

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1471 CS Initiative and Referenda
SPONSOR(S): Goodlette and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1996 Sim.

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Ethics & Elections Committee	7 Y, 3 N, w/CS	Mitchell	Mitchell
2) State Administration Council	9 Y, 0 N, w/CS	Mitchell	Bussey
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 1471 imposes a number of safeguards on the initiative petition process. The bill attempts to closely regulate the petition verification process, to require that additional information be provided to a voter who signs a petition, and to regulate petition circulators, in particular, *paid* circulators, primarily by requiring greater disclosure. The bill also authorizes additional criminal sanctions against people who abuse the petition process, either through fraud and misrepresentation, or through the misuse of signed petitions or voter registrations.

The bill amends ss. 99.097, 100.371, 101.161, 101.62, 104.012, 104.185, and 104.42, F.S., and creates s. 100.372, F.S.

The bill provides an effective date of October 1, 2005.

A STRIKE-ALL AMENDMENT WAS ADOPTED IN THE ETHICS AND ELECTIONS COMMITTEE ON APRIL 6, 2005. SEE AMENDMENTS SECTION.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill increases regulation over petition gathering in an effort to reduce fraud in the process. Petition gatherers must identify themselves with badges as being paid. The bill also requires that petitions include the name of the organization circulating the petition, the name of the sponsor of the initiative, information on finding contribution information on the Internet, and a disclosure of whether gatherer is paid and the rate of payment. Paid petition gatherers are required to attach a signed, notarized affidavit to the signed petitions with identification and contact information and an affirmation of legal compliance. Signed petitions must be turned in to the supervisor of elections for verification within 10 days of being collected. There are a number of penalties for non-compliance with these requirements, including invalidation of petitions under certain conditions.

Promote personal responsibility – The bill's provisions require that petition gatherers assume more responsibility for collecting and submitting petitions in a timely, legal manner. It also permits petition signers to revoke their signatures on petitions.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Art. XI, Fla. Const., governs amendments to the State Constitution. A proposed amendment is presented to the voters pursuant to one of the following methods¹:

- Joint resolution passed by 3/5 vote of each house of the Legislature;
- Initiative petition;
- Proposal by the Constitution Revision Commission;
- Proposal by the Taxation and Budget Reform Commission; or
- Proposal by a constitutional convention.

Prior to the 1968 revision of the State Constitution, amendments could be proposed only by constitutional convention or through resolutions adopted by the Legislature. Florida adopted the citizen initiative process in 1968.² The first initiative appeared on Florida's ballot in 1976 and was adopted by the voters.³ From 1976-2002, there have been 104 proposed constitutional amendments on the ballot, 21 of which were proposed by initiative.⁴ Sixteen of the 21 initiative amendments were approved by Florida's electors.⁵ During the past six years, there has been an increase in citizen initiatives. In 1996, 37 initiatives were circulated, three of which made the ballot, and in 1998, 27 initiatives were circulated, none of which made the ballot, in 2000, 16 initiatives were circulated, one of which made the ballot, and in 2002, 23 initiatives were circulated, four of which made the ballot.⁶

¹ Art. XI, s. 1, Fla. Const. (legislature); Art. XI, s. 2, Fla. Const. (Revision Commission); Art. XI, s. 3, Fla. Const. (citizen initiative); Art. XI, s. 4, Fla. Const. (constitutional convention); Art. XI, s. 6, Fla. Const. (Taxation and Budget Reform Commission).

² Art. XI, s. 3, Fla. Const.

³ Amendment #1; Art. II, s. 8, Fla. Const. (The so-called "Sunshine Amendment." Votes For - 1,765,626; Votes Against - 461,940).

⁴ Statistics provided by the Division of Elections.

⁵ Id.

⁶ Id. While there were no citizen initiatives on the ballot in 1998, there were four amendments proposed by legislative resolution and nine amendments proposed by the Constitutional Revision Convention.

