

By the Committee on Rules, Ethics & Elections and  
Representative Goodlette

1                                   A bill to be entitled  
2           An act relating to rulemaking authority of the  
3           Department of State; amending s. 99.061, F.S.;  
4           authorizing the department to prescribe by rule  
5           the requirements for filing candidate  
6           qualifying papers; amending s. 101.161, F.S.;  
7           requiring the designating number for  
8           constitutional amendments to be in accordance  
9           with rules adopted by the department; amending  
10          s. 101.62, F.S.; authorizing the department to  
11          adopt rules for the preparation and mailing of  
12          absentee ballots to overseas electors; amending  
13          s. 106.07, F.S.; authorizing the department to  
14          prescribe by rule the requirements for the  
15          filing of campaign treasurer's reports;  
16          amending s. 106.22, F.S.; authorizing the  
17          department to adopt rules for the filing and  
18          investigation of voter fraud complaints;  
19          amending s. 106.23, F.S.; requiring requests  
20          for advisory opinions to be submitted in  
21          accordance with rules adopted by the  
22          department; amending s. 120.54, F.S.;  
23          authorizing the department to adopt rules for  
24          incorporating materials by reference; providing  
25          legislative intent; providing an effective  
26          date.

27  
28   Be It Enacted by the Legislature of the State of Florida:

29  
30           Section 1.   Subsection (9) is added to section 99.061,  
31   Florida Statutes, to read:

1           99.061 Method of qualifying for nomination or election  
2 to federal, state, county, or district office.--

3           (9) The Department of State may prescribe by rule the  
4 requirements for filing candidate qualifying papers pursuant  
5 to this section.

6           Section 2. Subsection (2) of section 101.161, Florida  
7 Statutes, is amended to read:

8           101.161 Referenda; ballots.--

9           (2) The substance and ballot title of a constitutional  
10 amendment proposed by initiative shall be prepared by the  
11 sponsor and approved by the Secretary of State in accordance  
12 with rules adopted pursuant to s. 120.54. The Department of  
13 State shall give each proposed constitutional amendment a  
14 designating number for convenient reference. This number  
15 designation shall appear on the ballot. Designating numbers  
16 shall be assigned in the order of filing or certification and  
17 in accordance with rules adopted by the Department of State of  
18 ~~the amendments~~. The Department of State shall furnish the  
19 designating number, the ballot title, and the substance of  
20 each amendment to the supervisor of elections of each county  
21 in which such amendment is to be voted on.

22           Section 3. Paragraph (a) of subsection (4) of section  
23 101.62, Florida Statutes, is amended to read:

24           101.62 Request for absentee ballots.--

25           (4)(a) To each absent qualified elector overseas who  
26 has requested an absentee ballot, the supervisor of elections  
27 shall, not fewer than 35 days before the first primary  
28 election, mail an absentee ballot. Not fewer than 45 days  
29 before the second primary and general election, the supervisor  
30 of elections shall mail an advance absentee ballot to those  
31 persons requesting ballots for such elections. The advance

1 absentee ballot for the second primary shall be the same as  
2 the first primary absentee ballot as to the names of  
3 candidates, except that for any offices where there are only  
4 two candidates, those offices and all political party  
5 executive committee offices shall be omitted. Except as  
6 provided in s. 99.063(4), the advance absentee ballot for the  
7 general election shall be as specified in s. 101.151, except  
8 that in the case of candidates of political parties where  
9 nominations were not made in the first primary, the names of  
10 the candidates placing first and second in the first primary  
11 election shall be printed on the advance absentee ballot. The  
12 advance absentee ballot or advance absentee ballot information  
13 booklet shall be of a different color for each election and  
14 also a different color from the absentee ballots for the first  
15 primary, second primary, and general election. The supervisor  
16 shall mail an advance absentee ballot for the second primary  
17 and general election to each qualified absent elector for whom  
18 a request is received until the absentee ballots are printed.  
19 The supervisor shall enclose with the advance second primary  
20 absentee ballot and advance general election absentee ballot  
21 an explanation stating that the absentee ballot for the  
22 election will be mailed as soon as it is printed; and, if both  
23 the advance absentee ballot and the absentee ballot for the  
24 election are returned in time to be counted, only the absentee  
25 ballot will be counted. The Department of State may prescribe  
26 by rule the requirements for the preparation and mailing of  
27 absentee ballots to overseas electors.

