

STORAGE NAME: h1277.ree.doc
DATE: February 13, 2002

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

BILL #: HB 1277
RELATING TO: Supervisors of Elections
SPONSOR(S): Representative(s) Justice, Cusack & others

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)

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I. SUMMARY:

HB 1277 requires that all supervisors of elections be elected on a nonpartisan basis, except for the supervisor of elections in Miami-Dade County.

The bill also provides that, as nonpartisan officers, supervisors of elections and candidates for the office of supervisor of elections are prohibited from engaging in certain political activity.

The bill is effective January 1, 2003.

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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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"/> |

B. PRESENT SITUATION:

Each of Florida's 67 counties has a supervisor of elections whose responsibilities include voter registration and the conduct of elections.

Supervisors of elections are generally elected to four-year terms in partisan elections, pursuant to art. VIII, s. 1(d), of the Florida Constitution. Supervisors from Volusia and Polk Counties currently run in nonpartisan elections under their respective county charters.¹

Currently there are 44 supervisors who were elected as Democrats, 20 supervisors who were elected as Republicans and 2 supervisors who were elected as nonpartisan. The Palm Beach County Supervisor was elected as a Democrat but has recently changed her party registration to "no party affiliation." The supervisor of elections in Miami-Dade County, pursuant to its home rule charter, is appointed by the Miami-Dade County Manager.²

C. EFFECT OF PROPOSED CHANGES:

HB 1277 requires that all supervisors of elections be elected on a nonpartisan basis, except for the supervisor of elections in Miami-Dade County. The bill amends s. 98.015, F.S. to require that supervisors of elections be elected in nonpartisan elections in each county in the general election and restricts political activities of current office holders and candidates for the office of supervisor.

HB 1277 conforms the qualifying procedures of supervisors to be consistent with candidates for judicial office and the office of school board member which candidates run in nonpartisan elections. The bill makes conforming amendments to s. 101.151, F.S. (specifications for ballots), s. 105.031, F.S. (qualifying and fees), s. 105.035, F.S. (alternative method of qualifying), s. 105.041, F.S. (form of ballot), s. 105.051, F.S. (determination of election to office), s. 105.061, F.S. (electors qualified to vote), and s. 105.08, F.S. (campaign reporting).

¹ According to information provided by the Division of Elections on February 8, 2002, there are three supervisors of elections who run in nonpartisan elections from the following counties: Duval, Volusia and Polk. However, according to the Duval County supervisor, he ran as a Republican in the most recent election.

² Art. VIII, s. 6, Fla. Const. The Miami-Dade County Home Rule Amendment to the Florida Constitution was adopted November 6, 1956. The Miami-Dade County Home Rule Charter was adopted May 21, 1957.

Restrictions on Political Activity of Nonpartisan Supervisors of Elections

The bill creates s. 98.017, F.S., to provide that a supervisor of elections shall not engage in certain political activity. Specifically, a supervisor, as a *nonpartisan officer* shall not:

- Participate in any partisan political party activities, except that any supervisor of elections may register to vote as a member of any political party and may vote in any party primary for candidates for nomination of the party in which he or she is registered to vote;
- Accept or retain a place on any political organization;
- Publicly represent or advertise himself or herself as a member of any political party;
- Make speeches on behalf of a political organization;
- Solicit funds for, pay an assessment to, or make a contribution to a political organization or candidate, or purchase tickets for political party dinners or other functions of political organizations; or
- Accept funds for or from any candidate or political organization.

“Political organization” is defined as “any political committee, committee of continuous existence, or political party or any other entity engaged in partisan political activity on behalf of any candidate or ballot issue.

The Commission on Ethics is charged with enforcing the above prohibitions while the Attorney General is authorized to bring a civil action to enforce any civil penalty imposed by the Commission.

Restrictions on Political Activity of Candidates for Supervisor of Elections

HB 1277 imposes similar prohibitions on *candidates* for the office of supervisor of elections in s. 105.071, F.S. Specifically, candidates shall not:

- Participate in any partisan political party activities, except that such candidate may register to vote as a member of any political party and may vote in any party primary for candidates for nomination of the party in which she or he is registered to vote;
- Campaign as a member of any political party;
- Publicly represent or advertise herself or himself as a member of any political party;
- Publicly endorse or oppose any candidate or ballot issue;
- Make political speeches other than in the candidate's own behalf;
- Make contributions to any candidate, political committee, committee of continuous existence, or political party;
- Accept contributions from any candidate, political committee, committee of continuous existence, or political party;

- Solicit or accept contributions for any candidate, political committee, committee of continuous existence, or political party;
- Accept or retain a place on any political committee, committee of continuous existence, or political party committee;
- Make any contribution to any person, group, or organization for its endorsement to the office of supervisor of elections; or
- Agree to pay all or any part of any advertisement sponsored by any person, group, or organization wherein the candidate may be endorsed for the office of supervisor of elections by any such person, group, or organization.

Candidates for the office of supervisor who violate any of the above provisions are subject to a civil fine of up to \$5,000 for each violation, to be determined by the Florida Elections Commission. These prohibitions are similar to those in s. 105.071, F.S., applicable to judicial candidates who also run in nonpartisan elections.

The bill amends s. 105.09, F.S., to prohibit political parties and partisan political organizations from endorsing, supporting or assisting any candidate in a campaign for the office of supervisor. A knowing violation of this prohibition is a second degree misdemeanor.

HB 1277 takes effect on January 1, 2003.

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:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Political parties will realize a loss from filing fees and party assessments of candidates for supervisor of elections who currently run on a partisan basis. Political parties currently receive the 3 percent filing fee and 2 percent party assessment from partisan candidates for supervisor of elections, pursuant to s. 99.092(1), F.S. In addition, nonpartisan candidates for supervisor of elections who pay a qualifying fee would no longer be required to pay a party assessment.

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:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON RULES, ETHICS & ELECTIONS (PRC):

Prepared by:

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