The procedure for placing an initiative on the ballot is provided in s. 100.371, F.S. To obtain ballot position:

- the sponsor of an amendment must register as a political committee pursuant to s. 106.03, F.S., and submit the text of the amendment with the form on which the signatures will be obtained; the form must be approved by the Secretary of State before signatures are obtained;
- the Secretary of State must determine the total number of valid signatures and the distribution from congressional districts⁷; signatures are valid for four years from the date when made;
- the certification of ballot position must be completed at least 90 days before the next general election; and
- the Supreme Court must approve the validity of the proposal.

In the year 2002, 488,722 signatures were required for ballot certification. In the year 2004, 488,722 signatures were required for ballot certification. Approximately 611,009 signatures will be required for ballot position in 2006.

2003 Select Committee on Constitutional Amendments

On October 20, 2003, Speaker Johnnie Byrd appointed the Select Committee on Constitutional Amendments (Committee) to assess how Florida currently amends its constitution and to make recommendations for possible change to the process. The Committee held ten public hearings, and on March 15, 2004, identified numerous concerns regarding the existing constitutional amendment process and made final recommendations. Pursuant to the Speaker's charge, the Committee recommended that legislation be adopted to do the following:

- create an administrative process for drafting and reviewing all state question ballot titles and summaries; the process should include a bi-partisan commission appointed by public officials and staffed by the Department of State's Division of Elections (Division);
- reduce the time that signatures are valid and the consideration of other petition circulation reforms, including the disclosure of paid petition gatherers;
- shorten the time to obtain signatures so that the process begins the day after a November general election and runs until the deadline for filing, whether or not that deadline is advanced; and
- group amendment proposals on each general election ballot, identifying the method by which each group has been proposed.

HB 1471 attempts to address many of the recommendations of the Committee with regard to statutory changes relating to constitutional amendments, and makes other changes to reform the initiative process.

Criminal Penalties

Certain criminal sanctions exist with regard to the voter registration and petition process. Paying a person to register to vote, paying someone to solicit voter registrations based upon the number of registrations obtained, and altering a voter registration application are all third degree

⁷ Art. XI, s. 3, Fla. Const., requires that signatures be obtained in at least ½ of the state's congressional districts, and of the state as a whole, equal to eight percent of the voters casting ballots in the last Presidential election.

felonies.⁸ Signing a petition for a particular issue more than once, or signing another person's name, or a fictitious name, to a petition, is a first degree misdemeanor.⁹ Supervisors of elections are currently authorized to investigate fraudulent registrations and illegal voting, and may report their findings to the state attorney or the Florida Elections Commission.¹⁰

During the 2004 election cycle, numerous stories appeared in newspapers throughout the state of Florida concerning alleged petition fraud. Two petition gatherers were arrested in Santa Rosa County for over 40 counts each of uttering a forged document.¹¹ Several other elections supervisors found petitions signed with the names of dead voters.¹²

The Florida Department of Law Enforcement issued a press release in October of 2004 indicating that it had received numerous complaints relating to voting irregularities regarding voter fraud, and had initiated several investigations. While the FDLE did not reveal details of the investigations, it did say the investigations focused on the following conduct:

"In some cases, persons who believed they were signing petitions later found out that their signatures or possible forged signatures were used to complete a fraudulent voter registration. In other instances, it appears that workers hired to obtain legitimate voter registrations filled in the information on the registration forms that should have been completed by the registrants. On several occasions, workers appear to have signed multiple voter registrations themselves using information obtained during the registration drive. In many of the situations complained about, the workers were being paid on the basis of each registration form submitted."¹³

The FDLE said it had created regional elections task forces to address the issue in a statewide manner.

