

ELECTIONS

HB 537 — Election Reform

by Economic Expansion and Infrastructure Council and Rep. Rivera and others (CS/CS/SB's 960 and 1010 by Transportation and Economic Development Appropriations Committee; Ethics and Elections Committee; and Senators Constantine, Ring, and Lynn)

This bill is an omnibus elections package that addresses numerous issues, including:

- Primary Dates for the Presidential Preference and the Fall Primaries
- Paper Ballots for Voting Systems
- Initiative Petition Signature Gathering and Revocation
- Resign-to-Run Exemptions
- Write-In Candidate Qualifying
- Minor Political Party Primary Elections
- Third Party Voter Registration Group Requirements and Penalties
- Absentee Ballot Requests
- Political Party Internal Procedures
- Florida Elections Commission Procedures and Standards of Proof
- Campaign Finance

Third Party Registration Organizations

The bill redefines a third party registration organization to include political parties. The bill lowers the amount of fines applicable to third party registration organizations for violations and caps the total amount of fines at \$1,000 per calendar year. The bill also provides for the waiver of fines upon a showing of *force majeure* or impossibility of performance.

Primary Dates

The bill moves the date of the Florida presidential preference primary from the second Tuesday in March (March 11, 2008) to the last Tuesday in January (January 29, 2008) of a presidential election year. It also authorizes municipalities, by ordinance, to move municipal elections currently scheduled for March 2008 and thereafter to coincide with the new presidential preference primary date.

The bill also moves Florida's fall primary up one week to *10 weeks* before the general election.

Voting Systems/Paper Ballots

The bill requires all voters, except disabled voters, to cast a marksense ballot on an optical scan voting system beginning with the fall primary election of 2008; disabled voters may continue to vote on the existing touchscreen equipment through 2012, at which time they must be provided a means to cast an independent, marksense ballot.

Further, the bill allows the use of ballot-on-demand technology to produce early-voting and absentee marksense ballots, and authorizes the Secretary of State to permit counties to use ballot-on-demand for election-day ballot production (should the technology prove successful).

The bill requires the Secretary of State/Department of State to negotiate the disposition of unnecessary touchscreen voting equipment and to purchase new equipment for certain counties. The bill authorizes an expenditure of approximately \$27.86 million from the Grants and Donations Trust Fund (federal Help America Vote Act, or “HAVA,” monies) to be used for the purchase of optical scan voting equipment (\$22.86 million) and ballot-on-demand technology (\$5 million), including optical scan tabulators, to replace touchscreen equipment. Any money realized by the sale or other disposition of a county's existing touchscreen voting equipment, after paying off the county's current indebtedness, will be deposited back to the Trust Fund up to and including the amount of state funding the county has accepted.

Finally, the bill replaces an unused audit provision in Florida law with a requirement that local canvassing boards complete a public, random, post-election audit of one to two percent of the precincts in a randomly-selected race on the ballot. The board must make the audit results public by the 7th day after the election, which allows time for the filing of an election contest; and, file a report with the Department of State no later than 15 days after the audit is complete.

Pre-Registration to Vote

The bill expands the current under-18, voter pre-registration system — from pre-registering 17 year-olds to pre-registering persons to vote when they reach their 17th birthday or receive a valid Florida driver’s license, whichever occurs first.

Voter Registration

The bill provides the voter with notice and an opportunity to present evidence necessary prior to election day to validate the identification number on the voter’s registration application. The bill also allows a voter who votes a provisional ballot to present evidence necessary to validate his or her identification number on the voter registration application within two days after the election instead of 3 days. The bill provides elections officials with 13 days to enter voter registration information rather than 15 days.

Resign-to Run Exemptions

The bill exempts persons seeking federal office from the resign-to-run law, s. 99.012, F.S.

Candidate Oath

The bill exempts federal candidates from the current candidate and public employee oath and creates a new candidate oath for federal candidates.

Candidate Qualification

With regard to candidate qualification, the bill does the following:

- Sets the qualification period for state, multicounty district, county, district, and special district offices, with the exception of judicial offices, federal offices, and the offices of state attorney and public defender, between the 71st and 67th days prior to the primary election.
- Sets the qualification period in apportionment years for federal candidates between the 71st and 67th days prior to the primary election.
- Provides a uniform method of qualifying for special district offices, which includes either paying a \$25 qualifying fee not required to be drawn from the campaign account, or qualifying by the petition method by obtaining 25 signatures of voters from the geographical area represented by the office sought.
- Provides that single county special district candidates qualify with the county supervisor and multicounty district candidates qualify with the Department of State.
- Exempts special district candidates from appointing a campaign treasurer or designating a primary campaign depository if the candidate does not collect contributions and has only the filing or signature verification fee as an expense.
- Requires certifications for federal, state, multicounty district, or multicounty special district candidates qualifying by petition to be submitted to the Division of Elections by the 7th day prior to the 1st day of qualifying for the office sought.
- Requires write-in candidates to reside in the district of the office sought at the time of qualifying.

