clerk is in charge of and responsible for seeing that the election board carries out its duties and responsibilities.<sup>3</sup> The supervisor of elections (supervisor) of each county must, at least 20 days prior to the holding of any election, appoint an election board for each precinct<sup>4</sup> in the county.<sup>5</sup> The supervisor must conduct training for clerks and inspectors before each election.<sup>6</sup> Election boards have a number of statutory duties relating to the conduct of elections, including:

- Attending the polling place by 6:00 a.m. of the day of the election.<sup>7</sup>
- Arranging the furniture, stationery, and voting equipment.<sup>8</sup>
- Checking in voters and confirming their identity.<sup>9</sup>
- Overseeing the casting of ballots by eligible voters.<sup>10</sup>
- Counting the ballots cast and securing the voting devices against further voting.<sup>11</sup>
- Proclaiming the results.<sup>12</sup>

Election boards have “full authority to maintain order at the polls and enforce obedience to [the board’s] lawful commands during an election and the canvass of the votes.”<sup>13</sup> While carrying out their duties, if any questions “arise before the members of an election board, the decision of a majority of [the board] shall decide the question.”<sup>14</sup>

The election board may not be composed solely of members of one political party.<sup>15</sup> However, in any primary in which only one party has candidates appearing on the ballot, all clerks and inspectors may be of that party.<sup>16</sup> A person whose name appears on the ballot as an opposed candidate is not eligible to serve on an election board.<sup>17</sup> Each member of the election board must be able to read and write the English language and be a registered qualified elector of the county in which the member is appointed or a person who has preregistered<sup>18</sup> to vote in the county in which the member is appointed.<sup>19</sup>

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<sup>1</sup> A “clerk” means “[t]he person who is in charge of a polling place during an election. The term also refers to the supervisor or site manager at early voting sites.” Department of State, Division of Elections, *Polling Place Procedure Manual*, available at [https://files.floridados.gov/media/703005/adopted-clean-de11\\_pollplaceprocmanual.pdf](https://files.floridados.gov/media/703005/adopted-clean-de11_pollplaceprocmanual.pdf) (last visited Jan. 21, 2024).

<sup>2</sup> Section 97.021(14), F.S.; see also s. 102.012(1)(a), F.S.

<sup>3</sup> Section 102.012(1)(a), F.S.

<sup>4</sup> A “precinct” refers to “geographic areas that local government has divided for election purposes. The voter’s residential address within a particular geographic area determines which issues and offices a voter can vote upon in an election.” Department of State, Division of Elections, *Polling Place Procedure Manual*, available at [https://files.floridados.gov/media/703005/adopted-clean-de11\\_pollplaceprocmanual.pdf](https://files.floridados.gov/media/703005/adopted-clean-de11_pollplaceprocmanual.pdf) (last visited Jan. 21, 2024).

<sup>5</sup> Section 102.012(1)(a), F.S.

<sup>6</sup> Section 102.014(1), F.S.

<sup>7</sup> Section 102.012(4), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 101.043(1), F.S.

<sup>10</sup> Section 102.031, F.S.

<sup>11</sup> Section 101.5614(1), F.S.

<sup>12</sup> Section 102.071, F.S.

<sup>13</sup> Section 102.031(1), F.S.

<sup>14</sup> Section 102.012(1)(a), F.S.

<sup>15</sup> Section 102.012(2), F.S.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> A person who is otherwise qualified may pre-register on or after that person’s 16<sup>th</sup> birthday and may vote in any election occurring on or after that person’s 18<sup>th</sup> birthday. Section 97.041(1)(b), F.S.

<sup>19</sup> Section 102.012(2), F.S.

Each member of the election board must take and subscribe to an oath or affirmation that he or she will perform the duties of inspector or clerk “according to law and will endeavor to prevent all fraud, deceit, or abuse in conducting the election.”<sup>20</sup>

### **Effect of the Bill**

The bill requires each election board to include at least one member from each of the two largest political parties in the state.<sup>21</sup>

#### **B. SECTION DIRECTORY:**

Section 1 amends s. 102.012, F.S., relating to inspectors and clerks conducting elections.

Section 2 provides an effective date of July 1, 2024.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

#### **D. FISCAL COMMENTS:**

None.

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<sup>20</sup> Section 102.012(1)(a), F.S.

<sup>21</sup> The two largest political parties, by number of voters affiliated, in the state are the Republican Party of Florida and the Florida Democratic Party. Department of State, Division of Elections, *Voter Registration – By Party Affiliation*, available at <https://dos.fl.gov/elections/data-statistics/voter-registration-statistics/voter-registration-reports/voter-registration-by-party-affiliation/> (last visited Jan. 21, 2024).

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

The Department of State may be required to alter certain rules, and material incorporated by reference to those rules, to conform to the bill. The Department of State has adequate existing rulemaking authority under s. 97.012(1), F.S., to do so.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.