Financial Impact Estimating Conference

House Joint Resolution 571 (HJR 571), adopted during the 2001 Session, proposed an amendment to art. XI, s. 5, Fla. Const., to require that the Legislature provide by general law for the provision of a statement to the public regarding the probable financial impact of any amendment proposed to the State Constitution by initiative petition. HJR 571 appeared on the 2002 general election ballot and was approved by 78% of the voters. The amendment was implemented by HB 1743 during the 2004 session.¹⁴

Ballot Language for Statewide Issues

On March 17, 2005, the Florida Supreme Court struck the "Home Town Democracy" initiative based on a 4-3 decision that the ballot summary violated s. 101.161, F.S. *Advisory Opinion to the Attorney General RE: Referenda Required for Adoption and Amendment of Local Government Comprehensive Land Use Plans.* (SC04-1134; SC 04-1479)

In his dissent, Justice Lewis (joined by Anstead) said this:

⁸ s. 104.012, F.S.

⁹ s. 104.185, F.S.

¹⁰ s. 104.42, F.S.

¹¹ See, "Two Pace residents accused in voter scam," Derek Pivnick, *Pensacola News Journal*, page 1A, July 2, 2004.

¹² See, "Names of dead persons found on petitions," Joni James and Lucy Morgan, *St. Petersburg Times*, September 28, 2004.

¹³ "FDLE Investigates Statewide Voter Fraud," press release, Florida Department of Law Enforcement, October 21, 2004.

¹⁴ ch. 2004-33, Laws of Fla.

"We simply need more uniformity in the application of this analysis for predictability in the process. This analytical approach and selective enforcement unnecessarily wastes time, resources, and human effort and generates controversy that need not encumber the constitutional process."

Opinion, at 25.

Section 101.161, F.S., litigation often results to nullify the constitutional mandate that the people get to vote on a particular proposed amendment. The ballot summary reform contained in this bill should eliminate the concerns raised above by Justice Lewis.

Grouping of Ballot Referenda

The bill requires the Division to adopt rules governing the numbering and placement of statewide issues on the general election ballot. It requires that the rules provide for the grouping of amendments on the ballot by source (commission, joint resolution, initiative, etc.). This will permit voters to distinguish citizen initiatives from those with more public input such as joint resolutions proposed by the Legislature or amendments proposed by the Constitution Revision Commission.

C. SECTION DIRECTORY:

Section 1. Amends s. 15.21, F.S., relating to duties of the Secretary of State. The bill requires the Secretary to immediately submit an initiative petition to the Attorney General and to the Financial Impact Estimating Conference if the initiative sponsor has met the following two conditions:

- if the sponsor has reregistered as a political committee pursuant to s. 106.03, F.S.;
- submitted the ballot title, substance, and text of the proposed revision or amendment to the Secretary pursuant to s. 100.371, F.S.

The sponsor is no longer required to receive a letter from the Secretary confirming that the sponsor has obtained verified petitions equal to at least 10% of the number of electors statewide and in at least one-fourth of the congressional districts required by art. XI, s. 3, Fla. Const., to trigger referral to the Attorney General.

Section 2. Amends 16.061, F.S., relating to duties of the Attorney General. The Attorney General is required to issue a written legal opinion regarding the compliance of the proposal with the subject matter limitations in art. XI, Fla. Const. If the Attorney General determines that the proposal is invalid, the proposal is void unless the sponsor requests that the Attorney General request an opinion from the Florida Supreme Court as to the validity of the proposal. The request for an opinion must be made within 15 days after demand by the sponsor.

If an opinion has not been obtained pursuant to the procedure described in the previous paragraph, the Attorney general shall request an opinion of the Florida Supreme Court within 30 days after notice that the sponsor has obtained 10% of the number of electors statewide and in at least one-fourth of the Congressional districts required for ballot placement. s. 3, art. XI, Fla. Const. These thresholds trigger Florida Supreme Court review of a ballot proposal under current law. See s. 15.21, F.S.

Section 3. Amends s. subsections (1), (3), and (4) of s. 99.097, F.S., and creates subsection (6) in s. 99.097, F.S. relating to verification of petition signatures.

