

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 709 Voting Systems
SPONSOR(S): Drake
TIED BILLS: **IDEN./SIM. BILLS:** SB 964

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	10 Y, 0 N	Toliver	Harrington
2) Public Integrity & Ethics Committee			

SUMMARY ANALYSIS

Currently, the Florida Election Code requires all voting to be by marksense ballot utilizing a marking device for the purpose of designating ballot selections. A “marksense ballot” is a printed sheet of papers, used in conjunction with an electronic vote tabulation voting system, containing the names of candidates, or a statement of proposed constitutional amendments or other questions or propositions submitted to the electorate at any election, on which sheet of paper an elector casts his or her vote. However, persons with disabilities may vote on a device that doesn’t utilize marksense ballots. These devices, called voter interface devices, must meet specified voting system accessibility requirements for individuals with disabilities pursuant to the federal Help America Vote Act of 2002 and the Florida Election Code.

The bill expands the use of voter interface devices to all individuals instead of persons with disabilities only. It revises the definition of “marksense ballot” and “marking device” to include voter interface devices.

The bill does not have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Florida Election Code¹ requires certain specifications for voting systems² and ballots.³ The term “ballot” is divided into two sub-categories:

- “Marksense ballots” means that printed sheet of papers, used in conjunction with an electronic or electromechanical vote tabulation voting system, containing the names of candidates, or a statement of proposed constitutional amendments or other questions or propositions submitted to the electorate at any election, on which sheet of paper an elector casts his or her vote.⁴
- “Electronic or electromechanical devices” means a ballot that is voted by the process of electronically designating, including by touchscreen, or marking with a marking device⁵ for tabulation by automatic tabulating equipment or data processing equipment.⁶

The Electronic Voting Systems Act (EVS Act)⁷ was established “to authorize the use of electronic and electromechanical voting systems in which votes are registered electronically or are tabulated on automatic tabulating equipment or data processing equipment.”⁸ The EVS Act requires all voting to be by marksense ballot utilizing a marking device for the purpose of designating ballot selections.⁹ However, persons with disabilities may vote on a voter interface device that meets the voting system accessibility requirements for individuals with disabilities pursuant to the federal Help America Vote Act of 2002 and s. 101.56062, F.S.¹⁰ The term “voter interface device” means any device that communicates voting instructions and ballot information to a voter and allows the voter to select and vote for candidates and issues.¹¹

The Department of State must publicly examine all makes of electronic or electromechanical voting systems submitted to it and determine whether the systems comply with s. 101.5606, F.S., which establishes requirements for approval of systems.¹² Any person owning or interested in an electronic or electromechanical voting system may submit it to the department for examination.¹³ Each certified voting system must include the capability to install accessible voter interface devices in the system

¹ Chapters 97-106, F.S., are known as The Florida Election Code.

² The term “voting system” is defined to mean a method of casting and processing votes that functions wholly or partly by use of electromechanical or electronic apparatus or by use of marksense ballots and includes, but is not limited to, the procedures for casting and processing votes and the programs, operating manuals, supplies, printouts, and other software necessary for the system’s operation. Section 97.021(44), F.S.

³ Section 101.015(1), F.S., sets the standards for voting systems. The Department of State is required to adopt rules establishing the minimum standards for hardware and software for electronic and electromechanical voting systems. Section 101.015(1), F.S.; *see also* Fla. Admin. Rule 1S-5.001. Sections 101.151 and 101.161, F.S., set the specifications for ballots. The Department of State is required to adopt rules prescribing a uniform primary and general election ballot for each certified voting system in accordance with The Florida Election Code. Section 101.151(9), F.S.; *see also* Fla. Admin. Rule 1S-2.032.

⁴ Section 97.021(4)(a), F.S.

⁵ The term “marking device” is defined to mean any approved device for marking a ballot with ink or other substance that will enable the ballot to be tabulated by means of automatic tabulating equipment. Section 101.5603(5), F.S.

⁶ Section 97.021(4)(b), F.S.

⁷ Sections 101.5601-101.5614, F.S., are cited as the “Electronic Voting Systems Act.”

⁸ Section 101.5602, F.S.

⁹ Section 101.56075(1), F.S.

¹⁰ Section 101.56075(2), F.S.

¹¹ Section 97.021(40), F.S.

¹² Section 101.5605(1), F.S.

¹³ Section 101.5605(2)(a), F.S.

configuration that will allow the system to meet certain minimum standards to aid persons with disabilities in the voting process.¹⁴

By 2020, all persons with disabilities must vote on a voter interface device that meets the voter accessibility requirements for individuals with disabilities under the Help America Vote Act of 2002 and s. 101.56062, F.S.¹⁵

Effect of the Bill

The bill expands the use of voter interface devices to all individuals instead of persons with disabilities only.

The bill revises the definition of “marksense ballot” to include sheets of paper used indirectly to designate the elector’s ballot selections through the use of a voter interface device. With respect to any voting system that uses a voter interface device, the bill provides that ss. 101.151, 101.161, 101.2512, 101.2515 101.252, 101.254, F.S., which relate to ballot layout, only apply to the display of candidates and issues on such device.

The bill amends the EVS Act to include voter interface devices within the definition of “marking device,” so that all electronic or electromechanical voting systems specified within the EVS Act will include voter interface devices.

B. SECTION DIRECTORY:

Section 1 amends s. 97.021, F.S., relating to definitions applicable to the Florida Election Code.

Section 2 amends s. 101.151, F.S., relating to specifications for ballots.

Section 3 amends s. 101.5603, F.S., relating to definitions applicable to the Electronic Voting System Act.

Section 4 amends s. 101.56075, F.S., relating to voting methods.

Section 5 provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

¹⁴ See s. 101.56062, F.S.

¹⁵ Section 101.56075(3), F.S.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Companies offering voter interface devices may see an increase in requests for such devices due to the authorized expansion of its use.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Art. VII, s. 18 of the Florida Constitution because it is a law relating to elections.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.