

1 A bill to be entitled

2 An act relating to ballot pamphlets; providing a short
3 title; creating s. 101.2601, F.S.; requiring the Secretary
4 of State to be responsible for preparing and printing
5 ballot pamphlets for statewide elections; providing
6 requirements for the preparation, printing, and content of
7 ballot pamphlets; requiring the Division of Legislative
8 Information Services to prepare specified information for
9 ballot pamphlets; creating s. 101.2602, F.S.; providing
10 ballot pamphlet format requirements; creating s. 101.2603,
11 F.S.; requiring the division to prepare analyses of
12 proposed legislation to be included in ballot pamphlets;
13 providing for the content and format of the analyses;
14 authorizing the division to seek assistance from specified
15 entities; requiring approval of analyses by a committee;
16 providing for committee membership, duties, and
17 reimbursement; creating s. 101.2604, F.S.; requiring each
18 supervisor of elections to provide notice to voters of
19 ballot pamphlet availability; providing for contents of
20 the notice; creating s. 101.2605, F.S.; authorizing
21 candidates for nonpartisan elective office in any local
22 election to prepare a candidate statement; providing for
23 the content of candidate statements; providing
24 requirements for filing, withdrawing, and changing
25 candidate statements; creating s. 101.2606, F.S.;
26 requiring each supervisor of elections to include
27 candidate statements as a supplement to ballot pamphlets;
28 providing requirements for Spanish and Creole translations

29 of candidate statements; authorizing the supervisor of
30 elections to require printing, handling, and translating
31 costs from candidates; providing for liability for false,
32 slanderous, or libelous candidate statements; requiring
33 each supervisor of elections to notify candidates by a
34 certain date of candidate statement charges; providing for
35 content of judicial candidate statements; creating s.
36 101.2607, F.S.; providing for the inability of a candidate
37 to pay a candidate statement fee; providing for the
38 content and submittal of a statement of financial worth to
39 the supervisor of elections by an indigent candidate;
40 providing requirements for the supervisor of election's
41 determination of candidate indigence; creating s.
42 101.2608, F.S.; providing for the format of candidate
43 statements; creating s. 101.2609, F.S.; providing for the
44 public examination of candidate statements; authorizing a
45 fee for copies; providing for a writ of mandamus or an
46 injunction upon the showing of certain evidence; providing
47 for the parties in a writ of mandamus or injunction
48 proceeding; creating s. 101.2610, F.S.; providing for a
49 voter's writ of mandamus regarding ballot pamphlets upon
50 the showing of certain evidence; providing for priority
51 and venue of writ of mandamus proceedings; creating s.
52 101.2611, F.S.; providing requirements for each supervisor
53 of elections to mail ballot pamphlets and candidate
54 statements to voters; requiring the Secretary of State to
55 deliver ballot pamphlets to each supervisor of elections;
56 requiring the Secretary of State to reimburse each

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57 supervisor of elections for mailing costs; providing an
 58 effective date.

59

60 Be It Enacted by the Legislature of the State of Florida:

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62 Section 1. This act may be cited as the "Florida Ballot
 63 Pamphlet Act."

64 Section 2. Section 101.2601, Florida Statutes, is created
 65 to read:

66 101.2601 Ballot pamphlet preparation, printing, contents,
 67 content placement.--

68 (1) (a) For all statewide elections, the Secretary of State
 69 is responsible for coordinating the preparation and printing of
 70 as many ballot pamphlets as are needed to comply with ss.
 71 101.2604 and 101.2611. The ballot pamphlets shall be printed in
 72 the Print and Duplicating Shop of the Department of State unless
 73 the Director of Administrative Services determines that the
 74 printing of the pamphlets in the Print and Duplicating Shop of
 75 the Department of State cannot be done adequately, competently,
 76 or satisfactorily, in which case the Secretary of State, subject
 77 to the approval of the Director of Administrative Services,
 78 shall contract with a private printing concern for the printing
 79 of all or a portion of the ballot pamphlets. Copy content for
 80 preparation of the ballot pamphlets shall be furnished to the
 81 Print and Duplicating Shop of the Department of State at least
 82 40 days prior to the date of required delivery to the elections
 83 officials as provided herein.

