

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 1352
INTRODUCER: Senator Ring
SUBJECT: Paper Reduction
DATE: March 20, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Roberts	EE	Fav/1 amendment
2.	Anderson	Yeatman	CA	Pre-meeting
3.	_____	_____	ATD	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes
 B. AMENDMENTS..... Technical amendments were recommended
 Amendments were recommended
 Significant amendments were recommended

I. Summary:

SB 1352 addresses the stated goal of the State of Florida to decrease the paperwork burden associated with the conduct of state business. This bill furthers that goal by permitting the use of an electronic medium to collect and disseminate information as required by law in selected settings. The bill:

- Requires the statewide voter registration application to elicit the voter registration applicant’s e-mail address and an indication of whether the applicant wishes to receive sample ballots by e-mail.
- Authorizes the supervisor of elections to provide electronic sample ballots to electors if certain requirements are met.
- Requires the clerk of a board of county commissioners to electronically transmit to the Department of State enacted ordinances, amendments, and emergency ordinances, and requires the Department to electronically confirm by e-mail the receipt and the effective date of such filings with the clerk.
- Permits the clerk of a value adjustment board to electronically notify the taxpayer and property appraiser of the board’s decision in certain hearings if electronic means is selected by the taxpayer.

- Authorizes the property appraiser to notify taxpayers by postcard or electronically that proposed property tax rates and non-ad valorem assessments are available on the property appraiser's website.
- Requires the property appraiser to prepare and make available certain tax information on his or her office's website.
- Requires a licensed bail bond agent to provide notice of a change of e-mail address to specified entities, and requires a bail bond agent who executes or countersigns a transfer bond to indicate the agent's e-mail address on the bond.
- Provides that the posting of a bail bond agent's e-mail address is a permissible form of print advertising in jails.
- Permits bail bonds to be posted in person or electronically at the election of the receiving agency.
- Authorizes bonds to be transmitted electronically between a sheriff's office and the clerk of the court.
- Requires an affidavit filed with a bond to be submitted in the same manner as the bond.
- Provides that all licensed bail bond agents shall have equal access to jails for the purpose of making bonds, whether in person or electronically.
- Permits the clerk of court to electronically provide notice of a required appearance and of bond forfeiture, and allows a clerk to electronically furnish certain documents and notices required in bond forfeiture proceedings.
- Allows a clerk of court to electronically furnish a certificate of cancellation of a bond to the surety without cost.
- Provides that guaranteed traffic arrest bonds may be presented in person or electronically.

This bill substantially amends the following sections of the Florida Statutes: ss. 97.052, 101.20, 125.66, 194.034, 200.069, 648.421, 648.43, 648.44, 903.101, 903.14, 903.26, 903.27, 903.31, and 903.36, F.S. The bill creates s. 903.012, F.S.

II. Present Situation:

The Florida Legislature has on various occasions expressed that the reduction of the use of paper, where feasible, is the policy of the state.¹ This bill furthers the goal of lowering the use of paper by permitting the use of an electronic medium to collect and disseminate information as required by law in selected settings.

Voter Registration and Sample Ballots

Current law requires the Department of State to prescribe by rule a uniform statewide voter registration application.² The application must elicit certain information from the voter applicant,

¹ See sections 23.20-23.22, F.S. "The state must minimize the paperwork burden by evaluating its need for information, determining whether it already has access to the necessary information, and coordinating data collection initiatives at their source." Section 23.20(4), F.S. See also section 120.74(1)(e), F.S. "[E]ach agency shall perform a formal review of its rules every 2 years. In the review, each agency must [s]eek to improve efficiency, reduce paperwork, or decrease costs to government and the private sector."

² Section 97.052(1), F.S.

such as the applicant's name, date of birth, and address of legal residence.³ The application does not request a voter's e-mail address.

Current law also requires the supervisor of elections to publish a sample ballot in a newspaper of general circulation in the county, prior to the day of the election. If the county has an addressograph or similar system, the supervisor may mail a sample ballot to each registered elector in lieu of publication. The sample ballot must be mailed at least seven days prior to any election.⁴

Transmittal of Enacted Ordinances

Current law provides requirements for counties to adhere to when exercising the ordinance-making powers conferred by the State Constitution.⁵ It establishes the following regular enactment procedure:

The board of county commissioners at any regular or special meeting may enact or amend any ordinance ... if notice of intent to consider such ordinance is given at least 10 days prior to said meeting by publication in a newspaper of general circulation in the county. A copy of such notice shall be kept available for public inspection during the regular business hours of the office of the clerk of the board of county commissioners. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the county where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.⁶

Certified copies of ordinances or amendments thereto must be filed with the Department of State by the clerk of the board of county commissioners within 10 days after enactment by the board. The ordinances or amendments take effect upon filing with the Department of State, unless the ordinance prescribes a later effective date.⁷

Value Adjustment Boards

Value adjustment boards are constituted in each county to conduct administrative hearings relating to assessments, complaints relating to homestead exemptions, appeals from tax exemptions denied, and appeals concerning ad valorem deferrals and classifications.⁸ The value adjustment board must render a written decision within 20 calendar days after the last day the board is in session. The clerk must then provide notice of the board's decision by first-class mail.⁹

³ Section 97.052(2), F.S.

