



The Florida Senate

Issue Brief 2009-318

October 2008

Committee on Ethics and Elections

AGENCY SUNSET REVIEW OF THE DIVISION OF ELECTIONS OF THE DEPARTMENT OF STATE

Statement of the Issue

Under the Florida Government Accountability Act, most state agencies are subject to a “sunset” review process to determine whether the agency should be retained, modified, or abolished. During the 2010 Regular Session, the Legislature will review the Departments of Children and Families, Community Affairs, Management Services, and State. The Senate Ethics and Elections Committee is the primary sunset review committee for the Division of Elections of the Department of State, with assistance from the Senate Transportation and Economic Development Appropriations Committee.

The objective of this Issue Brief is to provide background information to assist in the preliminary examination of the division. This research may be useful guiding the discussion in the 2009 Legislative Session and identifying areas for further research.

It is anticipated that a related Interim Project in 2009 will provide additional information, findings related to the division’s effectiveness and efficiency, and recommendations on the necessity of continuing the duties and responsibilities assigned to the division.

Discussion

Background

Sections 11.901-.920, F.S., are known as the Florida Government Accountability Act. Under this act, most state agencies and their respective advisory committees are subject to a “sunset” review process to determine whether the agency should be retained, modified, or abolished.

Reviews are accomplished in three steps. First, an agency under review must produce a report providing specific information, as enumerated in s. 11.906, F.S., related to:

- Agency performance measures;
- The agency complaint process;
- Public participation in making agency rules and decisions;
- Compliance with state purchasing goals and programs for specified businesses;
- Compliance with statutory objectives for each program and activity;
- Program overlap or duplication with other agencies;
- Less restrictive or alternative methods of service delivery;
- Agency actions to correct deficiencies and implement recommendations of legislative and federal audit entities;
- The process by which an agency actively measures quality and efficiency of services it provides to the public;
- Compliance with public records and public meetings requirements;
- Alternative program delivery options, such as privatization, outsourcing, or insourcing;
- Agency recommendations to improve program operations, reduce costs, or reduce duplication;
- The effect of federal intervention or loss of federal funds if the agency, program, or activity is abolished;
- Agency advisory committees;

- Agency programs or functions that are performed without specific statutory authority; and
- Other information requested by the Legislature.

Upon receipt of the agency information, the Joint Legislative Sunset Committee and the House and Senate committees assigned to act as sunset review committees¹ must review the information submitted and may request studies by the Office of Program Policy Analysis and Government Accountability (OPPAGA).

Based on the agency submissions, the OPPAGA studies and public input, the Joint Legislative Sunset Committee and the legislative sunset review committees will:

- Make recommendations on the abolition, continuation, or reorganization of each state agency and its advisory committees and on the need for the performance of the functions of the agency and its advisory committees; and
- Make recommendations on the consolidation, transfer, or reorganization of programs within state agencies not under review when the programs duplicate functions performed in agencies under review.

In addition, the House and Senate sunset review committees must propose legislation necessary to carry out the committees' recommendations.

An agency subject to review is scheduled to be abolished on June 30 following the date of review as specified in s. 11.905, F.S., provided the Legislature finds that all state laws the agency had responsibility to implement or enforce have been repealed, revised, or reassigned to another remaining agency and that adequate provision has been made to transfer certain duties and obligations to a successor agency. If an agency is not abolished, continued, or reorganized, the agency shall continue to be subject to annual sunset review by the Legislature.

The review process for the Departments of Children and Families, Community Affairs, Management Services, and State began in July, 2008, when the departments submitted their respective statutorily mandated agency reports.

The Senate Ethics and Elections Committee is the primary sunset review committee for review of the Division of Elections within the Department of State. The Senate Transportation and Economic Development Appropriations Committee is assisting in this review.

Evaluation Method

Based upon statutory directives and a review of previous sunset reports, Senate staff has developed the following guidelines to be used in a preliminary and subsequent review of the agencies, their programs, and their advisory committees. Guidelines include:

- What is the mission of the agency?
- Why is the agency performing this mission?
- How are the programs of the agency funded?
- What would be the impact to public health, safety and welfare should the programs be eliminated or modified?²
- What duplication of programs exists within the agency or by other agencies or governments?
- Can these agency programs be provided more efficiently?³
- What initiatives has the agency undertaken to increase program efficiency?
- Are there management tools in place to appropriately measure program performance?

¹ Senate Committees include: Children, Families, and Elder Affairs; Commerce; Community Affairs; Ethics and Elections, and Governmental Operations, together with their respective Appropriations Committee.

² This issue will not be addressed in this Issue Brief, but rather in a subsequent report related to the Sunset Review, which may include findings and recommendations.

³ This issue will not be addressed in this Issue Brief, but rather in a subsequent report related to the Sunset Review, which may include findings and recommendations.

Guidelines for Agency Advisory Committees include:

- Was the agency advisory committee created to resolve a problem or provide a service? If so, has the problem been solved or the service provided?
- Would there be an adverse effect on the agency if the advisory body were abolished?
- Is the advisory body representative of the public and stakeholders impacted by their actions?⁴

This Issue Brief will address the issues identified in the guidelines and provide an overview of the agency and its programs.

Agency Mission

Section 20.10, F.S., creates the Department of State (department). The head of the department is the Secretary of State, who is appointed by the Governor, subject to confirmation by the Senate. The Secretary of State is the chief election officer of the state,⁵ Florida's Chief Cultural Officer,⁶ and as head of the department, is the custodian of specified state records.⁷

The department states that its mission is:

“to enhance the quality of life for every Floridian and its communities by preserving and promoting Florida’s rich historical and cultural heritage; by supporting our local libraries and providing access to information through our state library and archives; by ensuring fair and accurate elections; and by ensuring the integrity of Florida’s business community by recording entity creations and certain financial transactions.”⁸

The department is divided into six divisions:

- The Division of Elections;
- The Division of Historical Resources;
- The Division of Library and Information Services;
- The Division of Cultural Affairs;
- The Division of Administration; and
- The Division of Corporations.

The Division of Elections’ (division), mission is “to set the standards designed to ensure fair and accurate elections in Florida. The division is the state’s centralized organization that facilitates coordination and interpretation of election laws and is responsible for uniform compliance with Florida’s election laws and for promoting public awareness and participation in the electoral process.”⁹

The division’s responsibilities are outlined as follows:

Election Law Compliance

The division issues advisory opinions that provide statewide coordination and direction for interpreting and enforcing election law provisions. The division also qualifies state and federal candidates, registers committees and political parties, and implements policies to promote the timely and accurate filing of all required campaign finance reports.

⁴ The Department of State reports that the Division of Elections has no advisory committees.

⁵ Section 97.012, F.S.

⁶ Section 15.18, F.S.

⁷ Chapter 15, F.S.

⁸ Dep’t of State Sunset Review Agency Report to the Legislature, July 2008. Pg. I-7.

⁹ *Id.* at pg. IV-69.

Voter Participation

The division promotes participation by conducting workshops for agencies that are required to provide voter registration assistance. It also operates and maintains the Florida Voter Registration System required by the Help America Vote Act, which is the state's official list of registered voters and is used to identify potentially ineligible voters.

Elections Administration

Although counties have primary responsibility for the actual conduct of elections, the division has a limited role. The division tabulates the certified results from each county and provides statewide vote totals to Florida's Elections Canvassing Commission, which is responsible for certifying the state and federal election results. In addition, the division certifies all voting systems used in Florida and prescribes ballot instructions and overall ballot layout for each voting system through adoption of an administrative rule.¹⁰

Division Bureaus*

The division is comprised of the following bureaus:

- The Director's Office, which includes the Help America Vote Act (HAVA) budgetary section;
- The Bureau of Election Records;
- The Bureau of Voting Systems Certification; and
- The Bureau of Voter Registration Services.¹¹

Director's Office

The Director's office performs the following varied functions and duties:

Third Party Voter Registration Organizations

The division is required to adopt rules to implement the provisions relating to the registration and reports for third party voter registration organizations and to provide various forms for registration, reporting, and complaints.

Advisory Opinions

Upon request, the division provides election-related advisory opinions to eligible individuals relating to actions the person has taken or proposes to take. These opinions help assure uniformity in the application of the Election Code.

Voter Fraud

The division conducts preliminary investigations into irregularities or fraud in activities involving voter registration, voting, candidate petitions, and issue petitions. The division is also responsible for maintaining a voter fraud hotline. Since the beginning of 2006, the division has received 80 voter fraud complaints. The complaints are reviewed for legal sufficiency by the General Counsel's office and, if warranted, are sent to the Florida Department of Law Enforcement for investigation. In addition, the division maintains a voter fraud hotline, which is operational year round.

