

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: October 27, 1997 Revised: \_\_\_\_\_

Subject: Overseas Voters; Faxed Ballots

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Fox</u>	<u>Bradshaw</u>	<u>EE</u>	<u>Favorable</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

The bill requires county supervisors of elections to fax absentee ballots to qualified electors overseas who request faxed ballots and who provide the supervisor with their fax number. Senate Bill 240 also requires supervisors to notify overseas voters of the procedure for requesting faxed ballots. The bill does not authorize the return of any ballot by fax, but rather retains many of the current safeguards for the return of absentee ballots.

Senate Bill 240 provides for the return of overseas ballots by private courier in order to take full advantage of the speed of the faxed ballot process, and removes a provision in current law that directs supervisors not to forward ballots to overseas voters after the Friday before an election.

The bill provides for tabulating faxed ballots by hand counting or by copying faxed ballots to duplicate ballots which can be processed through a county's automatic tabulation equipment.

Finally, the bill authorizes the Secretary of State to adopt rules to implement the fax ballot process.

The bill amends sections 97.021, 100.025, 101.5614, 101.62, 101.64, 101.65, 101.68, 101.694, of the Florida Statutes, and creates sections 101.653 and 101.697 of the Florida Statutes.

**II. Present Situation:**

The election cycle in Florida poses a real and continuing challenge to enfranchising overseas voters. Florida has the busiest election cycle in the nation, holding up to three elections in a nine-week period. In the past, this abbreviated time frame has caused the federal government to

intervene on behalf of overseas citizens, arguing that Florida's election cycle did not give overseas voters adequate time to receive and return their ballots.

In an effort to facilitate absentee voting by overseas electors, the 1989 Florida Legislature adopted the advance ballot system in use today. Under Florida's advance ballot system, supervisors of elections *mail* first primary absentee ballots to qualified overseas electors not less than 35 days before the first primary. Subsequently, the supervisors *mail* advance ballots for the second primary and general election at least 45 days prior to these elections, followed by a subsequent *mailing* of regular second primary and general election ballots when they become available. If both ballots for the same election are returned, only the regular ballot is counted.

The typical one-way overseas mailing time for ballots is about 4 to 6 days, although international mail deliveries to very remote areas can take up to 1½ or 2 weeks.

The Federal Voting Assistance Program ("FVAP"), an arm of the United States Department of Defense, currently offers an electronic transmission service which faxes ballots to overseas electors without charge to the States or county supervisors of elections.

### **III. Effect of Proposed Changes:**

The bill requires county supervisors of elections to fax regular and advance ballots to qualified overseas electors who request faxed ballots and provide their fax number to the supervisor. *The bill does not authorize the return of any ballot by fax.* Senate Bill 240 requires supervisors to fax blank absentee ballots to qualified electors overseas, while retaining many of the current safeguards employed for the return of absentee ballots. This means the use of a security envelope containing the voted ballot placed inside a mailing envelope, with the proper signatures of the voter and attesting witness affixed to the mailing envelope. The bill authorizes the use of the envelopes provided with the Federal Write-In Absentee Ballot, which is pre-positioned worldwide, to facilitate the return of faxed ballots. The FVAP has authorized the use of such envelopes for the return of faxed absentee ballots overseas. FVAP, *Electronic Transmission of Election Materials: Manual for Voting Assistance Officers*, at 11 (DODP FVAP-1, 1996-97); Telephone Conference with Polly Brunelli, Program Analyst, FVAP (September 26, 1997).

The bill also requires supervisors to provide notice to overseas voters on how to request faxed ballots. Notices will be piggybacked on other mailings currently required by Florida law, so the supervisors will not incur additional mailing costs. For a voter who has notified the supervisor of his or her overseas address, the instructions for requesting faxed ballots will be sent along with the notice of elections (90 days prior to regular primary, general, and special elections). The supervisor will also provide instructions along with first primary ballots which are *mailed* to overseas voters.

Senate Bill 240 authorizes the return of overseas ballots either by mail, private courier, or other delivery method, in order to take full advantage of the speed of the faxed ballot process. Currently, only overseas ballots *mailed* with an APO, FPO, or foreign postmark are considered

valid. Private courier services such as UPS or Federal Express can typically deliver a package from most global locations to Florida in 1 to 3 days (i.e. Minsk, Russian Republic → Tallahassee, FL: 3 days; Mexico City, Mexico → Tallahassee, FL: 1 day). Some courier services also offer a special express messenger service, which can provide 24-hour guaranteed delivery from numerous locations worldwide. The speed of these courier services offers a distinct advantage over the international mail system.

Along the same lines, SB 240 removes a provision of current law that directs supervisors not to forward ballots to overseas electors if they receive a ballot request after the Friday preceding an election.

The bill would reduce one-way delays associated with the international mail delivery system by an average of 4 to 6 days, with the possibility of reducing mailing delays to extremely remote areas by up to 1½ or 2 weeks.

However, tabulating faxed ballots does present a challenge. Many counties currently use electronic or electromechanical voting systems, such as mark sense or punch cards. Faxed ballots would not be immediately compatible with the automatic tabulation systems in these counties. Senate Bill 240 offers a choice between hand counting faxed ballots and making true duplicate copies in accordance with the current statutory procedures for handling damaged or defective ballots that cannot be run through the automatic tabulation equipment. If the latter method is chosen, duplicate ballots would be created, marked with the word “duplicate,” and a serial number would be ascribed to both the original faxed ballot and the duplicate ballot to provide a paper trail for verification purposes. The duplicate ballot would then be processed through the automatic tabulating equipment.

Finally, SB 240 authorizes the Secretary of State to adopt rules to implement the faxed overseas balloting process to insure confidentiality of the ballot and the integrity of the electoral process.

The act shall take effect on July 1, 1998, which will allow for implementation during the 1998 election season.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Although the bill may result in some increased costs to counties, the bill is an election law and is exempt from the requirements of Art. VII, Section 18, Fla. Const.

##### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

County supervisors of elections may incur the cost of setting up and operating their own fax transmission system, as well as incurring some administrative costs associated with duplicating and tabulating faxed ballots received from overseas voters. However, some or all of these costs may be offset by a savings in postage costs; supervisors will not have to *mail* absentee ballots to overseas electors requesting faxed ballots.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.