- Codifies the current requirement that petitions to secure ballot placement for an issue, and the newly- created petition revocations, must be verified by a name-by-name, signature by-signature check of the number of valid signatures on the petitions.
- Prohibits supervisors of elections from counting signatures on petitions which do not satisfy all relevant provisions of the section.
- Prohibits a person or organization that submits petitions to secure ballot placement for an issue, and that files a certification of undue burden, from providing compensation to any paid petition circulator before paying all supervisors for checking signatures or before reimbursing the General Revenue Fund for such costs. If such a person or organization provides compensation to a paid petition circulator before the date on which the person or organization pays all supervisors or reimburses the General Revenue Fund, then all signatures collected by the petition circulator who received payment will be invalid and not count toward the number of signatures required for ballot placement.
- Permits the waiver of verification fees only to the extent that the total fees waived exceed 10 percent of the total contributions received by the sponsor. Provides for reimbursement of waived fees by the sponsor.
- Provides a political committee or any elector the opportunity to contest the proper verification of a signature on a petition, i.e., whether the supervisor of elections performed a name-by-name, signature-by-signature check of the number of valid signatures on the petitions, in circuit court. Any contest of the verification of signatures must be filed within 180 days after the date the verified signature was certified to the Secretary of State, but not later than February 1 of the year the proposal is to appear on the ballot. The contestant must demonstrate that one or more petitions were improperly verified; any signatures shown to be improperly verified may not be counted toward the number of valid signatures required for ballot placement. If the contestant demonstrates that, due to improper verification, there was an insufficient number of valid signatures to qualify an issue for ballot placement, but the Secretary of State has already issued a certificate of ballot position, then the issue shall be removed from the ballot, or if this is impractical, than any votes cast for or against the issue may not be counted and shall be invalid.

Section 4. Amends s. 100.371, F.S., relating to placement of initiatives on the ballot.

- Provides that the Secretary of State must issue the certification of ballot position no later than February 1 of the year in which the general election is to be held.
- Provides that every signature on a petition must be dated by the elector when made.
- Requires that the contents of a petition form be limited to those items required by statute or rule.
- Provides that a petition form is a political advertisement and is therefore subject to the requirements of chapter 106 of Florida Statutes.

- Requires supervisors of elections to record the date each petition form was received by the supervisor and the date the signature on the form was verified.
- Provides the following requirements for a signature on a petition form to be verified as valid:
 1. The original signature of the purported elector;
 2. The date on which the purported elector signed the form;
 3. The name, street address, county, voter registration number, and any other information required by rule of the purported elector;
 4. The purported elector must be a duly qualified and registered elector authorized to vote in the congressional district for which the signature is submitted at the time he or she signed the form;
 5. The elector must have signed the form no more than 10 days from the date the form was received by the supervisor of elections; and
 6. The elector must accurately record on the form whether the elector was presented with the petition form for signature by a petition circulator, and if so, the petition form must comply with the provisions of section 5, discussed below.
- Provides that an elector has the right to submit his or her signed form to the sponsor of the initiative amendment, by mail or otherwise, at an address listed on the form for this purpose.
- Provides the following requirements for a petition form to be valid:
 1. The form must have the title, "Constitutional Amendment Petition Form," at the top of the form;
 2. The form must contain the following notices at the top of the form, below the title, in bold type and in a 16-point or larger font:
 - i. **RIGHT TO MAIL IN.**-- You have the right to take this petition home and study the issue before signing. If you choose to sign the petition, you may return it to the sponsors of the amendment at the following address: _____.
 - ii. **PAID PETITION CIRCULATOR.**-- The person presenting this petition for your signature may be receiving compensation to do so. You have the right to ask for this information and the person's rate of compensation before you sign the petition.
 - iii. **NATURE OF AMENDMENT.**-- The merits of the proposed change to the Florida Constitution appearing below have not been officially reviewed by any court or agency of state government.
- Provides that an elector may revoke his or her signature by submitting to the supervisor of elections a signed petition revocation form. The form is subject to the same requirements as the petition form under the elections code. A revocation form must be submitted with the appropriate supervisor of elections no later than January 1 of the year