Initiative Petition and Revocations

The Secretary of State is responsible for determining (by February 1 of each general election year) whether a citizen's initiative petition has met the requirements for placement on the ballot based on the number and congressional jurisdictional distribution of verified petition signatures. If the threshold is met, the Secretary issues a certification of ballot position and number for the proposed amendment. Once a group has received a threshold amount of signatures, the initiative petition and supporting documentation are transmitted to the Attorney General's office who, in turn, petitions the Florida Supreme Court for an advisory opinion regarding compliance with constitutional and statutory requirements.

¹⁰ *Id.*

* The following section regarding the division's bureaus was taken directly from the Department of State's Sunset Review Agency Report to the Legislature, pgs. IV-74-94. Footnotes contained in the original material have been omitted.

¹¹ *Id.*

Supervisors of Elections are responsible for verifying signed petitions and revocations. Supervisors transmit the number of valid signatures to the division for compilation and determination of when the requisite number of signatures has been obtained for transmittal to the Attorney General and for ballot placement. Hard copies of signed petitions are retained at the local Supervisor of Elections' offices. Information on initiative petitions and revocations can be found on the division's web site.¹²

Translation of Ballot Initiatives

The division provides a written translation of statewide ballot issues upon request, in the language of any minority group specified in the Voting Rights Act as applicable to Florida. The department provides a translation of constitutional amendments that will appear on the ballot. Because Spanish is the only written language for covered jurisdictions in Florida, the amendments are translated into Spanish for dissemination to Supervisors of Elections and to the public.

Elections Emergency Contingency Plan

The division is required to develop an elections emergency contingency plan, containing goals and policies giving specific direction to state and local elections officials when an election is suspended or delayed due to an emergency. Rules 1S-9.001-9.005, F.A.C., detail the actions which are to be taken in the event of a suspended or delayed election due to an emergency.

Certification of Supervisors of Elections

The division is required to establish continuing education requirements for Supervisors of Elections to receive special qualification pay of \$2,000 per year.

Amendments to the United States Constitution

In the event Congress proposes an amendment to the U. S. Constitution, the department is responsible for publishing a notice of a special election called by the Governor to select 67 delegates to form a convention to ratify or reject the proposal; for prescribing the application form to be used; for serving as the qualifying officer; for preparing the ballots containing the substance of the proposed amendment and the names of candidate delegates and their positions on the amendment; and for providing the time and meeting for the convention to be held once delegates are elected. The department is responsible for transmitting the certificate of ratification or rejection of the proposed amendment to the U.S. Secretary of State.

Bureau of Voting Systems Certification

The Bureau of Voting Systems Certification establishes standards for voting system certification and provides technical assistance to county Supervisors of Elections. The bureau performs the following functions:

Voting System Standards

The bureau reviews governing standards for certification of voting systems to determine the adequacy and effectiveness of such rules. The bureau periodically updates the Florida Voting System Standards, which is located in rule 1S-5.001, F.A.C., to keep the code relevant to revised requirements and technological advances.

In 2005, the bureau published updated Voting System Standards. The process included reviewing the federal Election Assistance Commission's (EAC) Voluntary Voting System Guidelines (VVSG) and issues particular to Florida. The 2005 Voting System Standards are available online and in a published report. The bureau is currently re-reviewing these standards.

Voting Systems Certification Standards

The bureau continuously reviews voting system certification standards to ensure that new technologies are appropriately certified and compliant with Florida requirements, including but not limited to, accessibility requirements under section 101.56062, F.S.

¹² This division's web site is: <http://election.dos.state.fl.us>.

Effective July 1, 2008, voting must now be accomplished using marksense ballots with optical scan voting systems in lieu of touchscreens. The same requirement will apply by 2012, for accessible voting systems used by persons with disabilities. In anticipation of that deadline, new technologies have been recently certified including paper ballot scanning systems using accessible paper ballot markers and ballot on demand systems.

Voting Systems Compliance

The bureau is required to examine voting systems for compliance and provide Florida counties with a list of certified voting systems. In 2006, the bureau received eight applications for certification. Of these, four systems were approved for certification. Three applications were withdrawn and the remaining application completed certification in 2007. Since September 2007, the bureau has examined five more applications and recommended three for certification. One application was withdrawn and the other application is still being investigated.

The bureau publishes this information in the *Florida Voting System Certification: Project Status Report*. The report tracks the status of each application and final outcome. The division retains applications for certification and certification trace to vendor testing and technical data. A list of certified systems and documentation is available on the division's Web site.

County Voting Systems Acquisition

The bureau must ensure that Florida counties have and use only voting equipment certified by the state that meet standards required by law including accessibility standards. Prior to 2006, the bureau reviewed compliance based on oral information from county Supervisors of Elections. As of July 2006, the bureau tracks compliant voting systems deployed in Florida through a database. County supervisors must also follow a check-off form and a guidance document. The bureau publishes a list of the voting systems used by each county on the division's Web site. The division retains completed Florida Voting Systems Certification Checklist and Test Records.

Performance of Voting Systems

The bureau is responsible for analyzing reports submitted by the Supervisors of Elections in order to prepare a report on the performance of each type of voting system to include identifying problems with ballot design or instructions; voting system design problems; and recommendations for correcting identified problems. The bureau's most recently published report was *Analysis and Report of Overvotes and Undervotes for the 2006 General Election*.

Election Conduct Reports

The bureau is responsible for acquiring, analyzing, and categorizing the various problems that occurred during an election and disseminating the information, with possible solutions, to the Supervisors of Elections. At the same time that the official results of an election are certified, county canvassing boards are required to file a report with the Division of Elections on the conduct of the election. The bureau tracks these issues based on the four M's: man, machine, materials, and methods. The bureau retains copies of the *Conduct of Election Reports*.

County Election Security Procedures

The bureau is responsible for reviewing county security procedures to ensure that each county has procedures to assure the accuracy and security in each of the county voting systems. The bureau reviews security procedures and issues advisories when necessary. The division has released two recent reports with the intent that the guidelines would be incorporated within the minimum security procedures rule, 1S-2.015, F.A.C. These advisories focused on overcoming the potential security compromises related to specific voting systems.

In March 2006, the Division of Elections released a "Technical Advisory" which contained a set of guidelines to serve as the basis for each county to re-examine their security procedures.

Election and Registration Processes

The department, at its discretion or upon request, may appoint one or more deputies to observe and examine the registration and election processes, and the condition, custody, and operation of voting systems and equipment in any county or municipality.

Members of the bureau perform this function upon request. For example, in 2006, the bureau conducted an in-house audit of the ES&S voting system used in the 2006 General Election for Sarasota County with regard to the United States Congressional District 13 race. The bureau also arranged for an independent study of the system's source code by the Florida State University's Security and Assurance in Information Technology Lab (SAIT). Also during 2006, election observations occurred during the Eagle Lake (Polk County) municipal election. During 2007, observations were conducted in the cities of Alachua, Palatka, Golden Beach, and in parts of a special election in Santa Rosa and Escambia Counties. The bureau publishes a report about each assignment and outcome. The bureau's final audit report of the ES&S iVotronic Voting System in the 2006 General Election for Sarasota County and SAIT Lab's report are available online.

County Logic and Accuracy Tests

The bureau also is tasked with preserving the election ballot template that represents the version that the county Supervisor of Elections publicly tested in accordance with section 101.5612, F.S. This allows the department to verify the tabulation software used by the county Supervisor of Elections should the county canvassing board request such a determination pursuant to section 102.141(6)(b), F.S. The bureau obtains and catalogs the election ballot templates prior to each election. To date, no county canvassing board has requested a verification of this function, pursuant to section 102.141(6)(b), F.S.

Voting System Security

The department, through the bureau, is required to publicly examine all makes of electronic or electromechanical voting systems submitted to it and determine whether the systems comply with the requirements of Section 101.5606, F.S. Previously, this function has been performed by the Security and Assurance Information Technology Lab at Florida State University. The bureau has taken a proactive role towards developing in-house personnel capable of meeting the needs of this expansion in scope. The Legislature has allocated funds for new positions to meet this need and the division has hired a person to conduct these reviews.

Precinct-Level Election Results

The department is responsible for creating a uniform system for collection and reporting by Supervisors of Elections of precinct-level election results for specifically enumerated elections. This task is the responsibility of this bureau. Within 35 days after a municipal election or runoff, a presidential preference primary election, a primary election, a special election, or a general election, Supervisors of Elections must file with the department, in the format prescribed by the department, precinct-level election results that include demographic data at book closing, individual vote history, ballot returns cast at polls, absentee ballot returns, and early voting ballot returns. The precinct-level election results are uploaded and posted on the Division of Elections' Web site. The division ensures that the uploaded data conforms to the prescribed format and makes the compiled reports available to the public.

Bureau of Election Records

The Bureau of Election Records is comprised of four basic units which are as follows:

- Office of the Bureau Chief
- Review Section
- Commission Section
- Public Inquiry Section

The bureau assists in the preparation and distribution of various election booklets, pamphlets, and forms; conducts candidate qualifying; conducts workshops and training; and issues certificates of elections. The bureau handles all contribution and expenditure reports for candidates that qualify with the state, along with reports filed by political committees, committees of continuous existence, electioneering communications organizations, persons making independent expenditures of \$100 or more, and state party executive committees. It also processes requests for public financing and conducts the audits of reports filed by gubernatorial and cabinet candidates that receive public financing. In addition, the bureau provides certified copies of candidate, committee, and party files to the Florida Elections Commission (FEC) for use at Commission hearings. The FEC is responsible for enforcement of the state's campaign finance laws.

