

STORAGE NAME: h3683.er

DATE: March 9, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ELECTION REFORM
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3683

RELATING TO: Elections

SPONSOR(S): Representative Diaz de la Portilla

COMPANION BILL(S): SB 1402 (s), HB 3941

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) ELECTION REFORM (GRC)
 - (2) CRIME & PUNISHMENT (JC)
 - (3) GOVERNMENTAL OPERATIONS (GRC)
 - (4) FINANCE & TAXATION (FRC)
 - (5)
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I. SUMMARY:

This bill requires photo identification of an elector at the polls, requires absentee ballot witnesses to provide a type and number from certain specified forms of identification, provides that it is a felony of the third degree to present a fraudulent photo identification in order to vote. Additionally, the bill prohibits a person from witnessing more than three absentee ballots in any given election and provides that anyone who does, commits a felony in the third degree. This bill raises the penalty for a person selling his or her vote from a misdemeanor of the first degree to a felony of the third degree. Provides an effective date.

This bill does not have significant fiscal impact.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Section 98.471, F.S., currently provides that an election clerk or inspector shall require an elector to present one of the forms of identification approved by the Department of State pursuant to section 98.461, F.S., in order to vote. Section 98.461, F.S., provides that the Department of State shall approve a list of forms of identification which shall include, but not be limited to, the voter registration identification card and the Florida driver's license.

Subsection (2) of section 101.045, F.S., provides the procedures to be followed when an elector seeks to register his or her change of address at the poll on election day.

Subsection (3) of section 101.111, F.S., provides that an election clerk or inspector shall allow an elector to vote after a challenge to that elector if the elector completes the "Oath of Challenged Voter" affidavit and the information contained therein corresponds to the information contained in the voter registration books.

Section 101.22, F.S., provides the voting procedure for paper ballots. In this procedure, the voter is required to sign the precinct register, the election clerk or supervisor then will compare the signature made on the election register with the signature contained on the voter's identification to determine if the voter is who he or she purports to be, then the elector will be allowed to vote.

Subsections (1) and (2) of section 101.47, F.S., provide the requirements that must be met before an elector may enter the voting machine booth. Currently, the voter is required to sign the precinct register, the election clerk or supervisor then will compare the signature made on the election register with the signature contained on the voter's identification to determine if the voter is who he or she purports to be, then the elector will be allowed to vote.

Section 101.49, F.S., provides that when any election clerk or election supervisor doubts that the signature of the person attempting to vote is the signature of the elector entitled to vote, the clerk or supervisor shall provide the person attempting to vote an affidavit that requires them to attest to their identity. If the person completes, signs, and files the affidavit with the clerk, he or she shall be entitled to vote.

Subsection (1) of section 101.5608, F.S., provides that an elector attempting to vote by an electronic or electromechanical system shall be entitled to vote if he or she signs the election register and the signature in the election register, in the opinion of the election clerk or supervisor, match.

Subsection (1) of section 101.64, F.S., provides that the voter's certificate on absentee ballots shall contain a space for the voter's name, the voter's signature, the witness's signature, and the witness's address.

Section 101.65, F. S., provides the instructions that the supervisors of elections are required to provide with each absentee ballot. Among these are instructions that it is "VERY IMPORTANT" that the voter sign the voter's certificate and have it witnessed.

Paragraph (c) of subsection (2) of section 101.68, F.S., provides that the county canvassing board shall compare the signature of the elector on the voter's certificate with the signature of the elector in the registration books to determine that the elector is registered in the county and that the ballot is legal.

Paragraph (a) of subsections (5) and (6) of section 163.511, F.S., provide the form of the voter's certificate and instructions that are included with ballots for special neighborhood improvement districts.

Section 104.045, F.S., provides that it is a misdemeanor of the first degree to sell your vote.

B. EFFECT OF PROPOSED CHANGES:

This bill provides that an elector shall be required to present photo identification at the polls in order to be allowed to vote.

The bill provides that when an election clerk or inspector doubts that the person voting is not the person as indicated in the photo identification the person attempting to vote will be required to sign an affidavit attesting that they are in fact the person that they purport to be and that they are entitled to vote in that election.

The bill provides that any person who upon entering a polling place to vote, knowingly and willfully, presents to the clerk or inspector a fraudulent photo identification commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

The bill provides that an individual may not witness more than three absentee ballots in any given election. This provision does not apply to the supervisor of elections, any deputy or other employee of the supervisor, or any person authorized by the supervisor to conduct absentee balloting. A person who violates this provision commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

The bill provides the voter's certificate provided with absentee ballots have a space where the witness shall provide a type of authorized identification and the number on that authorized identification.

