

THE FLORIDA SENATE
2019 SUMMARY OF LEGISLATION PASSED
Committee on Ethics and Elections

CS/CS/HB 5 — Ballot Measures

by State Affairs Committee; Local, Federal and Veterans Affairs Subcommittee; Rep. DiCeglie and others (CS/CS/SB 336 by Rules Committee; Finance and Tax Committee; and Senator Brandes)

Constitutional Ballot Initiatives

The bill creates additional requirements and procedures relating to the constitutional amendment initiative process and paid petition signature gatherers. Specifically, the bill changes the initiative process as follows:

- **Circulator Registration Requirements:** Paid petition circulators (circulators) must register with Secretary of State prior to obtaining signatures, and consent to jurisdiction in this State. Failing to register constitutes a second-degree misdemeanor.
- **Circulator Compensation:** A person is prohibited from compensating a petition circulator on a per-signature basis. Violations are a first-degree misdemeanor.
- **Petition Forms:** The Florida Division of Elections (DOE) or county supervisors of elections (supervisors) are responsible for making petition forms available to circulators, and must develop a tracking system for petition forms and circulators.
- **Circulator's Affidavit:** Circulators verify, under penalty of perjury, that they witnessed the signature on the petition.
- **Petition Submission Deadline:** Petition sponsors are fiduciaries responsible for ensuring submitting signed petitions to supervisors within 30 days after they are signed. The sponsor is liable for fines, with exceptions, for petitions submitted late or not at all.
- **Economic Impact Information:** The initiative financial impact statement included on the ballot and prepared by the Financial Impact Estimating Conference (FIEC) is expanded in length (75 to 150 words) and scope, to include the economic impact on the state and local economies. If an initiative will result in increased costs, decreased revenues, a negative impact on the state or local economy, or an indeterminate impact, the ballot must include a statement in **bold font** to such effect. Finally, the supervisors must distribute the summary of each initiative's financial *information* statement (also prepared by the FIEC) along with their sample ballots.
- **DOE Rulemaking:** The DOE must adopt rules to ensure the integrity of the petition gathering process, including providing for a complaint process for voters to challenge signature issues and a requirement that sponsors account for all petition forms used.
- **Effective Date/Application:** The ban on per-signature compensation takes effect upon becoming a law but does not apply to preexisting contracts. Other provisions take effect 30 days after the bill becomes law.

Local Tax Referenda

The bill mandates that all referenda to adopt or amend a local discretionary sales surtax be held at a general election. The bill also mandates that requiring a petition sponsor of an initiative to adopt a charter county and regional transportation system surtax comply with additional

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requirements within a specified timeframe before the proposed referendum. Further, the bill establishes additional requirements and time frames with respect to the statutorily-required performance audit for proposed discretionary sales surtaxes. Finally, the bill disqualifies referenda results for failure to comply with some of the new requirements.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise expressly provided.

Vote: Senate 22-17; House 67-43

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CS/HB 281 — Public Records/Voters and Voter Registration

by State Affairs Committee and Rep. Stevenson (SB 342 by Senator Lee)

The bill amends s. 97.0585(1), F.S., which contains several public records exemptions for voter registration information.

Current law holds confidential and exempt all declinations to register to vote, information relating to the location a person registered to vote, and the person's social security number, driver's license number, and Florida identification number. The bill continues the confidential and exempt status of this information if the information was obtained for the purpose of voter registration.

The bill makes confidential and exempt from public inspection and copying requirements information related to a voter registration applicant's or voter's prior felony conviction and whether such person has had his or her voting rights restored by the Board of Executive Clemency or pursuant to Art. VI, s. 4, State Constitution.

The bill also makes all information concerning 16 and 17-year-olds who preregister to vote confidential and exempt from public inspection and copying requirements until they reach the age of 18.

The bill provides that the exemptions are subject to the Open Government Sunset Review Act and stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides statements of public necessity as required by the State Constitution.