Matching Funds for Gubernatorial and Cabinet Candidates

The bureau is responsible for processing and distributing matching funds to applicable candidates during the general election. Candidates are required to file regular reports of all contributions received and all expenditures made by or on behalf of the candidate through the Electronic Filing System (EFS). Candidates are required to submit a request for matching funds at the time of qualifying.

The bureau reviews these requests and allocates matching funds when approved. The bureau tracks the amount of public campaign finance through EFS. Reports on matching funds are created through a program called the Matching Fund. The bureau has added programming to EFS so that it is easier for employees to verify eligible amounts of matching funds for candidates. In 2006, the bureau distributed a total of \$11,133,761.59 in matching funds to candidates running for the following four positions: Governor, Chief Financial Officer, Attorney General, and Commissioner of Agriculture. These figures are available to the public through the division's Web site.

Commission Section

The bureau acts as liaison between the Governor's Office, the Florida Senate, and elected and appointed officials. The Commission Section issues certificates of election, certificates of incumbency, and commissions of office for various elected and appointed officials on the federal, state, district, multi-county, and county levels. During fiscal year 2005-2006, the Commission Section issued 1,269 commissions. During fiscal year 2006-2007, 1,877 commissions were issued.

Candidate Petition Determination

The bureau determines, based on certifications from the Supervisors of Elections, whether a candidate for statewide, district, or multicounty office has obtained the requisite number of petitions to have his or name printed on the ballot, without paying a qualifying fee. During the 2006 election, 108 candidates qualified by petition with the division, based upon the determination that the requisite number of signatures had been obtained. An additional 30 persons attempted, but did not obtain the requisite number of petitions.

Testimonials for Public Officers

The bureau files notices of intent and reports relating to testimonials for public officers. During 2006 and 2007, four notices of intent for public officer testimonials were filed.

Presidential Elections

The bureau certifies names of the candidates for the Presidential Preference Primary to the Supervisors of Elections for placement on the ballot. In addition, the division receives the names of candidates for nomination as President and Vice President and a list of each Presidential candidate's electors. Certifications of candidates for the Presidential Preference Primary held on January 29, 2008, were sent to the Supervisors of Elections on November 13, 2007. Names of candidates and lists of presidential electors for the 2008 general election were due to the department no later than September 1, 2008.

Review Section

The Review Section handles all initial filing papers for candidates, political committees, committees of continuous existence, electioneering communication organizations, political party executive committees, and persons who make independent expenditures of \$100 or more.

The bureau is statutorily required under subsections (6) and (10) of section 106.22, F.S., to conduct random audits of campaign treasurer's reports for completeness and compliance. The bureau staff currently audits all campaign treasurers' reports for completeness and compliance, and makes referrals of reports not filed or incomplete to the Florida Elections Commission for further investigation pursuant to section 106.22(7), F.S. During fiscal year 2005-2006, the number of reports received by the Review Section was 7,182. In fiscal year 2006-2007, the Review Section processed 18,568 reports.

Electronic Filing; Audits; Investigative Power

Effective January 1, 2005, all campaign finance reports filed with the division are required to be filed through the division's Electronic Filing System (EFS). The division is required to periodically audit the reports, including those of candidates receiving funds under the public financing program. If warranted, the division has the power to do preliminary investigations, including the power to subpoena persons or records.

All candidates for public office are required to file regular reports of all campaign contributions and expenditures made by or on their behalf. In addition, all political committees, committees of continuous existence, electioneering communications organizations, state executive committees of political parties and persons or organizations who make expenditures of \$100 or more must file financial reports. All these persons and entities are responsible for submitting this information on the division's EFS. The bureau then reviews these reports for completeness and compliance. The EFS tracks when campaign finance reports are filed. The division tracks the number of reports as a performance measure. The EFS automatically alerts division staff if the filed report is incomplete or is not in compliance with the statute. The division then notifies the candidate or entity that the report is incomplete or not compliant. This audit function is now an ongoing function instead of one that takes place following the election.

The Florida Elections Commission has the primary responsibility for investigating complaints and determining violations of Chapter 106, F.S.

Qualifying Officer

The bureau serves as the official filing officer and custodian of records for all federal, state, and multi-county candidates. In 2006, there were in excess of 700 candidates that submitted paperwork and qualified during the May and July qualifying periods. Following qualifying, the bureau prepares the certification to the Supervisors of Elections notifying them of the names and offices of all candidates that qualified with the division.

Publications and Training

The bureau provides published materials and training to candidates, committees, and election officials. The bureau prepares and publishes campaign finance handbooks for candidates, committees and political parties and distributes schedules of reporting dates for the same. The bureau prepares information pamphlets on the qualifying process for Federal and State candidates.

The bureau presents campaign finance and qualifying workshops to candidates and committees, and Supervisors of Elections. The bureau is also frequently asked to speak at association conferences for groups such as city clerks, special districts, property appraisers, judges, and sheriffs.

Prepare Notices of Election

Pursuant to sections 100.021 and 100.141, F.S., the department is mandated to prepare a notice of election stating the offices and vacancies which are to be filled pursuant to a regularly scheduled or a special election in each county and district.

The division publishes notices of general elections twice in a newspaper in each county, 30 days prior to the beginning of qualifying. Notices of special elections are provided to the Supervisor of Elections in each county involved in the special election. The notices are then published by the Supervisors twice at least ten days prior to the first day of qualifying for the special election. Notices of special elections are also posted on the division's Web site.

Bureau of Voter Registration Services

The Bureau of Voter Registration Services (BVRS) was established in 2005 to meet the requirements of the federal Help America Vote Act of 2002 (HAVA). HAVA mandates that each state establish and maintain a single, official, centralized, interactive computerized statewide voter registration system with statewide voter registration access. Florida's system, the Florida Voter Registration System (FVRS), was designed to interface the 67 county voter registration systems into a centralized system maintained at the state level and to become the official voter registration list. The bureau is divided into four sections:

- Office of the Bureau Chief
- Voter Services Section
- Compliance and Regulation Section
- National Voter Registration Act Coordination Section

Voter Services Section: New Application Intake and Record Updates

Voter registration officials are required to enter new applications or updates to the statewide voter registration system within 13 days of receipt. State law provides that a voter registration official is any supervisor of elections and any individual otherwise designated by the Secretary of State as authorized to enter applications and updates into FVRS.

State law allows a legally qualified person to submit his or her new voter registration application or update to any driver's license office, voter registration agency, armed forces recruitment office, the division, or any Supervisor of Elections' office, regardless of whether or not the office is in a county of the person's legal residence. The registrations and updates are directly input into FVRS by the voter registration official who receives them.

Authorized staff of the bureau enter information from new applications and updates into the statewide voter registration system as received directly by the division. This includes creating and storing images of the voter registration applications in FVRS.

Voter Services Section: Cancellation Notices

This section receives cancellation forms from other states informing the bureau when Florida voters have transferred their voting privileges to another state. Voters listed in the cancellation forms must be cancelled from the voter rolls in their Florida county of residence. The Voter Services Section sends cancellation notices to other states when a voter moves to Florida and indicates he or she was previously registered in another state. The Voter Services Section forwards cancellation notices to the Supervisors of Elections, notifying them of the voters who were previously registered in Florida and have moved to another state. These notices are forwarded daily to the appropriate Florida Supervisor of Elections.

The Voter Services Section sends weekly state-specific reports notifying those states that a voter previously registered in their state is now registered in Florida. The bureau runs a report on registered Florida voters who were previously registered in another state. The bureau mails the report to the appropriate other state for processing. The department retains copies of these documents.

Voter Services Section: Identification and Verification of Voter Applicants

Federal law and state law require the department to verify a voter registration applicant's Florida driver's license number, Florida identification number, or the last 4 digits of an applicant's social security number via a matching process by verifying with the Department of Highway Safety and Motor Vehicles (DHSMV) or the Social Security Administration (SSA), whichever is applicable.

An application cannot be accepted as complete unless it includes a verified valid Florida driver's license or social security number or if none, the word "None" is written on the application. This personal identifying information is verified through the DHSMV or the Social Security Administration, depending on what number is provided on the application. DHSMV sends the electronic results of the verification back to FVRS. Verified applications result in the registrant's placement on the rolls by the Supervisor of Elections. Applications in which the number cannot be verified or are questionable are forwarded to the bureau and identified as pending applications for further review.