28 Section 4. Subsection (9) is added to section 106.07,  
29 Florida Statutes, to read:

30 106.07 Reports; certification and filing.--

31

1           (9) The Department of State may prescribe by rule the  
2 requirements for the filing of campaign treasurer's reports as  
3 set forth in this chapter.

4           Section 5. Subsection (11) of section 106.22, Florida  
5 Statutes, is amended to read:

6           106.22 Duties of the Division of Elections.--It is the  
7 duty of the Division of Elections to:

8           (11) Conduct preliminary investigations into any  
9 irregularities or fraud involving voter registration or voting  
10 and report its findings to the state attorney for the judicial  
11 circuit in which the alleged violation occurred for  
12 prosecution, where warranted. The Department of State may  
13 prescribe by rule the requirements for the filing and  
14 investigation of voter fraud complaints.

15           Section 6. Subsection (2) of section 106.23, Florida  
16 Statutes, is amended to read:

17           106.23 Powers of the Division of Elections.--

18           (2) The Division of Elections shall provide advisory  
19 opinions when requested by any supervisor of elections,  
20 candidate, local officer having election-related duties,  
21 political party, political committee, committee of continuous  
22 existence, or other person or organization engaged in  
23 political activity, relating to any provisions or possible  
24 violations of Florida election laws with respect to actions  
25 such supervisor, candidate, local officer having  
26 election-related duties, political party, committee, person,  
27 or organization has taken or proposes to take. Requests for  
28 advisory opinions must be submitted in accordance with rules  
29 adopted by the Department of State. A written record of all  
30 such opinions issued by the division, sequentially numbered,  
31 dated, and indexed by subject matter, shall be retained. A

1 copy shall be sent to said person or organization upon  
2 request. Any such person or organization, acting in good  
3 faith upon such an advisory opinion, shall not be subject to  
4 any criminal penalty provided for in this chapter. The  
5 opinion, until amended or revoked, shall be binding on any  
6 person or organization who sought the opinion or with  
7 reference to whom the opinion was sought, unless material  
8 facts were omitted or misstated in the request for the  
9 advisory opinion.

10 Section 7. Paragraph (i) of subsection (1) of section  
11 120.54, Florida Statutes, is amended to read:

12 120.54 Rulemaking.--

13 (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER  
14 THAN EMERGENCY RULES.--

15 (i) A rule may incorporate material by reference but  
16 only as the material exists on the date the rule is adopted.  
17 For purposes of the rule, changes in the material are not  
18 effective unless the rule is amended to incorporate the  
19 changes. No rule may be amended by reference only. Amendments  
20 must set out the amended rule in full in the same manner as  
21 required by the State Constitution for laws. The Department of  
22 State may prescribe by rule the requirements for incorporating  
23 materials by reference pursuant to this section.

24 Section 8. It is the intent of the Legislature that  
25 the amendments to ss. 99.061, 101.161, 101.62, 106.07, 106.22,  
26 106.23, and 120.54, Florida Statutes, made by this act be  
27 supplemental to other amendments to said sections which may be  
28 enacted at the 2001 Regular Session of the Legislature, unless  
29 a contrary intent is specifically indicated herein or in such  
30 other amendments.

31

1           Section 9. This act shall take effect upon becoming a  
2 law.

3  
4           \*\*\*\*\*

5   HOUSE SUMMARY

6           Provides, pursuant to the directive in s. 120.536(2)(b),  
7 F.S., specific legislation to enact into law the  
8 substance of rules of the Department of State that exceed  
9 rulemaking authority under the Administrative Procedure  
Act and that the department has decided not to repeal.  
See bill for details.

- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31