Because the bill creates new public records exemptions, it required a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

If approved by the Governor, these provisions take effect on July 1, 2019.

Vote: Senate 38-0; House 106-2

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SB 702 — Qualified Blind Trusts

by Senators Lee and Diaz

The bill repeals s. 112.31425, F.S. Before passage of SB 702, the placement of assets and investments in a qualified blind trust by a public officer avoided conflicts of interest that might otherwise require that the interests be divested or that the public officer recuse himself or herself.

The bill repeals the statute that addresses qualified blind trusts, eliminating the operation and parameters of the described trust. Also, repealed is the statutory determination that a public officer who holds a beneficial interest in a qualified blind trust does not have a statutorily prohibited conflict of interest with regard to matters pertaining to that interest.

The bill repeals language that provides that a public officer holding a beneficial interest in a qualified blind trust is not required to report on his or her financial disclosure forms any source of income to the blind trust as a secondary source of income.

If approved by the Governor, these provisions take effect January 1, 2020.

Vote: Senate 40-0; House 112-0

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CS/HB 7021 — Financial Disclosure

by State Affairs Committee; Public Integrity and Ethics Committee; and Rep. Altman (CS/CS/SB 7040 by Appropriations Committee; Governmental Oversight and Accountability Committee; and Ethics and Elections Committee)

The bill revises the administration of the submission of information relating to the disclosures of financial interests and statements of financial interests.

The bill requires the Commission on Ethics to procure and test an electronic filing system by January 1, 2022. The system must:

- Provide access through the internet for the completion and submission of disclosures of financial interests (CE Form 6) and statements of financial interests (CE Form 1);
- Allow for a procedure to make filings available in a format that is accessible by an individual using standard internet-browsing software;
- Issue a verification or receipt that the Commission on Ethics has received the submitted disclosure or statement;
- Provide security that prevents unauthorized access to the electronic filing system's functions or data; and
- Provide a method for an attorney or a certified public accountant to complete the disclosure or statement and certify that he or she prepared it in accordance with s. 112.3144, F.S., or s. 112.3145, F.S., and that the information on the disclosure or statement is true and correct.

The bill requires electronic submission of CE Form 6 beginning January 1, 2022, and CE Form 1 beginning January 1, 2023. The Commission on Ethics must provide notice and other communications to filers by email message and is required to provide notice to filers that any information entered electronically will be publicly released. A filer may no longer include a federal income tax return, or copy thereof, in a filing to the Commission. All disclosures (CE Form 1 and CE Form 6) must be for the calendar year rather than for either the calendar year or the taxable year. Beginning with required electronic submission of CE Form 1, filers must use the dollar value threshold method of reporting (rather than the comparative or percentage threshold).

The bill has an estimated fiscal impact of \$2.2 to \$5 million over three to four fiscal years, due to system upgrades to accommodate for electronic filings. The fiscal impact of this bill can be absorbed within existing resources.

If approved by the Governor, these provisions, except for Section 2, which becomes effective January 1, 2020, take effect upon becoming law.

Vote: Senate 37-0; House 117-0

THE FLORIDA SENATE
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CS/HB 7023 — Public Records/Financial Disclosure

by State Affairs Committee; Public Integrity and Ethics Committee; and Rep. Altman (CS/SB 7042 by Governmental Oversight and Accountability Committee and Ethics and Elections Committee)

The bill exempts from public inspection and copying secure login credentials held by the Commission on Ethics for the purpose of allowing access to the electronic filing system for financial disclosures created in CS/HB 7021, this bill's companion. The bill also exempts from public inspection and copying any information entered in the electronic filing system for purposes of financial disclosure until a disclosure of financial interests or statement of financial interests is submitted by the filer to the Commission on Ethics, or in the case of a candidate, filed with a qualifying officer.

The bill provides that the exemptions are subject to the Open Government Sunset Review Act and stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides a statement of public necessity as required by the Florida Constitution.

The bill has no fiscal impact on state funds.