The bureau reviews the personal identifying number on available voter registration application images against secondary database resources such as DHSMV's "DAVID" system (Driver's and Vehicle Information Database). The bureau determines whether a data error occurred, whether the wrong number was provided by the applicant, or whether the identity can otherwise be verified. If the bureau is able to verify the registrant's identity, the voter registration record is overridden as verified and the person is registered. If the identify remains questionable after thorough research, the application is forwarded to the appropriate Supervisor of Elections for further review. If the supervisor is unable to

resolve the matter, notice is provided to the voter regarding the information on the application and opportunity to present evidence of eligibility.

Compliance and Regulation Section

The bureau performs processes manually and through FVRS to maintain the accuracy of voter registration records and ensure that they are current. The bureau uses a number of primary and secondary external resources to initiate and process information received regarding the potential ineligibility of a registered voter whether due to an adjudication of mental incapacity, felony conviction, death, or other basis.

Each month the county Clerks of Court mail a list of persons adjudicated mentally incapacitated as it pertains to voting rights. The bureau performs a manual check of persons on that list to those currently registered to vote in Florida.

At least monthly, the Florida Department of Health, Bureau of Vital Statistics sends an electronic file on death certificates issued in the state. The bureau compares this information with information on the voter registration list to verify if a match appears.

In addition, registered voter data in FVRS, is compared against felony records maintained by the Florida Department of Law Enforcement (FDLE) to identify potential matches based on standard matching criteria. Potential matches on an individual basis are made available through an FDLE-bureau interface. The bureau pulls the data and then conducts an extensive manual examination to determine the credibility and reliability of the information. The bureau examines four key sources: 1) Department of Corrections Web site, 2) Florida Clerks of Courts Comprehensive Case Information System containing court records from all courts in the state of Florida, 3) Board of Clemency records extracts forwarded electronically to FVRS, and 4) DHSMV's DAVID system containing signatures, driver's license numbers, social security numbers, addresses, and photographs. The bureau uses these same sources to conduct credible and reliable examinations of federal felony records received from U.S. Attorneys' Offices.

The bureau receives paper documentation from the US District Courts on people who have been convicted of felonies in the federal court system. Paper documentation is also received by the 67 county Clerks of Court on people who have been adjudicated mentally incapacitated with respect to their voting rights. The bureau is currently developing an internal Access database to track these paper files electronically. Information about FDLE felons and death matches is also tracked by the bureau.

Office of the Bureau Chief

Office of the Bureau Chief: Election Night Reporting

The bureau receives and monitors election returns from all 67 county elections offices through a web based program developed and maintained by the department. Each county canvassing board must submit to the department no later than 11:59 p.m. on election night that county's preliminary unofficial election returns. The returns are received from the county through a Web-based program developed and maintained at the department. Election returns for all elections are posted on the division's Web site and are categorized by the specific election title and date of election.

Office of the Bureau Chief: Book Closing

State law prescribes when updates to a voter registration record may be made before an election. Voter registration books must be closed on the 29th day prior to each election and must remain closed until after that election. If an election is called and there are fewer than 29 days before that election, the registration books must be closed immediately. After each book closing period for specified elections, statistical (official) voter registration information of active registered voters is compiled from the FVRS to provide to the Supervisors of Elections for use in county voting tabulation systems and for providing voter turn-out results.

Any applications received at the county or at the bureau with a postmark date of book closing or prior are entered within 13 days, and the date of registration is either the postmark date or the date of book closing. During the time the books are closed for an election, the only updates permitted prior to the upcoming election are updates to a voter's name, address, and signature. New voter registration applications and changes to an existing voter's party affiliation while accepted and processed are applicable only for subsequent elections.

The voter registration statistical information is compiled from FVRS after each book closing period for elections in which there is a national, state, county, legislative, or congressional district race; or constitutional issue. The statistical information is formatted: by party, by race, by party and race, by precinct by party, by congressional district, by senate district, by house district, and by judicial circuit.

Book closing number reports are forwarded to each county Supervisor of Elections. The book closing numbers from these reports are entered into the county tabulation system and are used by the counties to measure and report voter turnout. In addition, these reports are posted on the division's Web site.

Office of the Bureau Chief: Voting History and Voter Registration Information Reporting

State law requires the division to submit to the Florida Legislature an electronic report that includes voter registration information and voter history of all voters qualified to vote in a general election. The report is submitted specifically to the Senate President, Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader. The report specifically includes the voter's unique registration identifier, voter registration application information that is not otherwise exempt from public disclosure, the registration date, the representative district, senatorial district, congressional district, and precinct in which the voter resides. In addition, the report shall include whether the voter voted at the precinct location, voted by early vote, voted by absentee ballot, attempted to vote by absentee ballot that was not counted, attempted to vote by provisional ballot that was not counted, or did not vote. These reports are to be filed within 75 days after a general election or within 15 days after the Supervisor of Elections has completed the updating of voter history information. This information is also available to the public. As a consequence of this provision, the bureau also produces for the public a monthly extract of voter registration records derived from FVRS and voting history provided by the Supervisors of Elections.

Office of the Bureau Chief: Absentee Ballot Request Reporting for Every Election

State law requires the Supervisors of Elections to record for each absentee ballot request, the request date, the date the absentee ballot was delivered to the voter or the voter's designee or the date the absentee ballot was delivered to the post office or other carrier, and any other information deemed necessary. Prior to each election, the supervisor is required to submit by noon daily to the Division of Elections reports regarding the prior day's absentee ballot request information activity. This information must be submitted in the electronic format prescribed by the department.

At least 35 days before and up to 10 days after an election, the Supervisor of Elections submits by noon to the division a daily electronic report containing all the absentee ballot request information recorded for the prior day. The division limits public access to the absentee ballot request reports posted on its Web site since request information is exempt and confidential under current law except to statutorily enumerated individuals and entities. To ensure security, the bureau devised a password protected access program.

Acting as the centralized repository of the daily uploaded reports on absentee ballot request information, the division makes available on a limited basis the reports on its Web site under Election Information/County absentee ballot/early voting reports.¹³ Once an individual is no longer qualified to receive the absentee information, the password assigned to that individual or group is disabled denying them access to the database.

Office of the Bureau Chief: Early Voting Reporting

State law requires, during the early voting period prior to an election, the Supervisors of Elections to make publicly available daily reports summarizing early voting activity and detailed early voter history. This information also is provided in an electronic format to the Division of Elections.

During the early voting period, the Supervisor of Elections for each county submits by noon in a daily electronic upload to the division early voting activity from the prior day. Acting as the centralized repository of each county's daily uploaded early voting summary reports and detailed early voter history reports, the division makes the reports publicly available on the division's Web site under Election Information/County absentee ballot and early voting reports.¹⁴

¹³ The link for this information is: <https://doe.dos.state.fl.us/fvrscountyballotreports/fvrsefilings.aspx>.

¹⁴ The link to this information is: <https://doe.dos.state.fl.us/fvrscountyballotreports/fvrsefilings.aspx>.

NVRA Coordination Section

The law requires coordination of the state's responsibilities under the National Voter Registration Act of 1993 (NVRA), state training to all affected state agencies on the necessary procedures for proper implementation of the Florida Election including implementation of NVRA by virtue of sections 97.057 and 97.058, F.S., and coordination with the United States Department of Defense regarding armed forces recruitment offices duties under NVRA and the Florida Election Code.

The bureau provides regional biennial NVRA and FVRS workshop training statewide. The bureau conducted statewide NVRA workshops in 2006 and 2008 for attendees from the DHSMV and other voter registration agencies. Attendees are shown a two hour power point presentation which details their responsibilities under NVRA and FVRA. The bureau produces monthly reports of current voter registration statistics by county and party affiliation. An annual report is also produced compiling the voter registration statistics for the year. After each statewide election a report of voter registration activities is filed with the U.S. Election Assistance Commission.

The bureau makes changes and updates to the uniform voter registration application as necessary. The Florida Voter Registration Application is printed in two languages; English and Spanish. The bureau also accommodates requests for special formats, for example Braille and large print. The Florida Voter Registration Application was last updated in January 2008.

The bureau is responsible for the printing, warehousing, and shipping of the Florida Voter Registration Applications and for providing to all Florida Supervisors of Elections offices and to others by request. The bureau also provides voter registration applications to DHSMV to be mailed with each driver's license renewal. The bureau reviews and approves the forms to be used by DHSMV and voter registration agencies including the preference forms (also known as declination forms).

In January 2008, five million English and one million Spanish voter registration applications were printed to be disseminated to the Supervisors of Elections and others by request. One million English voter registration applications were printed by the department's Print Shop for the DHSMV to be mailed with driver's license renewals. An additional one million English voter registration applications will be printed for DHSMV prior to December 2008.

The Florida Voter Registration application is available online in a PDF format and is also ADA compliant.¹⁵

HAVA Section

In 2002, the federal government passed the Help America Vote Act (HAVA). HAVA was required to be implemented by all states and funding was provided by Congress. The HAVA Section monitors expenditures to ensure compliance with federal requirements. The section administers several grants that provide funds to county Supervisors of Elections for HAVA related activities. These include voter education and voting systems assistance programs. In addition, the HAVA section is responsible for administering grant funds awarded by the U.S. Department of Health and Human Services under the Voting Access for Individuals with Disabilities grant program.

