

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1859 (PCB PC-03-09) Elections
SPONSOR(S): Procedures and Hogan
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Appropriations			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The 2002 Governor's Select Task Force on Election Procedures, Standards and Technology (Task Force) met on December 9-10, 2002, and made recommendations to the Governor in a published report, dated December 30, 2002. During its meetings, the Task Force focused on two areas relating to Florida's elections:

- compliance with the federal Help America Vote Act of 2002, and
- improvements to Florida's on-going election reforms.

The Task Force made the following recommendations in its report:

- **Review Florida's recent election reforms in light of the new "Help America Vote Act of 2002";** making any changes to bring Florida into compliance;
- **Improve and refine Florida's voter database** through the use of a single voter identifier, increased cooperation with the Department of Highway Safety and Motor Vehicles, and new agreements with the Social Security Administration;
- **Review the new federal disability requirements for voter access.** The Legislature passed chapter 2002-281, Laws of Florida, requiring that voting machines and polling places be fully accessible to those with disabilities (Florida may receive federal reimbursement for these improvements under the Help America Vote Act of 2002); and
- **Improve the administration of Florida elections** – specifically in the areas of voter education, pollworker training and recruitment, and minimum standards for early/absentee voting.

Legislation will most likely be introduced during the 2003 Session that will seek to implement the provisions of the Help America Vote Act of 2002 and thereby address the first three recommendations above. This proposed committee bill focuses on the fourth recommendation.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1859.pr.doc
DATE: April 17, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

The proposed committee bill will result in additional government intervention in the election process.

B. EFFECT OF PROPOSED CHANGES:

The Task Force met on December 9, 2002, in Orlando, Florida. It heard presentations from Chet Kalis, Professional Staff Member for the Committee on Administration of the U.S. House of Representatives; Clay Roberts, former General Counsel of the Department of State (Department); Tim Hanson, Director of the State of Michigan's Voter File Service; Scott Wiedmann, Deputy Director of the Federal Voting Assistance Program of the U.S. Department of Defense; Susan Gill, Citrus County Supervisor of Elections; Pat Hollarn, Okaloosa County Supervisor of Elections; Kurt Browning, Pasco County Supervisor of Elections; Penny Halyburton, St. Johns County Supervisor of Elections; Jim Kracht, an attorney with the Miami-Dade County Attorney's office; and Doug Towne of the Disability Relations Group. The Task Force also received comments from members of the public.

The Task Force identified several problems occurring during recent elections for which they made the following recommendations:

Pollworker Training and Recruitment. There were significant problems experienced in Broward and Miami-Dade Counties during the September 2002 primary related to pollworker training and recruitment. Polls were opened late and pollworkers often had difficulty operating the new voting machines. As a result, the Governor ordered that the polls remain open throughout the state for an additional two hours during the first primary (Executive Order No. 02-248, September 10, 2002). In response to the problems experienced in the first primary, Broward and Miami-Dade mobilized 4,500 county employees to work as poll workers.

The Task Force recommended that the chief state elections officer promulgate by rule minimum standards of performance for all poll workers in the state; encourage supervisors of elections to cooperate with county governments so that qualified county employees can supplement as volunteer poll workers; encourage supervisors to work with local businesses to provide qualified volunteer poll workers; encourage high school and college students to serve as volunteer poll workers; and launch a statewide "Be A Poll Worker" campaign to encourage more Floridians to serve as volunteer poll workers.

Early Voting. While almost 850,000 people voted early in the 2002 General Election, early voting does not increase turnout in Florida as might be expected. (p. 33, Final Report of Task Force). Because early voting is typically driven by the speediness of ballot preparation, there is a wide disparity among counties as to when early voting begins. For example, Brevard County began its early voting on October 3, 2002 and Seminole County began its early voting on October 27, 2002. If early voting is not uniformly regulated, the state is failing to offer voters equal opportunity to vote in the same time and manner.

The Task Force recommended that the “early voting” process be expanded. This proposed committee bill authorizes the supervisors of elections to establish multiple in-person absentee voting locations in their counties. In addition, it authorizes the Department to establish by rule minimum standards for the operation of early voting locations, including the days and hours of operation, so that voters in multiple counties who are voting for the same candidates or issues have equal access to the polls.

Absentee Ballot Witness Requirement. Beginning in 2000, Florida relaxed its standards for voting by absentee ballot. Voters now need only make a written request for a ballot to their county supervisor of elections and return the completed ballot so that it arrives by 7:00 pm on the day of an election. The ballot is enclosed in a special envelope with a certificate signed by the voter, and witnessed, that says the voter will vote only once in the current election and will not commit fraud in doing so. Voters are no longer required to provide a reason for not being able to get to the polls in order to vote an absentee ballot.