The bill provides that the instructions to absentee voters be modified to provide that the absentee ballot witness shall be required to provide on the voter's certificate the type and number of one of the following types of identification:

- A voter registration identification card issued by a supervisor of election in this state;
- An identification card or driver's license issued by the Department of Highway Safety and Motor Vehicles;
- A passport issued by the Department of State of the United States; or

- Any of the following provided that the document is current, has been issued in the last five years, has a serial or some other identifying number, and, if the document is a passport, is stamped by the United States Immigration and Naturalization Service:
 - A passport issued by a foreign government;
 - A voter registration identification card issued by a territory of the United States or a state other than Florida;
 - A driver's license issued by a territory of the United States of a state other than Florida or by a Canadian or Mexican public agency authorized to issue driver's licenses;
 - An identification card issued by a territory of the United States or a state other than Florida;
 - An Identification card issued by any branch of the armed forces of the United States;
 - an inmate identification card issued on or after January 1, 1991, by the Department of Corrections for an inmate who is in custody of that department; or
 - An identification card issued by the United States Department of Justice, Immigration and Naturalization Service.

The bill provides that any person who sells or offers to sell his or her vote commits a felony of the third degree punishable as provided in s. 775.082, 775.083, or s. 775.084, F.S.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends sections 98.471, 101.045, 101.111, 101.22, 101.47, 101.49, 101.5608, 101.64, 101.65, 101.68, 104.045, and 163.511, Florida Statutes. Creates ss. 104.036 and 101.637, Florida Statutes.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends section 98.471, F.S., to provide that an elector shall be required to present photo identification at the polls in order to be allowed to vote.

Section 2: Amends subsection (2) of section 101.045, F.S., to provide that an elector shall be required to present photo identification at the polls in order to be allowed to vote.

Section 3: Amends subsection (3) of section 101.111, F.S., to require the elections clerk and inspectors to, in the case of a challenge to an elector, compare the voters photo identification with the voters actual appearance to determine if the voter is who he or she purports to be.

Section 4: Amends section 101.22, F.S., to provides that an elector voting by paper ballot will be allowed to vote after submitting photo identification.

Section 5: Amends subsections (1) and (2) of section 101.47, F.S., to provide that an elector voting in a voting machine will be allowed enter the booth after submitting photo identification.

Section 6: Amends subsection (1) of section 101.49, F.S., to provide that when an election clerk or inspector doubts that the person voting is not the person as indicated in the photo identification the person attempting to vote will be required to sign an affidavit attesting that they are in fact the person that they purport to be and that they are entitled to vote in that election.

Section 7: Amends subsection (1) of section 101.5608, F.S., to provide that an elector voting by electromechanical voting system will be allowed to vote after submitting photo identification.

Section 8: Creates section 104.036, F.S. to provide that any person upon entering a polling place to vote, knowingly and willfully presents to the clerk or inspector a fraudulent photo identification commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

Section 9: Creates section 101.637, F.S., to provide that an individual may not witness more than three absentee ballots in any given election. This provision does not apply to the supervisor of elections, any deputy or other employee of the supervisor, or any person authorized by the supervisor to conduct absentee balloting. A person who violates this provision commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

Section 10: Amends subsection (1) of section 101.64, F.S. to provide the voter's certificate provided with absentee ballots have a space where the witness shall provide a type of authorized identification and the number on that authorized identification.

Section 11: Amends section 101.65, F.S., to provide that the instructions to absentee voters be modified to provide that the absentee ballot witness shall be required to provide on the voter's certificate the type and number of one of the following types of identification:

- A voter registration identification card issued by a supervisor of election in this state;
- An identification card or driver's license issued by the Department of Highway Safety and Motor Vehicles;
- A passport issued by the Department of State of the United States; or
- Any of the following provided that the document is current, has been issued in the last five years, has a serial or some other identifying number, and, if the document is a passport, is stamped by the United States Immigration and Naturalization Service:
 - A passport issued by a foreign government;
 - A voter registration identification card issued by a territory of the United States or a State other than Florida;
 - A driver's license issued by a territory of the United States of a state other than Florida or by a Canadian or Mexican public agency authorized to issue driver's licenses;
- An identification card issued by a territory of the United States or a state other than Florida;

- An Identification card issued by any branch of the armed forces of the United States;
- An inmate identification card issued on or after January 1, 1991, by the Department of Corrections for an inmate who is in custody of that department; or
- An identification card issued by the United States Department of Justice, Immigration and Naturalization Service.

Section 12: Amends paragraph (c) of subsection (2) of section 101.68, F.S., to provide that an absentee ballot is not considered legal unless the witness includes a type and number of identification as listed above.

Section 13: Amends paragraph (a) of subsection (5) of section 163.511, F.S., to provide that ballots for the office of board of directors for special neighborhood improvement districts have their voter 's certificates modified to include a space for one of the types of identification as provided for above, and to provide that the instructions to voters be modified to require the same information.

Section 14: Amends section 104.045, F.S., to provide that any person who sells or offers to sell his or her vote commits a felony of the third degree punishable as provided in s. 775.082, 775.083, or s. 775.084, F.S.

Section 15: Provides that this act shall take effect on January 1 of the year after the year in which enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Minimal.

2. Recurring Effects:

Minimal.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Minimal.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Minimal.

2. Recurring Effects:

Minimal.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Election laws are specifically exempt from the provisions of s. 18, Art. VII, Florida Constitution.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

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V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON ELECTION REFORM:
Prepared by:

Legislative Research Director:

Clay Roberts

Clay Roberts