Minor Political Parties

The bill requires minor political parties to hold primary elections instead of designating its nominees.

County Commissioners

The bill provides that a county commissioner is deemed “elected” at the time the election results are certified.

Canvassing Returns

With regard to canvassing returns, the bill does the following:

- Conforms the canvassing of special elections to that of general elections.
- Provides that ballot canvassing may begin six days prior to the election, rather than four days prior to the election, in a *local all mail-ballot election*.
- Provides that absentee ballots may be canvassed six days prior to the election, rather than four.
- Provides an additional 19 hours for the submission of final returns after a general election from 5 p.m. on the 11th day after the election to noon on the 12th day.
- Requires county canvassing boards to submit preliminary election returns to the Department of State on election night in a format specified by the department.
- Requires provisional ballots to be included in the first set of unofficial returns.
- Provides that the unofficial returns must be submitted by noon on the fourth day after a general election, or any election other than a primary election, rather than the fifth day after an election.
- Provides an extra day for the submission of the second set of unofficial returns after a general election in which a recount was conducted.

Initiative Petitions

With regard to initiative petitions, the bill does the following:

- Requires petition forms to be signed by the constitutionally required distribution of electors in addition to the constitutionally required number of electors currently required under law.
- Requires supervisors to verify signatures within 30 days of receiving petition forms.
- Requires supervisors to record in the statewide voter registration system the date each form is received and the date the signature on the form is verified as valid.
- Requires the form to contain the elector's original signature, the date the form was signed as recorded by the elector, the elector's name, address, county, and the voter identification number or date of birth.
- Requires the elector, at the time of signing the form, to be a registered elector of the county in which his or her signature is submitted.
- Provides that a signature may be revoked within 150 days of the date it was signed by the elector by submitting a signed petition-revocation form to the appropriate supervisor.

- Provides that petition-revocation forms and the process by which revocation form signatures are obtained, submitted, and verified are subject to the same relevant requirements and timeframes as petition forms.
- Requires supervisors to provide petition-revocation forms to the public at all main and branch offices.
- Provides that petition-revocation forms must be filed with the supervisor by February 1st preceding the next general election; however, if the initiative is not certified for ballot position in that election, the revocation forms must be filed by February 1st preceding the next successive general election.
- A fee of 10 cents or the actual cost of verifying such revocation signature, whichever is less, must be paid to the supervisor in order for the signature to be verified.
- The supervisor must record each valid and verified revocation form in the statewide voter registration system.

Identification at the Polls

The bill removes the following forms of photo identification acceptable at the polls:

- Employee badge or identification
- Buyer's club identification

Precinct-Level Reporting by Supervisors

The bill requires supervisors to report in an electronic format specified by the Department of State precinct level election results within 35 days, rather than 75 days, after a special, primary, presidential preference primary, municipal, and general election. The bill provides that the precinct level election results must separately record for each precinct all demographic data associated with each precinct at book closing for each election and individual vote history in addition to current data requirements. The bill requires this data to be cross-referenced by political party and other demographic information as defined by the Department of State. The bill mandates that the department create a uniform system for the collection and reporting of this data.

Absentee Ballots

The bill provides that an absentee ballot request is effective for all elections through the next two general elections after the request is made, rather than just for the elections in the calendar year in which the request was made. The bill requires supervisors to send absentee ballots overseas at least 45 days before the general election. The bill also provides an extra day for delivery of an absentee ballot to a voter's designee, from 4 days before an election to 5 days.

Use of Names Associated with Political Parties

The bill provides that political parties may file with the Department of State the names of groups associated with that party which may not be used by another organization or entity without obtaining prior written permission from the party's executive committee chair.

Political Parties

The bill sets the qualification period for candidates for a state or county executive committee office of a political party between the 71st and 67th days prior to the primary election. The bill requires a state committeeman and a state committeewoman to be a member in good standing of the county executive committee in which the man or woman is a registered voter. The bill also expands the membership of a state executive committee to include 10 state registered voters appointed by the Governor if the voters are members of the party and if the Governor is a member of the party.

Removal or Suspension of Certain Party Members

The bill expands the authority of the state executive committee chair to remove or suspend certain state or county party officers or members for violation of the oath of office or for activities that either interfere with the party's activities or cause harm to the name or status of the party.

Campaign Treasurers for Candidates and Political Committees

The bill removes the requirement that a campaign treasurer or deputy treasurer for a political committee or candidate be a Florida registered voter.

Committees of Continuous Existence

The bill allows groups to collect dues from its members and forward those dues to the committee of continuous existence, which must report the dues as coming from the member who originally paid the dues.