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84 (b) The Secretary of State shall deliver printed ballots
85 to each supervisor of elections as required under s. 101.2611.

86 (c) For all statewide elections, supervisors of elections
87 are responsible for mailing ballot pamphlets to registered
88 voters as required under s. 101.2611.

89 (2) The Secretary of State shall disseminate the complete
90 ballot pamphlet over the Internet.

91 (3) The ballot pamphlet shall contain the following:

92 (a) Tables of contents, indexes, artwork, graphics, and
93 other materials that the Secretary of State determines will make
94 the ballot pamphlet more useful to or easier to understand for
95 the average voter.

96 (b) A notice, conspicuously printed on the cover of the
97 ballot pamphlet, indicating that additional copies of the ballot
98 pamphlet will be mailed by the supervisor of elections upon
99 request.

100 (c) The Voter's Bill of Rights and Responsibilities.

101 (d)1. Information on each proposed constitutional
102 amendment or other public measure in the following order:

103 a. Identification of the measure by number, section, and
104 title.

105 b. A summary statement for each proposed constitutional
106 amendment or other public measure.

107 (I) A summary statement shall provide a concise summary of
108 the general meaning and effect of "yes" and "no" votes on each
109 proposed constitutional amendment or other public measure.

110 (II) The summary statements required by this section shall
111 be prepared by the Division of Legislative Information Services

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112 in the Office of Legislative Services. These statements are not
113 intended to provide comprehensive information on each measure.
114 The Division of Legislative Information Services shall be solely
115 responsible for determining the contents of the statements. The
116 statements shall be available for public examination and
117 amendment as provided in this section.

118 (III) The Division of Legislative Information Services
119 shall submit a summary statement for each proposed
120 constitutional amendment or other public measure to the Attorney
121 General for approval.

122 c. The total number of votes cast for and against each
123 measure in both the Senate and House of Representatives for
124 proposed constitutional amendments or other public measures
125 passed by the Legislature.

126 d. An analysis of each proposed constitutional amendment
127 or other public measure prepared by the Division of Legislative
128 Information Services under s. 101.2603.

129 e. Arguments, if any, for or against each measure.

130 (I) A rebuttal, if any, shall be placed immediately below
131 each argument.

132 (II) The following statement shall be printed at the
133 bottom of each page where arguments appear: "Arguments printed
134 on this page are the opinions of the authors and have not been
135 checked for accuracy by any state agency."

136 (III) The Secretary of State shall be responsible for
137 regulating the submission and content of arguments, subject to
138 the requirements of this sub-subparagraph. Written arguments
139 containing no more than 100 words may be authored and submitted

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140 to the Secretary of State by any citizen or citizen
141 organization. Each argument that is published in the ballot
142 pamphlet shall be followed by the name, address, and telephone
143 number of the argument's author.

144 f. The provisions of the proposed measure and the existing
145 provisions of law repealed or revised by the measure. The
146 provisions of the proposed measure differing from the existing
147 provisions of law affected shall be distinguished in print so as
148 to facilitate comparison. Proposed constitutional amendments or
149 other public measures shall be printed in the ballot pamphlet as
150 close as possible to the manner and form in which they appear on
151 the ballot.

152 2. The information required under this paragraph for each
153 proposed constitutional amendment or other public measure shall
154 appear in the ballot pamphlet in the same order in which each
155 proposed constitutional amendment or other public measure
156 appears on the ballot.

157 3. The information required under this paragraph shall be
158 conspicuously grouped according to each proposed constitutional
159 amendment or other public measure and conspicuously spaced apart
160 from information on other proposed measures.

161 (e) A statement that the Secretary of State certifies that
162 all the information in the ballot pamphlet is correct.

