

By Senator Scott

31-1523-00

1 A bill to be entitled
2 An act relating to rulemaking authority of the
3 Department of State (RAB); amending s. 20.10,
4 F.S.; authorizing the department to adopt rules
5 to administer laws conferring duties upon it;
6 amending s. 99.061, F.S.; authorizing the
7 department to prescribe rules for filing papers
8 to qualify as a candidate for federal, state,
9 county, or district office; amending s.
10 101.161, F.S.; providing for ballot initiatives
11 to be numbered in the order of filing or
12 certification and as provided by department
13 rule; amending s. 101.62, F.S.; authorizing the
14 department to adopt rules for preparing and
15 mailing absentee ballots to electors who are
16 overseas; amending s. 106.07, F.S.; authorizing
17 the department to adopt requirements for filing
18 campaign treasurers' reports; amending s.
19 106.22, F.S.; providing for rules prescribing
20 requirements for filing complaints of voter
21 fraud and for investigating those complaints;
22 amending s. 106.23, F.S.; requiring that
23 requests for advisory opinions by the Division
24 of Elections be submitted in accordance with
25 department rule; amending s. 120.54, F.S.;
26 authorizing the department to prescribe rules
27 under which a state agency may incorporate
28 materials by reference in adopting an agency
29 rule; amending s. 267.061, F.S.; providing
30 additional duties of the Division of Historical
31 Resources with respect to protecting and

1 administering historical resources; authorizing
2 the division to issue certain permits;
3 requiring that the division adopt rules for
4 issuing permits and administering the transfer
5 of certain objects; amending s. 872.05, F.S.;
6 authorizing the department to adopt procedures
7 for reporting an unmarked human burial and
8 determining jurisdiction of the burial;
9 providing an effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Subsection (3) is added to section 20.10,
14 Florida Statutes, to read:

15 20.10 Department of State.--There is created a
16 Department of State.

17 (3) The Department of State may adopt rules pursuant
18 to ss. 120.536(1) and 120.54 to administer the provisions of
19 law conferring duties upon the department.

20 Section 2. Subsection (9) is added to section 99.061,
21 Florida Statutes, to read:

22 99.061 Method of qualifying for nomination or election
23 to federal, state, county, or district office.--

24 (9) The Department of State may prescribe by rule
25 requirements for filing papers to qualify as a candidate under
26 this section.

27 Section 3. Subsection (2) of section 101.161, Florida
28 Statutes, is amended to read:

29 101.161 Referenda; ballots.--

30 (2) The substance and ballot title of a constitutional
31 amendment proposed by initiative shall be prepared by the

1 sponsor and approved by the Secretary of State in accordance
2 with rules adopted pursuant to s. 120.54. The Department of
3 State shall give each proposed constitutional amendment a
4 designating number for convenient reference. This number
5 designation shall appear on the ballot. Designating numbers
6 shall be assigned in the order of filing or certification and
7 in accordance with rules adopted by the Department of State of
8 ~~the amendments~~. The Department of State shall furnish the
9 designating number, the ballot title, and the substance of
10 each amendment to the supervisor of elections of each county
11 in which such amendment is to be voted on.

12 Section 4. Paragraph (a) of subsection (4) of section
13 101.62, Florida Statutes, is amended to read:

14 101.62 Request for absentee ballots.--

15 (4)(a) To each absent qualified elector overseas who
16 has requested an absentee ballot, the supervisor of elections
17 shall, not fewer than 35 days before the first primary
18 election, mail an absentee ballot. Not fewer than 45 days
19 before the second primary and general election, the supervisor
20 of elections shall mail an advance absentee ballot to those
21 persons requesting ballots for such elections. The advance
22 absentee ballot for the second primary shall be the same as
23 the first primary absentee ballot as to the names of
24 candidates, except that for any offices where there are only
25 two candidates, those offices and all political party
26 executive committee offices shall be omitted. Except as
27 provided in s. 99.063(4), the advance absentee ballot for the
28 general election shall be as specified in s. 101.151, except
29 that in the case of candidates of political parties where
30 nominations were not made in the first primary, the names of
31 the candidates placing first and second in the first primary

1 election shall be printed on the advance absentee ballot. The
2 advance absentee ballot or advance absentee ballot information
3 booklet shall be of a different color for each election and
4 also a different color from the absentee ballots for the first
5 primary, second primary, and general election. The supervisor
6 shall mail an advance absentee ballot for the second primary
7 and general election to each qualified absent elector for whom
8 a request is received until the absentee ballots are printed.
9 The supervisor shall enclose with the advance second primary
10 absentee ballot and advance general election absentee ballot
11 an explanation stating that the absentee ballot for the
12 election will be mailed as soon as it is printed; and, if both
13 the advance absentee ballot and the absentee ballot for the
14 election are returned in time to be counted, only the absentee
15 ballot will be counted. The Department of State may prescribe
16 by rule the requirements for preparing and mailing absentee
17 ballots to absent qualified electors overseas.