Statewide Voter Registration System – Florida Voter Registration System (FVRS)

HAVA requires that each state implement in a uniform and nondiscriminatory manner, a single, uniform, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level. The Division of Elections, Florida Voter Registration System Development Team designed, created, and implemented the Florida Voter Registration System (FVRS). FVRS is a real-time system that contains voter registration information of all voters in the state and integrates data from multiple agencies.

HAVA set a deadline of July 1, 2004, for implementation. As permitted by HAVA, Florida obtained a waiver until January 1, 2006, and was one of a handful of states in compliance with federal law by that deadline.

¹⁵The link to the application is: <http://election.dos.state.fl.us/regtovote/regform.shtml>.

Disability Compliant Voting Systems

HAVA includes disability requirements, such as at least one disability compliant voting system per polling place. In fiscal year 2004-2005, the Legislature appropriated \$11.6 million of federal HAVA funding to supplement purchases of disability compliant voting systems. In fiscal year 2005-2006, the department distributed \$13.4 million in HAVA funds to reimburse counties that purchased disability compliant voting systems prior to July 1, 2004. All counties in Florida have purchased the required equipment to be in compliance with this provision of HAVA. The division tracks the appropriation of these funds by county. Each county was also required to provide certification that there was at least one disability compliant voting system per polling place.

Voter Education

Counties are required to submit their plans for voter education programs. These plans are reviewed to ensure that they meet HAVA requirements. During fiscal years 2003-2004, 2004-2005, 2005-2006, and 2006-2007, \$10.9 million was provided to county Supervisors of Elections to assist with conducting voter education programs.

The division tracks the distribution of HAVA funds by county. The division also retains the submitted voter education plans following each general election. In addition, the Supervisors of Elections are required by s. 98.255, F.S., to provide a report detailing the voter education programs implemented in their county during the prior two years. The division prepares a report regarding the effectiveness of voter education programs statewide and provides the report to the Governor and the Legislature.

Poll Worker Recruitment and Training

Counties are required to submit plans for poll worker recruitment and training. These plans must be approved to ensure that they address an issue related to poll worker recruitment and training. A total of \$5.5 million dollars has been appropriated for this purpose. The Division of Elections used some of the money to develop a poll worker curriculum. In fiscal year 2005-2006 the Legislature appropriated \$3 million to assist Supervisors of Elections with their poll worker recruitment and training efforts. An additional \$1 million was distributed to supervisors in fiscal year 2006-2007. The division can show the distribution of HAVA funds to each county. The division also retains the submitted voter poll worker recruitment and training plans.

Voting Access for Individuals with Disabilities

Grant funds from the U.S. Department of Health and Human Services are being distributed by the division to the Supervisors of Elections to assist them with making polling places accessible to individuals with disabilities. The division manages the grant from Health and Human Services as a reimbursable grant. In order for county Supervisors of Elections to receive HHS grant funds, counties must submit documentation to the division to verify that funds have been spent for items that are allowable pursuant to the HHS grant. The types of documentation required include copies of paid receipts and/or payroll registers. The division retains copies of all documentation related to the reimbursement requests that are submitted by the counties.

Annual financial and narrative reports are submitted to HHS providing the amount of expenditures during the reporting period along with an explanation of how the funds were used. Copies of the annual reports are available from the division.

Division Funding

The following table depicts the funding sources for the division:

Department of State						
Elections						
Funding: FYs 2004 to 2008						
Funds	FY 2004/05	FY 2005/06	FY 2006/07	FY 2007/08	FY 2008/09	% of Change
General Revenue Fund	4,120,003	3,760,424	3,864,974	3,919,256	3,597,218	-12.69%
Grants and Donations Trust Fund	28,971,635	37,040,567	9,486,013	13,999,357	10,860,544	-62.51%
Totals	33,091,638	40,800,991	13,350,987	17,918,613	14,457,762	-56.31%
Positions (FTEs)	63	59	65	70	69	9.52%
Grants and Aid:						
General Revenue Fund	350,000	275,000	275,000	1,247,508	838,085	139.45%
Special Category - Advertise Constitutional Amendments:						
General Revenue Fund	425,000	-	300,000	357,754	226,734	-46.65%
Special Category - Campaign Financing:						
General Revenue Fund	-	-	11,133,759	-	-	not measured
Special Category - Voter Paper Trail Initiative:						
General Revenue Fund (see Reimbursement below)	-	-	-	12,255,000	-	not measured
Grants and Donations Trust Fund	-	-	-	10,606,850	-	not measured
Totals	-	-	-	22,861,850	-	not measured
Reimburse General Revenue for the Voter Paper Trail Initiative (see Special Category above)						
Grants and Donations Trust Fund	-	-	-	12,512,373	-	not measured
Funds Transfers to Grants and Donations Trust Fund:						
General Revenue Fund	6,103,018	-	-	396,765	340,925	-94.41%
Non-Operating Funds Transfers To Other State and Non-State Entities:						
Grants and Donations Trust Fund	291,660	145,830	90,000	73,000	145,830	-50.00%
Operating Trust Fund	2,311,041	1,122,359	1,232,570	1,073,429	4,213,800	82.33%
Totals	2,602,701	1,268,189	1,322,570	1,146,429	4,359,630	67.50%
Summary - Totals by Fund:						
General Revenue Fund	10,998,021	4,035,424	15,573,733	5,921,283	5,002,962	-54.51%
Grants and Donations Trust Fund	28,971,635	37,040,567	9,486,013	37,118,580	10,860,544	-62.51%
Operating Trust Fund	2,311,041	1,122,359	1,232,570	1,073,429	4,213,800	82.33%
Totals	42,280,697	41,075,991	25,059,746	43,039,863	15,863,506	-62.48%

Comments on funding sources:

Grant and Donations Trust Fund - Within the Elections Program, the primary source of revenue deposited into the trust fund is from the Federal Help America Vote Act (HAVA) grants (refer to the Catalog of Federal Domestic Assistance (CFDA) numbers 90.411 & 39.011). During Fiscal Years 2002-03, 2003-04, and 2004-05, a total of \$158.5 million in grant funding was received. All deposits and associated interest earnings from the HAVA grant are expended for the HAVA initiative as required by the grant provisions. The grant funding and interest earnings will continue to be disbursed over multiple years. Secondary sources of revenue includes the state's required HAVA matching funds that are transferred from General Revenue and a federal grant (CFDA number 93.617) for election assistance to individuals with disabilities.

Operating Trust Fund - The primary sources of revenue into the [Elections] Operating Trust Fund are candidates filing fees and election assessments as authorized by section 99.103, Florida Statutes, and the notary surcharge as authorized by section 117.01, Florida Statutes. Funds received into the fund are transferred to other entities by operation of the law. Candidate filing fees are distributed to the political parties and to the General Revenue Fund and the election assessments are distributed to the Elections Commission. Notary surcharge collections are transferred to the Executive Office of the Governor. A 7% surcharge is assessed on the receipts and transferred to the General Revenue Fund as authorized by section 215.20, Florida Statutes.

Source: Provided on September 4, 2008, by the Senate Transportation and Economic Development Appropriations Committee, as taken from the LAS/PBS appropriation ledger and the position and rate ledger applicable to each fiscal year.

HAVA Funding

The following chart indicates the remaining balance of HAVA funds and the anticipated use thereof by the Division of Elections through FY 2015-2016.

DEPARTMENT OF STATE HELP AMERICA VOTE ACT (HAVA) HAVA PROJECTED REVENUE VS. ESTIMATED EXPENDITURES PROJECTED LIFE OF FUNDS BASED ON FY 2008-09 APPROPRIATION			
	HAVA FUNDS INCLUDING STATE MATCH	ESTIMATED EXPENDITURES PER FISCAL YR.	PROJECTED NUMBER OF FISCAL YRS.
CASH BALANCE – JUNE 30, 2008	66,329,939		
ANTICIPATED ADDITIONAL HAVA FUNDS – FY 2008-09	6,477,573		
ADDITIONAL MATCHING FUNDS – FY 2008-09	340,925		
ESTIMATED ANNUAL COSTS BASED ON FY 2008-09 APPROPRIATION		10,060,544	
PROJECTED REVENUE/ESTIMATED EXPENDITURES	73,148,437	10,060,544	7.27
PROJECTED FUND BALANCE BY FISCAL YEAR	ESTIMATED ANNUAL EXPENDITURES		
ESTIMATED CASH/REVENUE	73,148,437		
FY 2008-09	(10,060,544)		
<u>Projected Balance as of June 30, 2009</u>	63,087,893		
FY 2009-10	(10,060,544)		
<u>Projected Balance as of June 30, 2010</u>	53,027,349		
FY 2009-11	(10,060,544)		
<u>Projected Balance as of June 30, 2011</u>	42,966,805		
FY 2009-12	(10,060,544)		
<u>Projected Balance as of June 30, 2012</u>	32,906,261		
FY 2009-13	(10,060,544)		
<u>Projected Balance as of June 30, 2013</u>	22,845,717		
FY 2009-14	(10,060,544)		
<u>Projected Balance as of June 30, 2014</u>	12,785,173		
FY 2009-15	(10,060,544)		
<u>Projected Balance as of June 30, 2015</u>	2,724,629		
FUNDS WILL BE DEPLETED DURING FY 2015-16 – BASED ON FY 2008-09 APPROPRIATION			

Source: Florida Dep't of State, Projected Life of HAVA funds, September 16, 2008. The numbers above are based on the fiscal year 2008-2009 appropriation and anticipate expenditures at the 2008-2009 level until the HAVA funds are depleted.