163 Section 3. Section 101.2602, Florida Statutes, is created
164 to read:

165 101.2602 Format of ballot pamphlet.--The ballot pamphlet
166 shall be printed according to the following specifications:

167 (1) The pages shall be no smaller than 8 1/2 inches x 11

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168 inches in size.

169 (2) The type shall be clear, readable, and not less than
170 10 points in size, except that the text of any proposed
171 constitutional amendment or other public measure may be printed
172 in 8-point type.

173 (3) The paper shall be of a quality and weight that, in
174 the judgment of the Secretary of State, best serves the voters.

175 Section 4. Section 101.2603, Florida Statutes, is created
176 to read:

177 101.2603 Analysis of proposed legislation.--The Division
178 of Legislative Information Services shall prepare for the ballot
179 pamphlet an impartial analysis of each proposed constitutional
180 amendment or other public measure that describes the measure and
181 includes an analysis of the measure's fiscal impact that shows
182 the amount of any increase or decrease in revenue or cost to
183 state or local governments. Any estimate of increased cost to
184 local governments shall be printed in boldface type in the
185 ballot pamphlet. The analysis shall be written in clear and
186 concise terms so as to be easily understood by the average voter
187 and shall avoid the use of technical terms wherever possible.
188 The analysis may contain background information, including the
189 effect of the measure on existing law and the effect of enacted
190 legislation that will become effective if the measure is
191 adopted, and shall generally set forth in an impartial manner
192 all information the average voter reasonably needs to adequately
193 understand the measure. The division may contract with
194 professional writers, educational specialists, or other persons
195 for assistance in writing an analysis that fulfills the

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196 requirements of this section, including the requirement that the
197 analysis be written so that it will be easily understood by the
198 average voter. The division may also request the assistance of
199 any state department, agency, or official in preparing the
200 analysis. Prior to submitting the analysis to the Secretary of
201 State, the division shall submit the analysis to a committee of
202 five persons appointed by the division for the purpose of
203 reviewing the analysis to confirm its clarity and ease of
204 comprehension for the average voter. The committee shall be
205 drawn from the public at large, and one member shall be a
206 specialist in education, one member shall be bilingual in
207 English and Spanish, one member shall be bilingual in English
208 and Creole, and one member shall be a professional writer.
209 Members of the committee shall be reimbursed for reasonable and
210 necessary expenses incurred in performing their duties. Within 5
211 days after the submission of the analysis to the committee, the
212 committee shall make such recommendations to the division as it
213 deems appropriate to guarantee that the analysis can be easily
214 understood by the average voter. The division shall consider the
215 committee's recommendations and shall incorporate into the
216 analysis changes recommended by the committee that the division
217 deems appropriate. The division is solely responsible for
218 determining the content of the analysis required by this
219 section.

220 Section 5. Section 101.2604, Florida Statutes, is created
221 to read:

222 101.2604 Notice of ballot pamphlet availability.--Each
223 supervisor of elections shall send each voter notice as to where

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224 the voter can obtain a ballot pamphlet prior to the election, a
 225 statement indicating that ballot pamphlets will be available at
 226 the polling place at the time of the election, the address of
 227 the Secretary of State's Internet website and, if applicable,
 228 the address of the county Internet website where a ballot
 229 pamphlet may be viewed.

230 Section 6. Section 101.2605, Florida Statutes, is created
 231 to read:

232 101.2605 Submission of candidate statements for ballot
 233 pamphlet; voluntary candidate statements; nonpartisan elective
 234 offices.--

235 (1) Each candidate for nonpartisan elective office in any
 236 local election, including any city, county, or district, may
 237 prepare a candidate statement on an appropriate form provided by
 238 the supervisor of elections. The statement may include the name,
 239 age, and occupation of the candidate and a brief description of
 240 no more than 200 words of the candidate's education and
 241 qualifications. However, the supervisor of elections may
 242 authorize an increase in the word limitation for the statement
 243 up to 400 words. The statement shall not include the candidate's
 244 party affiliation or membership or activity in partisan
 245 political organizations.