The bill's effective date is contingent upon, and concurrent with, passage of CS/HB 7021. CS/HB 7021 will take effect upon becoming a law, except for Section 2 of that bill, which becomes effective January 1, 2020.

Because the bill creates new public records exemptions, it required a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

If approved by the Governor, these provisions take effect on the same date that CS/HB 7021 takes effect, if such legislation becomes a law.

Vote: Senate 36-0; House 117-0

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CS/SB 7066 — Election Administration

by Rules Committee and Ethics and Elections Committee

The bill makes substantive changes to the Florida Election Code and implements Amendment 4 to the Florida Constitution, which was approved by the voters of Florida on November 6, 2018, restoring the voting rights of certain convicted felons. Major provisions of the bill include:

Voting Rights Restoration (Amendment 4)

- Modifies the voting application to require a person to make an affirmative statement that he or she has been convicted of a felony and if so, has obtained his or her right to vote pursuant to executive clemency or Art. VI, s. 4, of the State Constitution.
- Defines which offenses constitute "murder" and "felony sexual offenses" under the new constitutional provision.
- Provides that voting rights are restored upon "completion of all terms of sentence", meaning completion of any portion of a sentence within the four corners of the sentencing document:
 - o Nonmonetary (imprisonment, probation/community control, monitored supervision [including parole], any other term); and,
 - o Monetary (victim's restitution, court-ordered fines/fees, any other term).
- Specifies that restitution, fines, and fees ordered by the court do not include any fines, fees, or costs accrued after the date of the sentence.
- Specifies that restitution, fines, and fees be completed in the following manner or in any combination thereof: actual payment; upon the payee's approval, the termination of such financial obligation by the court; or completion of all community service hours, if the court, unless otherwise prohibited by law, converts the financial obligation to community service.
- Authorizes the court to make certain modifications of the financial obligations to provide relief, provided such modifications do not infringe on a defendant's or victim's constitutional rights, but clarifies that this provision does not apply to the conversion of financial obligations to civil liens.
- Provides in s. 98.0751, F.S., that the Department of State (DOS) makes the initial determination on whether the information is credible and reliable regarding whether a person is eligible to vote under Art. VI, s. 4, of the State Constitution, and forwards such to the supervisor of elections.
- Provides in s. 98.0751, F.S., that the supervisor of elections (supervisor) verifies and makes the final determination whether a person who registers to vote is eligible under Art. VI, s. 4, of the State Constitution. The supervisor may request additional assistance from the DOS in making the final determination.
- Grants registrants immunity from prosecution for submitting false voter registration information regarding their eligibility following a felony conviction on registration

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applications submitted from January 8, 2019 (effective date of Amendment 4) until before July 1, 2019 (effective date of the bill).

- Mandates that the state and county notify convicted felons of the outstanding terms of their sentence with respect to voting eligibility, upon release from custody/supervision.