of the general election in which the initiative amendment is certified for ballot position. If the initiative is not certified for ballot position in that election, then by January 1 preceding the next successive general election. The supervisor of elections is required to promptly verify the signature on the revocation form and process the revocation upon payment of 10 cents per signature, or the actual cost, whichever is less.

- Requires a supervisor of elections to execute a certificate indicating the signatures validly revoked, and transmit the certificate to the Secretary of State.
- Requires the Financial Impact Estimating Conference to complete an analysis for the ballot of the estimated financial impact of the initiative on the private and public sectors of the state.
- Requires the Financial Impact Estimating Conference to draft an initiative financial information statement to describe any projected financial impact of the initiative on the private and public sectors of the state.

Section 5. Creates s. 100.372, F.S., relating to the regulation of initiative petition circulators.

- Defines “petition circulator” as any person who, in the context of a direct face-to-face conversation, presents to another person for possible signature a petition form or petition revocation form regarding ballot placement for an initiative.
- Defines “paid petition circulator” as a petition circulator who receives any compensation as either a direct or indirect consequence of the activities described under the definition of “petition circulator.”
- Requires that a petition circulator must be at least 18 years of age and eligible to register to vote in this state.
- Requires a paid petition circulator, when circulating petitions, to wear a prominent badge identifying him or her as a “PAID PETITION CIRCULATOR.”
- Requires the following information to appear on a petition form or petition revocation form prior to being presented to a possible elector for signature, in a format and manner prescribed by rule:
 1. The name of any organization or entity with which the petition circulator is affiliated and on whose behalf he or she is presenting forms for signature;
 2. A statement as to whether the petition circulator is paid, and if so, the amount or rate of compensation.
- Requires the following information to appear on each signed petition form or revocation form when the form is submitted to a supervisor of elections for verification, if the signature was obtained by a petition circulator:
 1. The name of the petition circulator;
 2. The street address at which the petition circulator resides, including county;
 3. The petition circulator’s date of birth; and
 4. The petition circulator’s Florida voter registration number and county of registration, if applicable.

- Requires the following information to be submitted, by a paid petition circulator, to a supervisor of elections, with any signed petition form or group of forms, or any revocation form or group of forms:
 1. A signed, notarized, and dated affidavit executed by the paid petition circulator, including the paid circulator's printed name; street address at which he or she resides, including county; and the date he or she signed the affidavit;
 2. If submitting a group of forms, the forms must be consecutively numbered and referred to in the affidavit by number; and
 3. The affidavit shall attest that the petition circulator complied with all applicable laws in obtaining the signatures.
- Requires the affidavit to be attached to all petition forms or revocation forms for a supervisor to verify the forms. Any forms that do not have the affidavit attached will be invalid.
- Requires paid petition circulators to provide to initiative sponsors a copy of their valid and current government-issued photo identification card that indicates the circulators' current residence. The sponsor is required to maintain the copies in its files, and is required to make the copies available for inspection by anyone. If a sponsor fails to maintain the required copies, all petitions obtained by the paid petition circulators for whom the sponsor does not have copies are invalid and may not be verified by a supervisor of elections. If a sponsor subsequently produces a copy of an identification card after the time a copy is requested for inspection, all petitions obtained by the paid petition circulator prior to the time the copy is produced are invalid.
- Requires a supervisor of elections to invalidate all petitions obtained by a petition circulator who does not respond to a request at the circulator's listed address of residence, from a supervisor of election or the division of elections, within 15 days of the request.
- Requires that all signatures on all petition or revocation forms comply with chapter 100 or chapter 104.