18 Section 5. Subsection (9) is added to section 106.07,
19 Florida Statutes, to read:

20 106.07 Reports; certification and filing.--

21 (9) The Department of State may prescribe by rule the
22 requirements for filing campaign treasurers' reports as set
23 forth in this chapter.

24 Section 6. Subsection (11) of section 106.22, Florida
25 Statutes, is amended to read:

26 106.22 Duties of the Division of Elections.--It is the
27 duty of the Division of Elections to:

28 (11) Conduct preliminary investigations into any
29 irregularities or fraud involving voter registration or voting
30 and report its findings to the state attorney for the judicial
31 circuit in which the alleged violation occurred for

1 prosecution, where warranted. The Department of State may
2 prescribe by rule requirements for filing a complaint of voter
3 fraud and for investigating any such complaint.

4 Section 7. Subsection (2) of section 106.23, Florida
5 Statutes, is amended to read:

6 106.23 Powers of the Division of Elections.--

7 (2) The Division of Elections shall provide advisory
8 opinions when requested by any supervisor of elections,
9 candidate, local officer having election-related duties,
10 political party, political committee, committee of continuous
11 existence, or other person or organization engaged in
12 political activity, relating to any provisions or possible
13 violations of Florida election laws with respect to actions
14 such supervisor, candidate, local officer having
15 election-related duties, political party, committee, person,
16 or organization has taken or proposes to take. Requests for
17 advisory opinions must be submitted in accordance with rules
18 adopted by the Department of State.A written record of all
19 such opinions issued by the division, sequentially numbered,
20 dated, and indexed by subject matter, shall be retained. A
21 copy shall be sent to said person or organization upon
22 request. Any such person or organization, acting in good
23 faith upon such an advisory opinion, shall not be subject to
24 any criminal penalty provided for in this chapter. The
25 opinion, until amended or revoked, shall be binding on any
26 person or organization who sought the opinion or with
27 reference to whom the opinion was sought, unless material
28 facts were omitted or misstated in the request for the
29 advisory opinion.

30 Section 8. Paragraph (i) of subsection (1) of section
31 120.54, Florida Statutes, is amended to read:

1 120.54 Rulemaking.--

2 (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER
3 THAN EMERGENCY RULES.--

4 (i) A rule may incorporate material by reference but
5 only as the material exists on the date the rule is adopted.
6 For purposes of the rule, changes in the material are not
7 effective unless the rule is amended to incorporate the
8 changes. ~~A No~~ rule may not be amended by reference only.
9 Amendments must set out the amended rule in full in the same
10 manner as required by the State Constitution for laws. The
11 Department of State may prescribe by rule requirements for
12 incorporating materials by reference pursuant to this
13 paragraph.

14 Section 9. Paragraph (p) is added to subsection (3) of
15 section 267.061, Florida Statutes, to read:

16 267.061 Historic properties; state policy,
17 responsibilities.--

18 (3) DIVISION RESPONSIBILITY.--It is the responsibility
19 of the division to:

20 (p) Protect and administer historical resources
21 abandoned on state-owned lands or on state-owned sovereignty
22 submerged lands. The division may issue permits for survey and
23 exploration activities to identify historical resources and
24 may issue permits for excavation and salvage activities to
25 recover historical resources. The division may issue permits
26 for archaeological excavation for scientific or educational
27 purposes on state-owned lands or on state-owned sovereignty
28 submerged lands. The division may also issue permits for
29 exploration and salvage of historic shipwreck sites by
30 commercial salvors on state-owned sovereignty submerged lands.
31 The division shall adopt rules to administer the issuance of

1 permits for all such activities. In addition, the division
2 shall adopt rules to administer the transfer of objects
3 recovered by commercial salvors under permit in exchange for
4 recovery services provided to the state.

5 Section 10. Subsection (11) is added to section
6 872.05, Florida Statutes, to read:

7 872.05 Unmarked human burials.--

8 (11) RULES.--The Department of State may prescribe by
9 rule procedures for reporting an unmarked human burial and for
10 determining jurisdiction over the burial.

11 Section 11. This act shall take effect upon becoming a
12 law.

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15 SENATE SUMMARY

16 Revises various provisions to authorize the Department of
17 State to adopt rules. Provides for rules under which a
18 candidate for public office must file qualifying papers.
19 Provides for rules for numbering ballot initiatives.
20 Provides for rules for preparing and mailing absentee
21 ballots to overseas electors. Authorizes the department
22 to adopt requirements for filing campaign treasurers'
23 reports. Requires that requests for advisory opinions by
24 the Division of Elections be submitted in accordance with
25 department rule. Provides for rules by which a state
26 agency may incorporate materials by reference in adopting
27 its rules. Requires that the Division of Historical
28 Resources protect and administer historical resources.
29 Authorizes the division to issue certain permits.
30 Provides for rules for reporting an unmarked human burial
31 and determining jurisdiction over the burial. (See bill
for details.)