Duplication

The functions of the division are not duplicated within any other state agency.¹⁶

OPPAGA Justification Review

In 2002, OPPAGA published a Justification Review of the Division of Elections, and recommended that the state's role in voter and poll worker education needed strengthening and the Legislature could consider further measures to strengthen the system. The OPPAGA recommendations included:

- Voter eligibility determination could be strengthened by giving individuals who contend they have been wrongly identified as felons the opportunity to provide a fingerprint to verify their identity.
- The provisional voting process could be modified to provide individuals who feel they have been wrongly identified as ineligible to vote a final opportunity to prove their eligibility.
- U.S. Postal Service information could be used to verify change of addresses for persons who are identified as potentially being registered in more than one county.
- Consideration should be given to adopting new federal standards for voting equipment.
- Prevent simultaneous rulings on the same case by the division and the Florida Elections Commission.¹⁷

Cost saving could be realized if certain changes were made to the division's operations by:

- Requiring electronic filing of substantially all campaign finance reports;
- Using electronic media to educate and inform candidates and committees; and
- Encouraging electronic filing of local ordinances by counties.¹⁸

Auditor General Reports

The Auditor General performed an operational audit in 2006 focused upon the Department of State's administration of the Federal Help America Vote Act of 2002, and the effectiveness of selected controls regarding the Florida Voter Registration System and satisfaction of the requirements for creation of a computerized statewide voter registration system.¹⁹

The Auditor General performed a follow-up on prior audit findings in 2008, and made the following findings:

- A comprehensive information technology risk assessment of FVRS had been performed and the Department was in the process of addressing the risks identified in the risk assessment report. However, the Department's written policies and procedures for authorizing access to FVRS needed enhancement and the Department had not established written policies and procedures for monitoring and terminating access to FVRS.
- Although some policies and procedures had been developed, the Department's information technology governance model continued to lack important provisions relating to the management, use, and operation of FVRS.
- Although the Department had put measures in place to help ensure the integrity of data in FVRS, improvements were still needed in the comprehensive check of all felony convictions against all voters.²⁰

¹⁶ Dep't of State, *supra*, note 8, pg. IV-94.

¹⁷ OPPAGA Justification Review, Report No. 02-55, pg. 1.

¹⁸ *Id.*

¹⁹ *Dep't of State Help America Vote Act (HAVA) and the Florida Voter Registration System (FVRS) Operational Audit*, Florida Auditor General Report No. 2006-194, pg. 1.

²⁰ *Dep't of State Florida Voter Registration System (FVRS) Follow-Up on Prior Audit Findings*, Florida Auditor General Report No. 2008-187, pg. 1.

Management Tools

The department reports that other than performance based budgeting measures and the I.C.A.R.E. survey program, the department has not formally adopted any additional internal performance measures.²¹

The department uses the performance measures and standards developed through the department's Long Range Program Plan²² (LRPP), an annually updated 5-year plan describing the functions agencies perform and how those functions will be used to achieve designated outcome.²³ The LRPP lists seven performance measures for the division:

- Percent of survey respondents satisfied with service (quality and timeliness of response)
- Number of attendees at training, workshops, and assistance events
- Percent of training session/workshop attendees satisfied (quality of content and applicability of materials presented)
- Number of campaign reports received/processed
- Average number of days to process campaign finance reports
- Number of Internet Web site hits
- Number of candidates, committees, and members of the public requesting service²⁴

The department reports that it has exceeded the approved standards for all of the measures for fiscal years 2005 to 2006 and 2006 to 2007,²⁵ with the exception of those standards listed below for which the department gave the following explanation:

Number of Attendees at Training, Workshops, and Assistance Events

While the approved standards were the same for fiscal year 2005-2006 and fiscal year 2006-2007, the number of training, workshops, and assistance events that the division held was different. The division conducts an annual workshop at the summer and mid-winter conferences held by the Florida State Association of Supervisors of Elections (FSASE). In addition, the division conducts workshops leading up to the candidate qualifying period for the general election. These workshops occurred in fiscal year 2005-2006, the fiscal year prior to the general election.

In fiscal year 2006-2007, the division conducted workshops at two FSASE conferences. The additional workshops for the general election had already occurred. Given that the division conducted fewer training, workshop, and assistance events, it is misleading to conclude that attendance declined.

External factors have a substantial effect on the number of attendees, such as, the financial situation of each county. Workshop attendance is strictly voluntary.

²¹ *Id.* at pg. II-18.

²² The department's LRPP for 2009-2014 is available at <http://www.dos.state.fl.us/lrpp/pdf/lrpp.pdf>

²³ Section 216.013, F.S., requires state agencies to develop long-range program plans (LRPP) to achieve state goals. These plans are policy based, priority driven, and developed through examination and justification of all agency programs. Included in the long range program plan is information regarding the department's comprehensive performance accountability system and, at a minimum, a list of performance measures and standards. The agency uses these measures and standards for internal management purposes. The performance information includes output measures showing the number of goods and services each program produces. Also included are output measures showing the effect of these goods and services in achieving desired results. The information contains how data is collected, the methodology used to measure a performance indicator, the validity and reliability of a measure, and the appropriateness of a measure.

To delete or amend these measures and standards, agencies must obtain approval from the Office of the Governor and the Legislature, as set forth in s. 216.177, F.S.

²⁴ Dep't of State, *supra*, note 8, pg. IV-69.

²⁵ *Id.* at pg. IV-70.

Percent of Training Session/Workshop Attendees Satisfied (quality of content and applicability of materials presented)

In fiscal year 2005-2006, the division failed to meet the approved standard for the percent of training session/workshop attendees satisfied with the quality of the content and applicability of materials presented. The attendees at several of the workshops during this period provided negative comments regarding the topics covered by the presenters.

Number of Candidates, Committees, and Members of the Public Requesting Service

In fiscal year 2006-2007, the division did not achieve the target standard for the number of candidates, committees, and members of the public requesting service. Improvements to the division's online services have dramatically decreased the need for candidates, committees, and members of the public to directly contact the division. For example, voters can now complete a voter registration form on-line, as well as find contact information for Supervisors of Elections, review reports prepared by the division, and view statistics relating to previous elections. The division has also implemented an online campaign finance reporting system which provides specific information on candidates and committees. Supervisors of Elections have expanded their Web sites to include information on polling places, precinct locations, voter registration information, and absentee ballot information. In the past, candidates, committees, and members of the public had to directly request these services from the division. The division believes this trend will continue and is projecting that it will not meet the approved standard for fiscal year 2007-2008.²⁶

In 2007, Governor Crist instructed his agencies to complete a review of customer service practices.²⁷ In May 2007, the department issued a report which outlined what it would do to ensure that the needs of its stakeholders were met.²⁸ The department provided the following overview:

The Customer Service Guiding Principles and Standards introduced five core principles that govern customer service and satisfaction at the department. The acronym describing the five principles, I.C.A.R.E., stands for: Inviting, Courtesy, Accessible, Responsive and Efficient. These five core principles describe employee interactions with the public:

- **Inviting** – employees are open to serving customers, soliciting their feedback, making customers aware of programs and services, and establishing welcoming facilities.
- **Courtesy** - employees act in a polite, helpful and considerate manner towards both customers and team members.
- **Accessible** - the department's team members, program information, services and facilities are readily available and open to our customers.
- **Responsive** - employees respond to customers in a timely and accurate manner.
- **Efficiency** - employees provide effective and convenient results.

In accordance with I.C.A.R.E., the department implemented a Web-based customer survey to solicit feedback on the areas noted above. The department's survey Web site was launched in September 2007 and distributed via a link at the bottom of all emails sent out by department employees, as well as being attached to all department Web sites. Customers who receive emails from the department, and who are served by the department, are asked to participate in the survey. Results from the survey are separated by division, produced monthly and given to the respective divisions for assessment. The divisions analyze the survey results to identify customer service

²⁶ *Id.* at pgs. IV-73-74.

²⁷ Executive Order 07-01.