⁴ Section 101.20(2), F.S.

⁵ Section 125.66(1), F.S.

⁶ Section 125.66(2)(a), F.S.

⁷ Section 125.66(2)(b), F.S.

⁸ Section 194.032(1)(a), F.S.

⁹ Section 194.034(2), F.S.

Property Appraisers

Current law requires each property appraiser to provide notice of proposed property taxes and non-ad valorem assessments by first-class mail to each taxpayer listed on the current year's assessments. Elements that must be included on such notice are prescribed by statute.¹⁰

Bail Bond Agents and Bail Bonds

The Department of Financial Services is charged with licensing bail bond agents, and may only issue a bail bond license to an individual.¹¹ A person must be qualified, licensed, and appointed in order to act in the capacity of a bail bond agent or temporary bail bond agent and to perform any of the functions, duties, or powers of such agents.¹² Current law requires a licensed bail bond agent to notify the Department of Financial Services, the insurer, the managing general agent, and the clerk of each court where the licensee is registered of a change of business address or telephone number within 10 days of such a change.¹³

The Legislature has declared that it is the policy of the state that a bond for the pretrial or appellate release of a criminal defendant for which fees or premiums are charged must be executed by a bail bond agent licensed pursuant to ch. 648, F.S., and must be construed as a commitment by and obligation upon the bail bond agent to ensure that the defendant appears at all subsequent criminal proceedings.¹⁴ A bail bond agent who executes or countersigns a bond is required to indicate the name and address of the referring bail bond agent.

A bail bond agent is prohibited from soliciting business in a jail, prison, or other location where prisoners are generally held. Permissible print advertising in the jail is limited to a listing in a telephone directory and the posting of the bail bond agent's or agency's name, address, and telephone number in a designated location within the jail.¹⁵

If there is a breach of a bond, the bond or money deposited as bail may be forfeited only if the clerk of court gives the surety at least 72-hour notice of a required appearance by a defendant.¹⁶ A notice of bond forfeiture has to be provided by mail.¹⁷

III. Effect of Proposed Changes:

Voter Registration and Sample Ballots (Sections 1 - 2)

The bill requires the statewide voter registration application to include a field for an applicant's e-mail address and an indication of whether the applicant wishes to receive sample ballots by e-mail.

¹⁰ Section 200.069, F.S.

¹¹ Section 648.27(1), F.S.

¹² Section 648.30(1), F.S.

¹³ Section 648.421, F.S.

¹⁴ Section 648.24, F.S.

¹⁵ Section 648.44, F.S.

¹⁶ Section 903.26(1)(b), F.S.

¹⁷ Section 903.26(2)(a), F.S.

The bill permits a supervisor of elections to provide electronic sample ballots to electors who have provided e-mail addresses and opted into the electronic ballot delivery system. It allows a supervisor of elections to mail or e-mail sample ballots to registered electors in lieu of publishing such ballots in a newspaper of general circulation in the county.

Transmittal of Enacted Ordinances (Section 3)

The bill requires a clerk of a board of county commissioners to electronically transmit to the Department of State enacted ordinances, amendments, and emergency ordinances. It requires the Department of State to electronically confirm by e-mail the receipt and the effective date of such filings with the clerk of the board of county commissioners.

Value Adjustment Boards (Section 4)

The bill permits the clerk of a value adjustment board to electronically notify the taxpayer and property appraiser of the value adjustment board's decision in a hearing held pursuant to s. 194.034, F.S., if electronic means is selected by the taxpayer on the originally filed petition.

Property Appraisers (Section 5)

The bill authorizes a property appraiser to notify taxpayers by postcard that the notice of proposed property taxes and non-ad valorem assessments is available for viewing and download at the appraiser's website. The bill provides approved language for such postcards. It also authorizes a property appraiser to provide notification by e-mail to property owners or other interested parties who have registered an e-mail address with the appraiser.

The property appraiser must prepare and make available on his or her office's website a notice of proposed property taxes and non-ad valorem assessments for each taxpayer listed on the year's assessment roll as a separate web page, link, attachment, or document. Such online notice from the appraiser must meet specified criteria, including, but not limited to, specifying all substantive elements required for such notice. The property appraiser may display the required substantive elements in a format different from that prescribed by the Department of Revenue only upon receiving prior written permission from the executive director of the Department. The format may contain additional substantive elements deemed important by the appraiser, in addition to the elements provided for by law.

Bail Bond Agents and Bail Bonds (Sections 7 - 15)

The bill requires a licensed bail bond agent to provide notice of a change of e-mail address to specified entities within 10 days of such change. It also requires a bail bond agent who executes or countersigns a transfer bond to indicate the agent's e-mail address on the bond.

The bill provides that the posting of a bail bond agent's e-mail address is a permissible form of print advertising in jails.

The bill permits bail bonds to be posted in person or electronically at the election of the receiving agency. It authorizes bonds to be transmitted electronically between a sheriff's office and the

clerk of the court. An affidavit filed with a bond must be submitted in the same manner as the bond.