Elections Process

- **Voting Systems/disability voting:** Mandates that voters with disabilities cast a ballot on voting systems that produce a voter verifiable paper output (VVPO) for canvassing and recount purposes; and, authorizing the general use of such VVPO touchscreen systems by all voters, not just those with disabilities.
- **Voting Systems/sorting and counting ballots:** Prohibits voting systems that cannot simultaneously count and sort ballot overvotes and undervotes in multiple races.
- **Primary Election Day:** Moves the primary election back from 10 to 11 weeks before the general election, to allow more time for overseas general election ballots.
- **Vote-by-Mail (VBM) Ballots/deadlines & cure:** Extends the cure deadline for defective VBM ballot signatures from 5:00 p.m. on the day *before* the election to 5:00 p.m. on the 2nd day *after* the election; modifies the ballot-envelope voter's certificate to request additional contact information; creates additional phone and electronic notice requirements, to conform.
- **Provisional Ballots/deadlines & cure:** Creates a provisional ballot signature cure process that mirrors the revised VBM signature cure process; provides for cure through 5:00 p.m. on the 2nd day *after* an election; modifies the ballot-envelope voter's certificate to request additional contact information; creates additional phone and electronic notice requirements, to conform.
- **VBM Ballots/request and mail-out deadlines:** Moves the last day for voters to request VBM ballots from six to 10 days before an election, and prohibits supervisors from mailing out such ballots less than eight days prior to the election (currently four days); allows voter designees to physically pick-up VBM ballots for electors beginning 9 days before an election instead of the current five days, to conform.
- **VBM Ballots/domestic mailing deadlines:** Allows supervisors to mail domestic VBM ballots between 40 and 33 days before an election (currently 35 to 28 days prior).
- **VBM Ballots/drop-off locations:** Allows a voter to drop off his or her VBM ballot at a secure drop box located at each active early voting location and the supervisor's main or branch office; allows supervisors to set-up drop-boxes at *unused* early voting locations authorized in s. 101.657, F.S., (i.e., courthouses, county commission buildings), provided that the site is staffed by a supervisors' office employee or law enforcement officer during the county's early voting hours of operation.
- **VBM Ballots/start of canvassing period:** Allows canvassing of VBM ballots to start one week earlier, at 22 days before an election rather than 15 days before the election.
- **VBM Ballots/duplication:** Permits physically present candidate and political party/political committee officials, and/or their designees, to observe duplication of VBM ballots.

- **Voter Signature Updates/deadline:** Moves the deadline for a voter to update his or her signature for purposes of validating a VBM ballot from the beginning of the VBM canvassing period to when the VBM ballot is received.
- **Voter Signature Updates/cure affidavits:** Creates a process to use valid provisional and VBM ballot cure affidavits to update voter signatures immediately; provides for post-election notice to electors whose ballots are invalidated due to a signature discrepancy.
- **Early Voting:** Requires most early voting sites (excluding supervisor of elections' main and branch offices) to "provide sufficient nonpermitted parking to accommodate the anticipated amount of voters."
- **Polls/no-solicitation zone:** Expands the no-solicitation zone around polling places/rooms and early voting sites from 100 feet to 150 feet; prohibits the owners or operators of property on which supervisors site polling places or early voting locations from restricting solicitation beyond the 150-foot zone.
- **Polls/photographs:** Allows a voter to photograph his or her ballot in a polling place.
- **Election Results/precinct-level reporting:** Prohibits precinct-level results by ballot type if 30 or fewer votes are cast rather than 10, to ensure voter anonymity.
- **Ballot Design/uniformity:** Provides ballot uniformity, requiring ballot instructions either be centered across the top of the ballot or in the leftmost column as long as there are no individual races below the column instructions, in most cases; requiring all vote targets to be ovals.
- **Ballot Design/Lieutenant Governor designation:** Removes "not yet designated" language on primary ballot for the joint Governor/Lieutenant Governor ticket if a running mate has not been selected.
- **Ballots/security:** Requires the DOS rule regarding minimum security standards to address in detail chain of custody of ballots, transport of ballots, and ballot security.
- **Ballots/ballot-on-demand technology:** Allows supervisors to use ballot-on-demand printing systems at polling places on Election Day, not just at early voting sites.
- **Ballots/sample ballot publication:** Allows a supervisor to forego publication of a sample ballot in a newspaper of general circulation if the supervisor e-mails or mails every registered voter a sample ballot at least seven days before an election.
- **County Canvassing Boards (CCBs):** Mandates a number of meeting notice content and publication requirements, along with measures to make CCB personnel more easily identifiable by requiring I.D. badges.
- **Election Code Violations/supervisors:** Prohibits a supervisor from receiving a special qualification salary for a period of 24 months after being found to have willfully violated the Florida Election Code.
- **Election Contests:** Authorizes courts reviewing the validity of voter signatures in election contests to consider the signature on VBM/provisional ballot voter certificates and cure affidavits, along with voter ID submitted therewith, to conform.

If approved by the Governor, these provisions take effect July 1, 2019, except as otherwise expressly provided.

Vote: Senate 22-17; House 67-42