

**STORAGE NAME:** h1235.ree.doc  
**DATE:** February 13, 2002

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
RULES, ETHICS & ELECTIONS (PRC)  
ANALYSIS**

**BILL #:** HB 1235  
**RELATING TO:** Provisional Ballots  
**SPONSOR(S):** Representative(s) Fields

**TIED BILL(S):**

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

- (1) RULES, ETHICS & ELECTIONS (PRC)
- (2) FISCAL POLICY & RESOURCES (FRC)
- (3) PROCEDURAL & REDISTRICTING COUNCIL
- (4)
- (5)

---

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

I. SUMMARY:

HB 1235 will permit a voter to cast a provisional ballot at any precinct in the county if the person's eligibility to vote in that county cannot be determined. If the canvassing board determines that the person is entitled to vote in the election, the canvassing board shall count the ballot with respect to the races for which the person is a qualified elector.

The bill takes effect July 1, 2002.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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

Under the "Voter's Responsibilities" in s. 101.031, F.S, a voter is expected to "know his or her precinct and its hours of operation." While the bill may make voting more convenient for voters, it may also require more government involvement in the voting and election process.

B. PRESENT SITUATION:

Following the 2000 Presidential Election a number of election reforms were adopted in ch. 2001-40, Laws of Fla., including the creation of provisional ballots. Provisional ballots are currently available to voters who go to the polls on election day and whose eligibility to vote cannot be determined. Canvassing boards must determine the eligibility of the voter and whether the voter cast the provisional ballot in the proper precinct.<sup>1</sup>

Once voted, a provisional ballot is placed in a secrecy envelope and sealed in a provisional ballot envelope. The county canvassing board is required to examine each provisional ballot to determine if the person voting that ballot was entitled to vote at the precinct in the election and that the person had not already cast a ballot in the election. If the canvassing board determines that the person was registered and entitled to vote at the precinct in the election, the canvassing board shall compare the signature on the provisional ballot envelope with the signature on the voter's registration and, if it matches, shall count the ballot.

If the canvassing board determines that the person voting the provisional ballot was *not registered or entitled to vote at the precinct in the election*, the provisional ballot shall not be counted and the ballot shall remain in the envelope containing the Provisional Ballot Voter's Certificate and the envelope marked "Rejected as Illegal."<sup>2</sup>

C. EFFECT OF PROPOSED CHANGES:

HB 1235 amends s. 101.048, F.S. to permit a voter to cast a provisional ballot at any precinct in the county if the person's eligibility to vote in that county cannot be determined. Ballots in each county however are drawn to specific precincts and do not share identical ballot styles. Thus, if the canvassing board determines that the person is entitled to vote in the election, the canvassing board shall count the ballot with respect to the races for which the person is a qualified elector. If

---

<sup>1</sup> See s. 35, ch. 2001-40, Laws of Fla.

<sup>2</sup> Id.

a person votes outside of his or her registered precinct and casts a ballot in, for example, a city commission race for which he or she is not eligible to vote, the vote for that race will not be counted.

D. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

There may be some additional costs to the local supervisors of elections if persons are permitted to vote at any precinct within the county.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

N/A

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:

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

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

Allowing persons to vote provisional ballots at any precinct in the county may impose additional responsibilities on the supervisors of elections and canvassing boards particularly with regard to planning turnout at each precinct and canvassing the provisional ballots following an election. Pursuant to s. 102.141, F.S., provisional ballots are now included in the first unofficial set of returns which is currently due the day after an election.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON RULES, ETHICS & ELECTIONS (PRC):

Prepared by:

Staff Director:

---

Emmett Mitchell, IV

---

Richard Hixson