Section 6. Creates s. 101.162, F.S., relating to ballot summary and title of proposed amendments.

- Provides that a ballot summary for a proposed amendment must describe in clear and unambiguous language the substance of the amendment followed by the words "yes" and "no," indicating approval or rejection, respectively.
- Provides that the ballot summary shall not exceed 75 words in length and shall explain the chief purpose of the amendment.
- Provides that the ballot title of the amendment shall consist of a caption not exceeding 15 words in length.

Section 7. Creates s. 101.163, F.S., relating to the Commission on Statewide Ballot Issues (Commission). The Commission is charged with recommending a ballot summary for proposed state questions, and for citizen initiatives, *the ballot language will be approved before the petition is approved for circulation.*

- The Commission is composed of five members appointed by the Governor for two-year terms beginning May 1 of each odd-numbered year. Members of the Commission can hold no other public office and no more than three members may be from the same political party. Nominees to the Commission are submitted to the Governor by the majority and minority leaders of each house, supervisors of elections and the Secretary of State. The Secretary of State or her designee shall serve as the non-voting chair of the Commission.
- The Commission will be staffed by the Division and is directed to meet at least once per year to make recommendations to the Secretary of State for the ballot language of any issues that will appear on the statewide ballot.
- When a constitutional amendment is proposed by citizen initiative, the sponsor must recommend ballot language along with the initial submission of the text of the amendment to the Division. The Division shall prepare proposed ballot language for consideration by the Commission and in doing so, may use the language offered by the sponsor, or it may prepare alternative ballot language. The Commission is directed to meet within 20 days of submission of the draft ballot language by the Division. The sponsor and any political committee registered to support or oppose the initiative shall be provided reasonable notice of any Commission proceedings. Persons who have a substantial interest in the matter may also intervene in the Commission proceedings.
- Subsection (5) sets forth the process for recommending ballot language as follows:
 1. Within 15 days of submission of ballot language to the Commission, any interested party may submit arguments regarding the legality of the proposed language.
 1. The Commission makes a determination as to whether the ballot language should be recommended to the Secretary of State for adoption. The ballot summary that is recommended may exceed 75 words, if necessary to satisfy the content requirements of s. 101.162, F.S.¹⁵ The Commission must determine which ballot language, either that of the Division or the sponsor, satisfies the requirements of law.
 2. If the Commission determines that neither ballot summaries offered by the Division or the sponsor, satisfies the requirements of law, it must remand the amendment to the Division for resubmission of ballot language within 20 days.
 3. The Commission must issue a recommendation within 5 days of a hearing.
 4. The Attorney General has an opportunity to intervene in the Commission proceedings and shall provide an advisory opinion on the legality of the ballot language within 15 days of a request by the Secretary of State.
 5. The Secretary shall adopt any recommended ballot language that satisfies the requirements of law and may adopt a ballot summary that exceeds 75 words in length, if necessary.

¹⁵ Section 101.162, F.S., requires an amendment to be clear and unambiguous, the ballot summary cannot exceed 75 words, and the ballot title cannot exceed 15 words.

Section 8. Creates s. 101.164, F.S., to clarify that public measure other than state issues of local questions on selection of judges, the title and statement describing the substance of the measure shall be included in the enabling legislation, resolution, ordinance or petition.

Section 9. Creates s. 101.165, relating to local option of selecting circuit judges. This language was simply moved from s. 101.161(3), F.S.

Section 10. Creates s. 101.166, F.S., relating to grouping of referenda on the ballot.

- Requires the Division to adopt rules governing the numbering and placement of statewide issues on the general election ballot. It requires that the rules provide for the grouping of amendments on the ballot by source (commission, joint resolution, initiative, etc.). This will permit voters to distinguish citizen initiatives from those with more public input such as joint resolutions proposed by the Legislature or amendments proposed by the Constitution Revision Commission.

Section 11. Corrects a cross reference in s. 101.62, F.S.