²⁸ Dep't of State, Report on Agency Review of Customer Service Practices and Actions Taken to Implement Requirements of Executive Order 07-01, May 2007.

concerns and opportunities to make improvements to benefit public service.²⁹

In October 2008, the department reported that for all five I.C.A.R.E. categories, at least 72 percent of respondents rated the division services as “Excellent.” Respondents’ ratings in ten categories were as follows:

Department of State Division of Elections Customer Survey Results (Percent of Response, per category)				
	Excellent	Good	Fair	Poor
Employees were inviting:	72.06%	17.81%	3.24%	6.88%
Employees were courteous:	72.13%	18.44%	4.92%	4.51%
Employees were accessible:	72.33%	17.79%	1.19%	8.70%
Employees were responsive:	74.23%	14.62%	3.08%	8.08%
Employees were efficient:	76.74%	10.47%	4.26%	8.53%
Rating when contacting the DOS:	68.12%	15.58%	3.62%	12.68%
	YES		NO	
Provided information requested:	84.27%		15.73%	
Information requested on Website:	50.44%		49.56%	
Concerns addressed that day:	89.69%		10.31%	
Information received within 5 days:	90.87%		9.13%	

Source: Florida Dep’t. of State, Customer Satisfaction Survey Report, from 10/8/2007 to 10/06/2008 based on 294 respondents; on file with the committee.

Recommendations for Further Research

The committee may wish to consider researching the following issues:

- The efficacy of using HAVA monies to fund operational functions of the Bureau of Voter Registration Services.
- Division compliance with findings of the 2008 Auditor General follow-up to the 2006 Auditor General Operational Audit.

The committee may also wish to consider researching the following issue:

- The implementation and operation of the Florida Voter Registration System in relation to the identification of felons and the verification of eligible Florida voters.

²⁹ Dep’t of State, *supra*, note 8, at pg. II-16.

The 2008 Florida Statutes

CHAPTER 11 LEGISLATIVE ORGANIZATION, PROCEDURES, AND STAFFING

11.901 Short title.

11.902 Definitions.

11.903 Legislative Sunset Review Committees and the Joint Legislative Sunset Committee.

11.904 Staff.

11.905 Schedule for reviewing state agencies and advisory committees.

11.9055 Abolition of state agencies and advisory committees.

11.906 Agency report to the Legislature.

11.907 Legislative review.

11.908 Committee duties.

11.910 Information for review.

11.911 Committee recommendations.

11.917 Procedure after termination.

11.918 Joint Legislative Sunset Committee; powers; assistance of state agencies.

11.919 Assistance of and access to state agencies.

11.920 Saving provision.

11.901 Short title.--Sections 11.901-11.920 may be cited as the "Florida Government Accountability Act."

History.--s. 1, ch. 2006-146.

11.902 Definitions.--As used in ss. 11.901-11.920, the term:

(1) "State agency" or "agency" means a department as defined in s. 20.03(2) or any other administrative unit of state government scheduled for termination and prior review under this chapter.

(2) "Advisory committee" means any examining and licensing board, council, advisory council, committee, task force, coordinating council, commission, or board of trustees as defined in s. 20.03(3), (7), (8), (9), (10), or (12) or any group, by whatever name, created to provide advice or recommendations to one or more agencies, departments, divisions, bureaus, boards, sections, or other units or entities of state government.

(3) "Committee" means any Legislative Sunset Review Committee appointed pursuant to s. 11.903.

(4) "Joint committee" means the Legislative Sunset Committee appointed pursuant to s. 11.903.
History.--s. 2, ch. 2006-146; s. 1, ch. 2007-161.

11.903 Legislative Sunset Review Committees and the Joint Legislative Sunset Committee.—

(1) The Senate and House of Representatives may, pursuant to the rules of each house, appoint one or more standing or select committees as Legislative Sunset Review Committees to conduct independent reviews for each house regarding the agency sunsets required by ss. 11.901-11.920.

(2) The Senate and House of Representatives shall appoint a Joint Legislative Sunset Committee for the purposes of overseeing the agency review process required by ss. 11.901-11.920 and of making recommendations to the Legislature.

(3) Members of the committees and joint committee shall serve at the pleasure of their appointing presiding officer for a term of 2 years each or until the next general election, whichever occurs earlier.

(a) The Legislative Sunset Committee established under this subsection shall be a joint committee composed of 10 members: five members of the Senate appointed by the President of the Senate and five members of the House of Representatives appointed by the Speaker of the House of Representatives.

(b) The presiding officer of each house shall appoint a chair who shall serve as co-chair of the joint committee established under this subsection. Each co-chair shall serve at the pleasure of the appointing presiding officer for a term of 2 years or until the next general election.

(4) If a legislative member ceases to be a member of the house from which he or she was appointed, the member vacates his or her membership on the committee or joint committee.

History.--s. 3, ch. 2006-146; s. 2, ch. 2007-161.

11.904 Staff.--The Senate and the House of Representatives may each employ staff to work for the joint committee on matters related to joint committee activities. The Office of Program Policy Analysis and Government Accountability shall provide primary research services as directed by the committee and the joint committee and assist the committee in conducting the reviews under s. 11.910. Upon request, the Auditor General shall assist the committees and the joint committee.

History.--s. 4, ch. 2006-146; s. 3, ch. 2007-161.

11.905 Schedule for reviewing state agencies and advisory committees.--The following state agencies, including their advisory committees, or the following advisory committees of agencies shall be reviewed according to the following schedule:

(1) Reviewed by July 1, 2008:

- (a) Statutorily created responsibilities of the Fish and Wildlife Conservation Commission.
- (b) Department of Agriculture and Consumer Services.
- (c) Department of Citrus, including the Citrus Commission.
- (d) Department of Environmental Protection.
- (e) Department of Highway Safety and Motor Vehicles.
- (f) Water management districts.

(2) Reviewed by July 1, 2010:

- (a) Department of Children and Family Services.

- (b) Department of Community Affairs.
 - (c) Department of Management Services.
 - (d) Department of State.
- (3) Reviewed by July 1, 2012:
- (a) Advisory committees for the Florida Community College System.
 - (b) Advisory committees for the State University System.
 - (c) Agency for Workforce Innovation.
 - (d) Department of Education.
 - (e) Department of the Lottery.
- (4) Reviewed by July 1, 2014:
- (a) Agency for Health Care Administration.
 - (b) Agency for Persons with Disabilities.
 - (c) Department of Elderly Affairs.
 - (d) Department of Health.
- (5) Reviewed by July 1, 2016:
- (a) Department of Business and Professional Regulation.
 - (b) Department of Transportation.
 - (c) Department of Veterans' Affairs.
- (6) Reviewed by July 1, 2018:
- (a) Advisory committees for the State Board of Administration.
 - (b) Department of Financial Services, including the Financial Services Commission.
 - (c) Department of Revenue.
- (7) Reviewed by July 1, 2020:
- (a) Department of Corrections.
 - (b) Department of Juvenile Justice.
 - (c) Department of Law Enforcement.
 - (d) Department of Legal Affairs.
 - (e) Justice Administrative Commission.

(f) Parole Commission.

(8) Reviewed by July 1, 2022:

(a) Executive Office of the Governor.

(b) Florida Public Service Commission.

Upon completion of this cycle, each agency shall again be subject to sunset review 10 years after its initial review.

History.--s. 5, ch. 2006-146; s. 4, ch. 2007-161.

11.9055 Abolition of state agencies and advisory committees.—

(1) An agency subject to review by the Legislature shall be abolished on June 30 following the date of review specified in s. 11.905, unless the Legislature continues the agency or advisory committee; however, an agency may not be abolished unless the Legislature finds, pursuant to law, that all state laws the agency had responsibility to implement or enforce have been repealed, revised, or reassigned to another remaining agency and that adequate provision has been made for the transfer to a successor agency of all duties and obligations relating to bonds, loans, promissory notes, lease-purchase agreements, installment sales contracts, certificates of participation, master equipment financing agreements, or any other form of indebtedness such that security therefor and the rights of bondholders or holders of other indebtedness are not impaired.

(2) If the Legislature does not take action before the date of review to continue the agency or advisory committee, the agency shall submit its legislative budget request consistent with the provisions of chapter 216. Such agency shall continue to be subject to annual sunset review by the Legislature until the Legislature enacts legislation relating to the agency's continuation, modification, or termination.

History.--s. 6, ch. 2006-146; s. 5, ch. 2007-161.

11.906 Agency report to the Legislature.--Not later than July 1, 2 years preceding the year in which a state agency and its advisory committees are scheduled to be reviewed, the agency shall provide the Legislature with a report that includes:

(1) The performance measures for each program and activity as provided in s. 216.011 and 3 years of data for each measure that provides actual results for the immediately preceding 2 years and projected results for the fiscal year that begins in the year that the agency report is scheduled to be submitted to the Legislature.

(2) An explanation of factors that have contributed to any failure to achieve the legislative standards.

(3) The promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the agency.

(4) The extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by those it regulates and the extent to which public participation has resulted in rules compatible with the objectives of the agency.