In the past, supervisors have been unable to identify or verify the signature of a witness to the voter’s signature that has been required on the absentee ballot. The Task Force concluded that the requirement for a witness therefore “seems superfluous.” The voter is required to certify with his or her own signature that he or she will vote only once and will not commit fraud. Whether that signature is witnessed or not should not change the responsibility and liability of the voter for that promise. Violations can lead to prosecutions for fraud, with or without the signature of a witness.

The Task Force therefore recommended that the witness requirement should be removed but that the voter’s signature should be compared to the signature on file in the voter registration records. The proposed committee bill adds language to the absentee ballot voter’s certificate for verification of the signature against the voter registration records and eliminates the witness requirement. In addition, the absentee ballot instructions will inform voters that their signatures will be verified against the voter registration records and that a ballot will not count if the signatures do not match.

C. SECTION DIRECTORY:

Section 1. Amends s. 97.021, F.S.

Defines “early voting” as casting a ballot prior to election day and depositing the ballot in the tabulation system. Deletes references to voting “absentee ballots in person.”

Section 2. Amends s. 101.6103, F.S.

Adds language to the mail ballot voter’s certificate that says a voter’s signature will be verified against the signature in the voter registration records and that the ballot will not count if the signatures do not match.

Section 3. Amends s. 101.62, F.S.

Clarifies the identification requirement for personal delivery of an absentee ballot to an elector. Electors must provide a drivers license, a Florida I.D. card issued pursuant to s. 322.051, F.S., or other form of picture identification approved by the Department.

Section 4. Amends s. 101.64, F.S.

Adds language to the absentee ballot voter’s certificate for verification of the signature against the voter registration records and eliminates the witness requirement.

Deletes additional references in this section relating to the witnessing requirements.

Section 5. Amends 101.65, F.S.

Adds language to inform absentee voters that their signatures will be verified against the voter registration records and that a ballot will not count if the signatures do not match.

Deletes references to the witness requirements in the instructions.

Section 6. Amends s. 101.657, F.S.

Renames this section from “absentee ballots in person” to “early voting.”

Requires the supervisors of elections to permit early voting in main or branch offices and allows them to designate additional sites in public buildings owned by the state, county or municipality.

Amends the voter certificate to conform and removes the witness requirement.

Requires the Department to adopt by rule minimum standards for early voting.

Section 7. Amends s. 101.68, F.S.

Deletes language relating to the witness requirement for absentee ballots.

Section 8. Amends s. 102.014, F.S.

Requires the Department to adopt by rule minimum standards for pollworkers prior to their working at the polls and rennumbers subsequent sections.

Encourages county governments to reassign county workers as poll workers on election days.

Requires supervisors of elections to work with high schools, community colleges and universities to recruit poll workers.

Requires the Department to develop a statewide poll worker recruitment program.

Section 9. Amends s. 102.141, F.S.

Amends this section to expressly include returns from “early voting” in the canvass of election returns.

Section 10. Amends s. 125.01, F.S.

Conforming amendment (changes statutory reference)

Section 11. Repeals section 20 of ch. 2002.281, Laws of Fla. (CS/SB 1350)

Conforming amendment (deletes statutory reference).

Section 12. Provides an effective date of January 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

2. Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. Expenditures: Changes to the "early voting" process may require additional expenditures by county supervisors of elections when additional polling places are opened in their main and branch offices.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

B. RULE-MAKING AUTHORITY: The proposed committee bill authorizes the Department to adopt rules relating to early voting and poll worker standards.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A revised version of PCB 09 that called for a first primary on August 17, 2004 (13 weeks before the general election) and a second primary on September 14, 2004 (7 weeks before the general election) was presented to the Committee on Procedures at its April 2, 2003, meeting. Qualifying for state and county candidates would have been scheduled for June 14-18, 2004, and qualifying for federal office, April 19-23, 2004.

A technical amendment was incorporated into PCB 09 before the April 2 meeting that ties the required testing of voting systems to the beginning of early voting, rather than to election day.

At its April 2 meeting, the Committee on Procedures adopted two amendments offered by Representative Harrington. The first amendment changes the election dates from those described above so that there will be 7 weeks between the first and second primary, and 8 weeks between the second primary and the general election. Critical dates under this amended schedule will be as follows:

November 2, 2004	General Election
September 7, 2004	Second Primary
July 20, 2004	First Primary
May 17-21, 2004	Qualifying for state/county candidates
March 22-26, 2004	Qualifying for federal candidates

The second amendment adopted by the Committee removes the authority for supervisors of elections to open additional early voting sites in state, county and municipal buildings. As amended, PCB 09 will require supervisors of elections to conduct early voting only in their main and branch offices.