246 (2) The statement authorized by this section shall be
 247 filed with the supervisor of elections when the candidate's
 248 qualification papers are returned for filing.

249 (3) A candidate statement may be withdrawn by the
 250 candidate during the period for filing qualification papers
 251 until 5 p.m. of the next working day after the close of the

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252 qualifying period.

253 Section 7. Section 101.2606, Florida Statutes, is created
254 to read:

255 101.2606 Submission of candidate statements for ballot
256 pamphlet; judicial elections.--

257 (1) The ballot pamphlet that the supervisor of elections
258 sends to each voter in his or her jurisdiction shall be
259 accompanied by a supplemental pamphlet that contains any
260 candidate statement properly prepared and filed under s.
261 101.2605. Each candidate's statement shall be printed in type
262 that is uniform in size, darkness, and spacing. The supervisor
263 of elections shall provide a Spanish or Creole translation to
264 candidates who request one and shall select a translator from
265 the list of approved Spanish and Creole translators and
266 interpreters of the circuit court of the county.

267 (2) The supervisor of elections may estimate the total
268 cost of printing, handling, and translating the candidate
269 statements filed pursuant to this section, including costs
270 incurred as a result of complying with the Voting Rights Act of
271 1965, as amended. The supervisor of elections may require each
272 candidate filing a statement to pay, in advance, to the
273 supervisor of elections his or her estimated pro rata share of
274 the costs as a condition of having his or her statement included
275 in the ballot pamphlet. If an estimated payment is required, the
276 receipt for the payment shall include a written notice that the
277 estimate is an approximation of the actual cost that may vary
278 from one election to another and may be significantly more or
279 less than the estimate, depending on the actual number of

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280 candidates filing statements. Accordingly, the supervisor of
281 elections is not bound by the estimate and may, on a pro rata
282 basis, bill the candidate for additional actual expenses or
283 refund any excess paid depending on the final actual cost. In
284 the event of underpayment, the supervisor of elections may
285 require the candidate to pay the balance of the cost incurred.
286 In the event of overpayment, the supervisor of elections shall
287 prorate the excess amount among the candidates and refund the
288 excess amount paid within 30 days following the election date.

289 (3) Nothing in this section shall be deemed to make the
290 authors of candidate statements free or exempt from any civil or
291 criminal action or penalty because of any false, slanderous, or
292 libelous statements contained in the filed candidate statements.

293 (4) Before the qualifying period opens, the supervisor of
294 elections shall determine whether a charge shall be levied
295 against a candidate for filing a candidate statement. This
296 decision shall not be revoked or modified after the 7th day
297 prior to the opening of the qualifying period. A written
298 statement of regulations relating to charges for handling,
299 packaging, and mailing shall be provided to each candidate or
300 his or her representative at the time he or she receives the
301 qualifying papers.

302 (5) Any candidate statement submitted by a candidate for
303 judicial office shall be limited to a recitation of the
304 candidate's own personal background and qualifications and shall
305 not in any way make reference to other candidates for judicial
306 office or to another candidate's qualifications, character, or
307 activities. The supervisor of elections shall not cause to be

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308 printed or mailed any statement that the supervisor of elections
309 determines does not comply with the provisions of this
310 subsection.

311 Section 8. Section 101.2607, Florida Statutes, is created
312 to read:

313 101.2607 Inability of candidates to pay fee.--

314 (1) Notwithstanding s. 101.2606, if a candidate claims to
315 be indigent and unable to pay, in advance, the requisite fee for
316 submitting a candidate statement, the candidate shall submit to
317 the supervisor of elections a statement of financial worth to be
318 used in determining whether he or she is eligible to submit a
319 candidate statement without advance payment of the fee.