The bill provides that all licensed bail bond agents shall have equal access to jails for the purpose of making bonds, whether in person or electronically.

The bill permits the clerk of court to electronically provide notice of a required appearance and of bond forfeiture. It allows the clerk of court to electronically furnish certain documents and notices required in bond forfeiture proceedings.

The bill allows a clerk of court to electronically furnish a certificate of cancellation of a bond to the surety without cost.

The bill provides that guaranteed traffic arrest bonds may be presented in person or electronically.

Section 16 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Sec. 18, of the Constitution of the State of Florida excuses local governments from complying with state mandates that impose negative fiscal consequences. Subsection (a) provides, “No county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds” unless certain requirements are met. However, several exemptions and exceptions exist.

Subsection (d) of Art. VII, Sec. 18, exempts those laws that have an insignificant fiscal impact from the requirements of the mandates provision. Whether a particular bill results in a significant impact must be determined on an aggregate, statewide basis. Laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10 (\$1.9 million for FY 2012-2013¹⁸), are exempt.¹⁹

This bill could cause counties to incur additional expenses associated with the requirement that the property appraiser post certain tax information on his or her office’s website. The overall collective financial impact would appear unlikely to exceed \$1.9 million per year in the aggregate. Accordingly, it would appear as if the bill is exempt from paragraph (a).

¹⁸ Based on the Demographic Estimating Conference’s final population estimate for April 1, 2012, which was adopted on November 7, 2012. The Executive Summary can be found at: <http://edr.state.fl.us/Content/conferences/population/demographicsummary.pdf> (Last visited on March 15, 2013).

¹⁹ See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Fiscal Impact*, (September 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited on March 15, 2013).

The mandates provision does not apply to the changes being made to ss. 97.052 and 101.20, F.S., because subsection 18(d) of Article VII, Fla. Const., explicitly exempts election laws from the mandates provision.

B. Public Records/Open Meetings Issues:

Current law provides a public record exemption for certain information held by an agency for purposes of voter registration.²⁰ SB 1260 is the public records bill linked to SB 1352 expanding the current public records exemption for voter registration information to include e-mail addresses of a voter registration applicant or voter.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Preclearance Requirement

The Department of State provided the following comments regarding preclearance:

Under section 5 of the Voting Rights Act, new statewide legislation that implements a voting change, including but not limited to, a change in the manner of voting, change in registration, balloting, and the counting of votes, change in candidacy requirements and qualifications, change in the composition of the electorate that may vote for a candidate, or change affecting the creation or abolition of an elective office, is subject to preclearance by the U.S. Department of Justice or the federal District Court for the District of Columbia. The preclearance review is to determine if the change has a discriminatory purpose or effect that denies or abridges the right to vote on account of race, color or membership in a language minority group in a covered jurisdiction. Florida has five covered jurisdictions subject to preclearance: Collier, Hardee, Hendry, Hillsborough, and Monroe counties. Until precleared by federal authorities, the legislation is unenforceable in these five counties.²¹

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

²⁰ Section 97.0585, F.S.

²¹ Department of State, *Analysis on Senate Bill 1352* (March 4, 2013) (on file with the staff of the Senate Community Affairs Committee).

C. Government Sector Impact:

The Department of State does not anticipate any fiscal impact associated with modifying the uniform statewide voter application.

There may be a fiscal impact on supervisors of elections associated with maintaining the e-mail address of voters and voter registration applicants, and with monitoring which registered voters wish to receive sample ballots electronically. Additionally, there may be costs to supervisors of elections related to establishing a system to send sample ballots electronically. However, it is anticipated that some, if not most, of these costs may be offset by savings resulting from the electronic provision of sample ballots.

There may be a fiscal impact on property appraisers associated with the requirement that a property appraiser prepare and make available on his or her office's website notice of proposed property taxes and non-ad valorem assessments for each taxpayer listed on the year's assessment roll.

VI. Technical Deficiencies:

According to the Department of Revenue's analysis of SB 1352, "It is not clear how the property appraisers will prove compliance with ss. 200.065 and 200.069, F.S., when electronic notification is used."²²

Also, s. 200.065, F.S., refers to the mailing of the TRIM Notice with regard to the TRIM timeline and the deadline for filing VAB petitions. This section would have to be updated to refer to the posting of the notices online.²³

VII. Related Issues:

According to the Department of Revenue's analysis of SB 1352, "Section 4 of this bill would require amendments to the VAB petition form, DR-486, and Rule 12D-9.015, F.A.C."²⁴

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:**Barcode 475764 by Ethics and Elections on March 11, 2013:**

The amendment provides that Sections 8-15 of the bill, which apply to the statutes

²² Department of Revenue, *Analysis on Senate Bill 1352* (March 12, 2013) (on file with the staff of the Senate Community Affairs Committee).

²³ *Id.*

²⁴ *Id.*

concerning bail bondsmen, are effective July 1, 2014. The amendment provides that remainder of the bill is effective October 1, 2013. (WITH TITLE AMENDMENT)

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