Valuation of Private Air Travel

The bill provides that travel in a private aircraft must be valued at the actual cost of per person commercial air travel for the same or a substantially similar route.

Contribution Limits

The bill allows contributions to political committees and committees of continuous existence through affiliated organizations. The affiliated organization may commingle the contributions with its own funds and write a single check to the political committee or the committee of continuous existence for the aggregate amount of the contributions provided the funds are identified as intended to be contributed to the political committee or committee of continuous existence. Contributions received in this manner must be reported by the political committee or committee of continuous existence as having been made by the original contributor.

Cash Contributions

The bill prohibits a person from making or accepting a cash contribution in excess of \$50 instead of \$100.

Political Advertisements

The bill requires a specific disclosure for 3-pack ads. These ads must state:

- That they are paid political advertisements;
- The names of those who sponsored and paid for the ad; and
- The names of persons, their party affiliation, and offices sought in the ad.

Candidacy Polls and Surveys

The bill provides that committees of continuous existence and electioneering communication organizations may conduct polls or surveys relating to candidacy for public office.

Florida Elections Commission

With regard to the Florida Elections Commission, the bill does the following:

- Requires sworn complaints to be based on personal information or information other than hearsay.
- Provides that if an expense item is reimbursed before a complaint is filed alleging violations regarding that expense item, the commission may not investigate the allegations contained in the complaint.
- Provides that a complaint may be withdrawn, before a probable cause hearing is held, if good cause is shown.
- Repeals s. 106.37, F.S., relating to the definition of a “willful violation.”
- Provides that willfulness is a determination of fact.
- Allows a respondent to request a hearing on the determination of willfulness.

- Revises the procedures, notice requirements, and scope of inquiry of the commission after a complaint has been filed.
- Requires the commission to attempt to reach a consent agreement with the respondent if probable cause is found to exist.
- Requires that a hearing be conducted before an administrative law judge when the commission files allegations unless the alleged violator elects to have a formal or informal hearing before the commission or elects to resolve the complaint through a consent order. The administrative law judge is required to enter a final order subject to appeal.
- Requires the commission to maintain a searchable database of all final orders and agency actions.

Distribution of Election Campaign Financing Trust Funds

The bill requires the distribution of Election Campaign Financing Trust funds to begin on the 32nd day prior to the primary.

Municipal Officers

The bill provides that if a person is selected to fill a temporary vacancy in a municipal office due to the suspension of the officeholder, that person may serve the remainder of the officeholder's term if the officeholder is subsequently removed from office.

Effective Date

If approved by the Governor, these provisions take effect January 1, 2008, except as otherwise provided.

Vote: Senate 37-2; House 118-0

CS/SB 900 — Initiatives; General Requirements and Revocation Procedures by Judiciary Committee and Senators Posey and Crist

This bill, entitled the "Beatrice T. Posey Truth in Petition Act," amends s. 100.371, F.S., and provides the following:

- Requires petition forms to be signed by the constitutionally required distribution of electors in addition to the constitutionally required number of electors currently required under law.
- Requires the elector who signs a petition form to date the form when he or she signs it.
- Requires a petition form to be given to a supervisor within 30 days from the date it is signed by the elector in order to be verified as valid.

- Requires supervisors to record in the statewide voter registration system the date each form is received and the date the signature on the form is verified as valid.
- Provides that a signature may be revoked within 120 days after it has been verified by the supervisor by submitting a signed petition-revocation form to the appropriate supervisor.
- Provides that petition-revocation forms and the process by which revocation form signatures are obtained, submitted, and verified are subject to the same relevant requirements and timeframes as petition forms.
- Requires supervisors to provide petition-revocation forms to the public at all main and branch offices.
- Provides that petition-revocation forms must be filed with the supervisor by February 1st preceding the next general election; however, if the initiative is not certified for ballot position in that election, the revocation forms must be filed by February 1st preceding the next successive general election.
- A fee of 10 cents or the actual cost of verifying such revocation signature, whichever is less, must be paid to the supervisor in order for the signature to be verified.
- The supervisor must record each valid and verified revocation form in the statewide voter registration system.

If approved by the Governor, these provisions take effect August 1, 2007.

Vote: Senate 27-9; House 96-22

CS/SB 1920 — Initiatives; Property Rights

by Commerce Committee and Senators Fasano and Crist

This bill provides that a private person exercising lawful control over any privately-owned property, including commercial property open to the public, may prohibit all activities on the property that support or oppose constitutional amendment initiatives.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 38-0; House 119-0

EXECUTIVE APPOINTMENTS

The Florida Senate confirmed 77 executive appointments during the 2007 Regular Session. A complete list of confirmed appointments may be found in Senate Journal No. 17 for April 27, 2007, on page 668, and Senate Journal No. 21 for May 3, 2007, on page 1197.

