

STORAGE NAME: h0917s1z.er
DATE: June 21, 2000

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2000-249, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
ELECTION REFORM
FINAL ANALYSIS**

BILL #: CS/HB 917

RELATING TO: Elections

SPONSOR(S): Committee on Election Reform and Representative(s) Stafford and Others

TIED BILL(S):

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

- (1) ELECTION REFORM YEAS 7 NAYS 0
 - (2) GOVERNMENTAL OPERATIONS YEAS 6 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill makes changes to Florida's municipal recall election procedure. Specifically, the bill eliminates the requirement that a municipal clerk determine whether a municipal recall petition is facially valid. The bill also clarifies that municipal recall petitions must be attested to by a witness and that the elector must provide their signature, printed name and street address on the petition.

The bill provides an alternative method for in-person voting of an absentee ballot by allowing a voter the option of placing the voted ballot directly into a vote tabulation device in lieu of using the absentee mailing envelope. The absentee voter must present an acceptable form of picture identification, complete an In-Office Voter Certificate, vote the ballot, and place the ballot in a vote tabulation device. The results or tabulation may not be made before the close of the polls on election day.

The bill removes the requirement that the election board be composed of a certain number of persons.

Additionally, the bill requires a deputy sheriff to be present at each polling place in lieu of each precinct as currently required by law.

Finally, the bill eliminates the requirement that the supervisors of elections (supervisor) hold formal training classes for poll workers. This allows the supervisor the flexibility to provide training in a manner which would best serve the poll workers and provides compensation and traveling expenses to limited employees who are required to attend the training.

This bill does not have a fiscal impact on state or local governments.

This bill has an effective date of July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Municipal Recall

Current law provides electors of a municipality or charter county the ability to remove any member of the governing body for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or conviction of a felony involving moral turpitude [See generally, s. 100.361, F.S.]. A petition must be prepared, circulated, and signed by a prescribed number of voters based upon the number of registered voters in the affected jurisdiction. Petitions must then be filed with the clerk of the municipality or charter county who then has the authority to determine if the petition meets any of the enumerated reasons for removing an elected official. This process may present an actual or perceived conflict of interest within the governing body.

Absentee Ballots

Current law provides a registered voter the opportunity to vote an absentee ballot in-person in the office, and under the supervision, of the supervisor of elections. The voter must present a valid picture identification card prior to receiving the absentee ballot [See generally, s. 101.657, F.S.]. The voter receives the ballot with a secrecy envelope and a mailing envelope, votes the ballot, encloses the ballot in the envelope provided, signs the Voter's Certificate and gives the ballot to the supervisor for presentation to the canvassing board.

Election Boards, Deputy Sheriffs, and Poll Worker Training

Section 102.012(1), F.S., requires the supervisor of elections to provide two election boards each consisting of three inspectors and one clerk for each precinct in which an election is to be conducted. Subsection (1) further grants the supervisor authority to provide for only one election board if the supervisor believes only one is necessary. Moreover, s. 102.012(5), F.S., provides that the supervisor shall appoint additional election boards necessary to conduct an election if a precinct has more than 1000 registered voters, while s. 102.012(6), F.S., requires the need for only one election board if the precinct has fewer than 300 registered voters.

Section 102.012(8), F.S., provides that each supervisor is required to provide poll worker training classes to inspectors, clerks, and deputy sheriffs. In addition, s. 102.031, F.S., provides that each precinct is required to have a deputy sheriff to maintain good order at each precinct's polls. Many counties, however, have several precincts located at one polling place, thereby having more deputy sheriffs than needed to fulfill this requirement.

C. EFFECT OF PROPOSED CHANGES:

Municipal Recall

This bill clarifies the role of the clerk of a municipality or charter county for purposes of municipal recall elections by requiring the clerk of the municipality or charter county to be the repository for a recall petition. Determination of facial validity with respect to the grounds for removing an elected official by a recall petition is vested with a court of competent jurisdiction. The bill also provides that each petition shall contain appropriate lines for the signature, printed name, and street address of each elector signing the petition, and an oath to be executed by a witness.

Absentee Ballots

This bill provides an alternative means of voting an in-person absentee ballot. A person choosing to vote an absentee ballot in-person in the main or branch office of the supervisor of elections will have the option to place the voted ballot directly into a vote tabulation device in lieu of using the secrecy and mailing envelopes. The voter must provide photo identification and is required to fill out an "In-Office Voter Certificate" (certificate). The certificate must contain an affirmation that the voter is the person listed on the voter registration rolls, an acknowledgment of the penalties for fraudulent voting, the voter's signature and address, and a witness' name, signature and address. A voter must sign the certificate and have the certificate witnessed or the voter's ballot will be invalidated. Since the ballot is voted in-person and under the supervision of the supervisor, this bill allows the vote to be recorded on the vote tabulation device in lieu of being presented to the canvassing board. This follows the same process currently performed at the polling place. The results or tabulation of votes may not be made prior to the close of polls on election day. If an absentee ballot is challenged, it must be placed in a regular absentee ballot envelope and the canvassing board shall review the ballot and determine its validity by majority vote.

Election Boards, Deputy Sheriffs, and Poll Worker Training

This bill removes the requirement that the election board must be composed of a certain number of persons, thereby allowing the supervisor of elections to make this determination. Additionally, the supervisor of elections will have the flexibility to decide the best manner of training poll workers by removing the requirement that training *classes* be held. This bill also provides compensation and travel expenses to inspectors, clerks and deputy sheriffs serving at the precincts for attending poll worker training. Finally, the bill removes the requirement that a deputy sheriff be stationed at each precinct by instead requiring a deputy at each polling place.

D. SECTION-BY-SECTION ANALYSIS:

- Section 1. Amends s. 100.361, F.S., to require the clerk of the municipality or charter county to be the repository for a recall petition. Determination of facial validity with respect to the petition is vested with a court of competent jurisdiction.
- Section 2. Amends s. 101.657, F.S., to provide an alternative means of voting an in-person absentee ballot at the supervisor's office. The voter may appear at the supervisor of election's office, and may, upon providing picture identification and signing an In-Office Voter Certificate, receive the ballot, vote the ballot, and place the ballot in a voting tabulation device. The results or tabulation of the votes may not be done before the close of the polls on election day. Challenges to in-person absentee voters are conducted in the same manner as challenges to voters at the polls during election day, except that the absentee ballot is submitted to the canvassing board for determination by majority vote of the ballot's validity.
- Section 3. Amends s. 102.012(1), F.S., to remove the requirement that an election board be composed of three inspectors and one clerk. Also amends s. 102.012(8), F.S., to remove the requirement that poll workers receive training classes by allowing the supervisor of elections the discretion to decide the best means of providing training.
- Section 4. Amends s. 102.021(2), F.S., to provide compensation to inspectors, clerks, and deputy sheriffs serving at the precincts to receive compensation and travel expenses for attending the poll worker training.
- Section 5. Amends s. 102.031(2), F.S., to require the presence of a deputy sheriff at the "polling place" instead of the "precinct."
- Section 6. Provides an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

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B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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 exempt from the mandates of Art. VII, s. 18, of the Florida Constitution.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

See response above.

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

See response above.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

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