(5) The extent to which the agency has complied with applicable requirements of state law and applicable rules regarding purchasing goals and programs for small and minority-owned businesses.

(6) A statement of any statutory objectives intended for each program and activity, the problem or need that the program and activity were intended to address, and the extent to which these objectives have been achieved.

(7) An assessment of the extent to which the jurisdiction of the agency and its programs overlap or duplicate those of other agencies and the extent to which the programs can be consolidated with those of other agencies.

(8) An assessment of less restrictive or alternative methods of providing services for which the agency is responsible which would reduce costs or improve performance while adequately protecting the public.

(9) An assessment of the extent to which the agency has corrected deficiencies and implemented recommendations contained in reports of the Auditor General, the Office of Program Policy Analysis and Government Accountability, legislative interim studies, and federal audit entities.

(10) The process by which an agency actively measures quality and efficiency of services it provides to the public.

(11) The extent to which the agency complies with public records and public meetings requirements under chapters 119 and 286 and s. 24, Art. I of the State Constitution.

(12) The extent to which alternative program delivery options, such as privatization, outsourcing, or insourcing, have been considered to reduce costs or improve services to state residents.

(13) Recommendations to the Legislature for statutory, budgetary, or regulatory changes that would improve the quality and efficiency of services delivered to the public, reduce costs, or reduce duplication.

(14) The effect of federal intervention or loss of federal funds if the agency, program, or activity is abolished.

(15) A list of all advisory committees, including those established in statute and those established by managerial initiative; their purpose, activities, composition, and related expenses; the extent to which their purposes have been achieved; and the rationale for continuing or eliminating each advisory committee.

(16) Agency programs or functions that are performed without specific statutory authority.

(17) Other information requested by the Legislature. Information and data reported by the agency shall be validated by its agency head and inspector general before submission to the Legislature.

History.--s. 7, ch. 2006-146; s. 6, ch. 2007-161.

11.907 Legislative review.--Upon receipt of an agency report pursuant to s. 11.906, the joint committee may and the appropriate committee shall conduct a review of the agency and may direct the Office of Program Policy Analysis and Government Accountability to review the agency and its advisory committees, including an examination of the cost of each agency program, an evaluation of best practices and alternatives that would result in the administration of the agency in a more efficient or effective manner, an examination of the viability of privatization or a different state agency performing the functions, and an evaluation of the cost and consequences of discontinuing the agency. The reviews shall be comprehensive in scope and shall consider the information provided by the agency report in addition to information deemed necessary by the office and the appropriate committee or the joint committee. The Office of Program Policy Analysis and Government Accountability shall submit its report to the Legislature in a timeframe prescribed by the committee requesting the review. The Office of Program Policy Analysis and Government Accountability shall include in its reports recommendations for consideration by the Legislature.

History.--s. 8, ch. 2006-146; s. 7, ch. 2007-161.

11.908 Committee duties.--No later than March 1 of the year in which a state agency or its advisory committees are scheduled to be reviewed, the committee shall and the joint committee may:

(1) Review the information submitted by the agency and the reports of any independent reviews directed by the committee, including those conducted by the Office of Program Policy Analysis and Government Accountability.

(2) Consult with the Legislative Budget Commission, relevant substantive and appropriations committees of the Senate and the House of Representatives, the Governor's Office of Policy and Budgeting, the Auditor General, and the Chief Financial Officer, or their successors, relating to the review of the agency and its advisory committees.

(3) Hold public hearings to consider this information as well as other information and testimony that the committee or joint committee deems necessary.

(4) Present to the President of the Senate and the Speaker of the House of Representatives a report on the agencies and advisory committees scheduled to be reviewed that year by the Legislature. In the report, the committee shall include its specific findings and recommendations regarding the information considered pursuant to s. 11.910, make recommendations as described in s. 11.911, and propose legislation as it considers necessary. In the joint committee report, the joint committee shall include its specific findings and recommendations regarding the information considered pursuant to ¹s. 11.910 and make recommendations as described in s. 11.911.

History.--s. 9, ch. 2006-146; s. 8, ch. 2007-161.

¹Note.--Substituted by the editors for a reference to s. 11.90 to conform to context. Section 11.90 relates to the Legislative Budget Commission; s. 11.910 relates to information relevant for determination of whether a public need exists for continuation of a state agency.

11.910 Information for review.--The committee may consider information submitted pursuant to s. 11.906 as well as any additional information it considers relevant in determining whether a public need exists for the continuation of a state agency or its advisory committees or for the performance of any of the functions of the agency or its advisory committees.

History.--s. 10, ch. 2006-146; s. 9, ch. 2007-161.

11.911 Committee recommendations.—

(1) In its report on a state agency, the committee shall:

(a) Make recommendations on the abolition, continuation, or reorganization of each state agency and its advisory committees and on the need for the performance of the functions of the agency and its advisory committees.

(b) Make recommendations on the consolidation, transfer, or reorganization of programs within state agencies not under review when the programs duplicate functions performed in agencies under review.

(c) Propose legislation necessary to carry out the committee's recommendations under paragraph (a) or paragraph (b).

(2) In its report on a state agency, the joint committee shall:

(a) Make recommendations on the abolition, continuation, or reorganization of each state agency and its advisory committees and on the need for the performance of the functions of the agency and its advisory committees.

(b) Make recommendations on the consolidation, transfer, or reorganization of programs within state agencies not under review when the programs duplicate functions performed in agencies under review.

History.--s. 11, ch. 2006-146; s. 10, ch. 2007-161.

11.917 Procedure after termination.—

(1) Any unobligated and unexpended appropriations of an abolished agency or advisory committee shall revert on the date of abolition.

(2) Except as provided in subsection (4) or as otherwise provided by law, all money in a trust fund of an abolished state agency or advisory committee is transferred to the General Revenue Fund. Any provision of law dedicating the money to a trust fund of an abolished agency becomes void on the date of abolition.

(3)(a) If not otherwise provided by law, property in the custody of an abolished state agency or advisory committee shall be transferred to the Department of Management Services.

(b) If not otherwise provided by law, records in the custody of an abolished state agency or advisory committee shall be transferred to the Department of State.

(4) The Legislature recognizes the state's continuing obligation to pay bonds and all other financial obligations, including contracts, loans, promissory notes, lease purchase agreements, certificates of participation, installment sales contracts, master equipment financing agreements, and any other form of indebtedness, incurred by the state or any state agency or public entity abolished under ss. 11.910-11.920, and ss. 11.910-11.920 do not impair or impede the payment of bonds and other financial obligations, or any other covenant contained in the legal documents authorizing the issuance of debt or the execution of any other financial obligation in accordance with their terms. If the state or an abolished state agency has outstanding bonds or other outstanding financial obligations, the bonds and all other financial obligations remain valid and enforceable in accordance with their terms and subject to all applicable terms and requirements contained in the legal documents authorizing the issuance of debt or the execution of any other financial obligation. If not otherwise provided by law, the Division of Bond Finance of the State Board of Administration shall carry out all covenants contained in the bonds and in the resolutions authorizing the issuance of bonds, and perform all obligations required thereby. The state or a designated state agency shall provide for the payment of the bonds and all other financial obligations from the sources of payment specified in the resolution or legal documents authorizing the issuance or execution thereof in accordance with the terms of the bonds or other financial obligations, whether from taxes, specified revenues, or otherwise, until the bonds and interest on the bonds are paid in full and all other financial obligations are performed and paid in full. All funds or accounts established by laws or legal documents authorizing the issuance of bonds, or the execution of other financial obligations, shall remain with the previously designated party, agency, or trustee. Any funds or accounts held by an abolished state agency shall be transferred to a designated successor agency or trustee in compliance with the resolution or legal documents applicable to the outstanding bonds or other financial obligations.

History.--s. 12, ch. 2006-146.

11.918 Joint Legislative Sunset Committee; powers; assistance of state agencies.—

(1) The Joint Legislative Sunset Committee may take under investigation any matter within the scope of a sunset review either completed or then being conducted by the joint committee, and, in connection with such investigation, may exercise the powers of subpoena by law and any other powers vested in a standing committee of the Legislature pursuant to s. 11.143.

(2) The joint committee may access or request information and request assistance of state agencies and officers. When assistance is requested, a state agency or officer shall assist the joint committee.

History.--s. 13, ch. 2006-146; s. 11, ch. 2007-161.

11.919 Assistance of and access to state agencies.—

(1) The committee may access or request information and request the assistance of state agencies and officers. When assistance is requested, a state agency or officer shall assist the committee.

(2) In carrying out its functions under ss. 11.901-11.920, the committee or its designated staff member may inspect the records, documents, and files of any state agency.

History.--s. 14, ch. 2006-146; s. 12, ch. 2007-161.

11.920 Saving provision.--Except as otherwise expressly provided by law, abolition of a state agency does not affect rights and duties that matured, penalties that were incurred, civil or criminal liabilities that arose, or proceedings that were begun before the abolition.

History.--s. 15, ch. 2006-146.