Section 12. Amends s. 104.185, F.S., relating to violations relating to petitions.

- Prohibits a person from willfully swearing falsely to any oath, or willfully procures another person to swear falsely to an oath, in connection with the petition process. This conduct constitutes a felony of the third degree.
- Prohibits a person from willfully submitting any false information on a petition. This conduct constitutes a felony of the third degree.
- Prohibits a person from directly or indirectly giving or promising anything of value to any other person to induce that person to sign petition. This conduct constitutes a felony of the third degree.
- Prohibits a person from, by corrupt means, influencing or attempting to influence, any person's free exercise of that person's right to sign a petition or revocation. This conduct constitutes a felony of the third degree. Any subsequent conviction for this offense will result in any future charges for this offense to be for a felony of the second degree.
- Prohibits a person from providing or receiving compensation based, directly or indirectly, upon the number of signatures obtained on petitions or revocations. This conduct constitutes a felony of the second degree.
- Prohibits a person from altering a petition or revocation form signed by another person without the other person's knowledge and consent. This conduct constitutes a felony of the third degree.
- Prohibits a person from perpetrating, or attempting or aiding in the perpetration of, any fraud in connection with obtaining the signature of electors on petition or revocation forms. This conduct constitutes a felony of the third degree.
- Prohibits a person other than the signer who, without the express prior written consent of the signer, copies a signed petition or revocation form, or records information from such a document prior to its submission to the supervisor of elections for verification, or who

willfully receives such a copy or recorded information. This conduct constitutes a felony of the third degree.

- Imposes civil penalties upon any person or entity who violates any provision of chapter 104, F.S. The fine is not to exceed \$1,000 per violation.

Section 13. Amends s. 104.42, F.S., relating to unlawful registrations.

- Allows a supervisor of elections to report findings of unlawful registrations, petitions, and voting to the local state attorney, Attorney General, Florida Department of Law Enforcement, and the Florida Elections Commission.
- Requires a supervisor of elections to document and report suspected unlawful registrations, petitions, and voting to the Attorney General and the Florida Department of Law Enforcement within 10 days after becoming aware of suspected unlawful conduct.
- Requires the Department of Law Enforcement to file a report with the President of the Senate and the Speaker of the House of Representatives detailing its investigations.

Section 14. Corrects cross references in s. 125.82, F.S., relating to charter adoption by ordinance.

Section 15. Corrects cross references in s. 212.055, F.S., relating to discretionary sales surtaxes

Section 16. Corrects cross references in s. 1011.73, F.S., relating to school board district millage elections

Section 17. Provides intent language.

- Allows signatures gathered and submitted for verification prior to the effective date of this act to be verified and counted. All petitions submitted after the effective date are subject to the provisions of this act.
- Invalidates all signatures on petition forms approved by the Secretary of State prior to the effective date of this act, and requires a sponsor to submit a new petition form to the Secretary for approval in accordance with this act.

Section 18. Repeals ss. 101.161 and 106.191, F.S.

Section 19. Provides an effective date of October 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There may be some additional costs imposed on petition sponsors who would have to comply with the new disclosure requirements for gathering signatures, but such costs are indeterminate at this time.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

A STRIKE-ALL AMENDMENT WAS ADOPTED IN THE ETHICS AND ELECTIONS COMMITTEE ON APRIL 6, 2005.

