

STORAGE NAME: h1465s1.ca

DATE: April 12, 1999

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: CS/HB 1465 (PCB ER 99-05)

RELATING TO: Elections - Open Primaries

SPONSOR(S): Committees on Governmental Operations, Election Reform, Representative Flanagan and others

COMPANION BILL(S): SB 710 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) ELECTION REFORM (PRC) YEAS 9 NAYS 0
 - (2) GOVERNMENTAL OPERATIONS YEAS 6 NAYS 0
 - (3) COMMUNITY AFFAIRS
 - (4)
 - (5)
-

I. SUMMARY:

This bill implements the recent amendment to Article VI, Section 5 of the Florida Constitution by allowing all voters, regardless of party affiliation, to vote in a primary election when all candidates have the same party affiliation and there is no opposition in the ensuing general election.

Although the fiscal impact of this bill has not yet been determined, it does not appear to have a fiscal impact on state or local governments.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Currently, Florida law provides for a closed primary system in which votes are cast by voters having the same party affiliation as the candidate. A voter is prohibited from voting in a primary election for any candidate running for nomination from a political party other than the party in which that voter is registered. Therefore, in instances where only one party has candidates who have qualified for an office and there is no general election opposition, only the voters in that political party determine the eventual officeholder. Florida is one of 18 states with a completely closed primary system.

However, effective January 5, 1999, Article VI, Section 5(b), Florida Constitution, provides:

If all candidates for an office have the same party affiliation and the winner will have no opposition in the general election, all qualified electors, regardless of party affiliation, may vote in the primary elections for that office.

Thus, Article VI, Section 5(b), Florida Constitution, effectively creates an "open" primary election.

B. EFFECT OF PROPOSED CHANGES:

This bill implements the necessary changes to the Florida Election Code dictated by the recent amendment to the Florida Constitution. If all candidates for an office are seeking the nomination of the same political party and there is no opposition in the general election, all voters are allowed to vote for that office in the first primary election and, if necessary, the general election. (For purposes of this bill, a write-in candidate is considered opposition.)

When an open primary is held, those offices affected will be grouped together and placed on the ballot under the separate heading of "Universal Primary" or, alternatively, on a separate ballot. In cases in which no candidate has received a majority of votes cast, the two candidates receiving the highest number of votes will be placed on the general election ballot.

This bill takes effect upon becoming a law.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. Local Supervisors of Elections are required to add a new category to the ballot to accommodate the names of the candidates for an "open" primary.

(3) any entitlement to a government service or benefit?

No.

- b. If an agency or program is eliminated or reduced:

An agency or program is not eliminated or reduced.

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

This bill does not purport to provide services to families or children.

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

This bill does not create or change a program providing services to families or children.

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

This bill amends ss. 101.021, 101.251, and 101.5606, F.S., and creates s. 100.065, F.S.

E. SECTION-BY-SECTION ANALYSIS:

SECTION-BY-SECTION ANALYSIS OF CS/HB 1465

Section 1: Creates s. 100.065, F.S., allowing electors, regardless of party affiliation, to vote in primary and general elections if all candidates have the same party affiliation and there is no opposition in the general election. (For purposes of this bill, a write-in candidate is considered opposition.)

Candidates in an "open" primary will have their names grouped on a separate portion of the ballot or on a separate ballot under the heading "Universal Primary."

In instances where a candidate does not receive a majority of votes in an "open" primary, the two candidates receiving the highest number of votes will advance to the general election.

Section 2: Amends s. 101.021, F.S., relating to electors voting in primary elections, to conform to the changes made by this bill.

Section 3: Amends s. 101.251, F.S., relating to information required to be printed on ballots, to conform to the changes made by this bill.

Section 4: Amends s. 101.5606, F.S., relating to requirements for approval of electronic or electromechanical voting systems, to conform to the changes made by this bill.

Section 5: Provides that this bill will be effective upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Unavailable at this time.

2. Recurring Effects:

Unavailable at this time.

3. Long Run Effects Other Than Normal Growth:

Unavailable at this time.

4. Total Revenues and Expenditures:

Unavailable at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Unavailable at this time.

2. Recurring Effects:

Unavailable at this time.

3. Long Run Effects Other Than Normal Growth:

Unavailable at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Election laws are exempt from the requirements of Article VII, Section 18, Florida Constitution.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Election laws are exempt from the requirements of Article VII, Section 18, Florida Constitution.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

Election laws are exempt from the requirements of Article VII, Section 18, Florida Constitution.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Committee on Governmental Operations: On March 22, 1999, the Committee on Governmental Operations adopted an amendment to HB 1465, clarifying that as it concerns s. 100.065, F.S., a write-in candidate is considered opposition. The bill was then made a Committee Substitute, pending review of CS under Rule 113.

VII. SIGNATURES:

COMMITTEE ON ELECTION REFORM:

Prepared by:

R. Michael Paredes

Staff Director:

Dawn Roberts

STORAGE NAME: h1465s1.ca

DATE: April 12, 1999

PAGE 7

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Jen Girgen

Jimmy O. Helms

AS FURTHER REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Tonya Sue Chavis, Esq.

Joan Highsmith-Smith