The strike all amendment made changes to the following sections of the bill:

Section 2 (amending s. 99.097)

- Clarifies signature verification to be individual signatures for initiative petitions, not by statistical sample;

- Prohibits paying petition circulators if the sponsor obtains a waiver from paying for signature verification by supervisors;
- Permits legal challenge to verification in circuit court;

Section 3 (amending s. 100.371)

- Implements new constitutional deadline of Feb. 1 in election year for certification of ballot placement;
- Deems petitions political advertisements and requires compliance with requirements of chapter 106 (campaign finance);
- Adds content to petitions including:
 - Elector must record the date of signature;
 - Elector must record the name address, county and voter registration number;
 - Elector must record whether a petition circulator presented the petition to her;
 - New disclosure notices including right to know about paid circulators and their compensation
- Elector must be a registered voter he signs the petition (can't fill out registration application and a petition at the same time)
- Must be signed no more than 10 days before submission to the supervisor
- Petition presented by circulator must comply with new s. 100.372
- Right to sign later and submit petition by mail
- Authorizes revocation of signature by mailing to Secretary of State (deadline Jan. 1 of election year);
- Requires signatures to be turned in within 10 days (can't hold for months and turn in at once)
- Revises timing of financial impact estimating conference to end litigation by April 1 consistent with new constitutional schedule that single subject and ballot litigation must conclude by April 1.
- Signatures on petitions that do not comply are not valid and cannot be counted

Section 4 (new s. 100.372):

- Defines "petition circulator" and "paid petition circulator"
- Sets requirements for circulators (18 and eligible to register to vote in Florida)
- Requires badge identifying "PAID PETITION CIRCULATOR"
- Clarifies that owners may prohibit or restrict petition circulators on private property
- Requires that petitions presented by circulators include:

Name of the organization circulating,

Name of the sponsor of initiative,

Information on finding contribution information on the Internet,

Disclosure whether circulator is paid and the rate of payment

- Requires paid circulator to attach affidavit to signed petitions with identification and contact information and affirmation of legal compliance
- Requires paid petition circulators to provide photo identification to the sponsor who must maintain copies for inspection
- Signatures on petitions that do not comply are not valid and cannot be counted

Section 7 adds penalties for failure to submit voter registration application within 10 days

Section 8 adds penalties for petition circulation violations including falsification, alteration, fraud unlawful inducements and paying or accepting payment per signature for circulation. The section also provides for a civil penalty to be imposed by the Florida Elections Commission* against employer or sponsor when petition circulator acts illegally.

Section 9 requires reporting to FDLE by the elections supervisor within 10 days of acquiring reasonable suspicion of a violation.

Section 10 validates and protects any signature validly gathered prior to the effective date of the bill.

Section 11 adds a severability provision.

An amendment to the strike-all amendment was also adopted which clarifies that the "commission" referred to on line 689 is the Florida Elections Commission.

Five amendments offered by Representatives Goodlette and Reagan were adopted by the State Administration Council on April 13, 2005. The amendments do the following:

Amendment #1

The bill provided that a voter signing a petition must fill out the required information for the form to be valid. The amendment requires that *the form* and not the voter, accurately reflect the required information.

Amendment #2

The bill provides that in order for a form to be valid, it must be submitted to the supervisor of elections within **10** days of being signed by the voter, a rather short period of time. The amendment extends this time period to **30** days from the date the voter signs the petition form.

Amendment #3

The bill allows private property owners the ability to prohibit or allow signature gatherers on their property. The amendment requires that they can prohibit or allow these petition gatherers on their property but they must do so in a consistent manner. Simply put, a property owner cannot allow one group to collect signatures and prohibit another from collecting signatures.

Amendment #4

The bill requires paid signature gatherers to leave a government-issued identification card with the sponsor for inspection *by any person*. The primary purpose of this provision is to give law enforcement or the supervisor of elections the necessary tools to identify and prosecute those paid signature gatherers who are committing petition fraud. The amendment removes from the bill inspection “by any person” and only allows inspection “by the division of elections, a supervisor of elections, or any law enforcement agency.”

Amendment #5

The bill identifies crimes relating to petition fraud and provides penalties of third degree felonies for petition fraud. Such penalties were perceived as too harsh for first time offenders. Thus, the amendment changes the penalties in the bill from a 3rd degree felony, to a 1st degree misdemeanor, but provides that subsequent convictions are a 3rd degree felony.