320 (2) The statement of financial worth required by this
321 section shall be submitted by the candidate together with his or
322 her candidate statement in accordance with the deadline
323 specified in s. 101.2606. The statement of financial worth form
324 shall be furnished by the supervisor of elections and may
325 include questions relating to the candidate's employer, income,
326 real estate holdings, tangible personal property, and financial
327 obligations. The candidate shall certify the truth and
328 correctness of the content of the statement under penalty of
329 perjury. The candidate shall also sign a release form
330 authorizing disclosure of his or her most recent federal income
331 tax return.

332 (3) Upon receipt of a statement of financial worth, the
333 supervisor of elections shall determine whether the candidate is
334 indigent and shall notify the candidate of his or her findings.

335 (4) If it is determined that the candidate is not

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336 indigent, the candidate shall, within 3 days after the
337 notification, excluding Saturdays, Sundays, and state holidays,
338 withdraw the statement or pay the requisite fee. If the
339 candidate fails to respond within the time prescribed, the
340 supervisor of elections shall not be obligated to print and mail
341 the statement.

342 (5) If the supervisor of elections determines that the
343 candidate is indigent, the statement shall printed and mailed at
344 no cost to the candidate.

345 (6) Nothing in this section shall prohibit the supervisor
346 of elections from billing a nonindigent candidate for his or her
347 actual pro rata share of the cost of the statement after the
348 election.

349 Section 9. Section 101.2608, Florida Statutes, is created
350 to read:

351 101.2608 Candidate statement pamphlet format;
352 caveat.--Each supplemental candidate statement pamphlet prepared
353 pursuant to s. 101.2606 shall contain a statement in the heading
354 of the first page, in at least 10-point bold gothic type, that:

355 (1) If any candidate is not listed in the candidate
356 statement pamphlet, the pamphlet does not contain a complete
357 list of candidates and that a complete list of candidates
358 appears on the sample ballot.

359 (2) Each candidate statement in the pamphlet is
360 volunteered by the candidate and whether the candidate statement
361 is printed at the candidate's expense.

362 Section 10. Section 101.2609, Florida Statutes, is created
363 to read:

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364 101.2609 Public examination of candidate statements; right
365 to seek writ of mandamus.--

366 (1) The supervisor of elections shall make a copy of
367 candidate statements available for public examination in the
368 supervisor of elections' office for a period of 10 calendar days
369 immediately following the filing deadline for submission of
370 candidate statements. Any person may obtain a copy of the
371 candidate statements from the supervisor of elections for use
372 outside of the supervisor of elections' office. The supervisor
373 of elections may charge a fee to any person obtaining a copy of
374 the candidate statements; however, the fee may not exceed the
375 actual cost incurred by the supervisor of elections in providing
376 the copy.

377 (2) During the 10-day public examination period provided
378 by this section, the supervisor of elections or any voter
379 registered in the jurisdiction in which the election is being
380 held may seek a writ of mandamus or an injunction requiring any
381 or all of the material in the candidate statements to be amended
382 or deleted. The action for writ of mandamus or injunction shall
383 be filed no later than the end of the 10-day public examination
384 period.

385 (3) A peremptory writ of mandamus or an injunction shall
386 be issued only upon clear and convincing evidence that the
387 material in question is false, misleading, or inconsistent with
388 the requirements of s. 101.2605 and that issuance of the writ or
389 injunction shall not substantially interfere with the printing
390 or distribution of official elections materials as provided by
391 law.

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392 (4) The supervisor of elections shall be named as
393 respondent, and the candidate who authored the material in
394 question shall be named as the real party in interest. In the
395 case of the supervisor of elections bringing the mandamus or
396 injunctive action pursuant to this section, the board of county
397 commissioners shall be named as the respondent, and the
398 candidate who authored the material in question shall be named
399 as the real party in interest.

400 Section 11. Section 101.2610, Florida Statutes, is created
401 to read:

402 101.2610 Voter's writ of mandamus; error in voting
403 material.--

404 (1) Any voter may seek a writ of mandamus alleging that an
405 error or omission has occurred or is about to occur in the
406 placing of any name on a ballot, sample ballot, ballot pamphlet,
407 or other official matter or in the printing of a ballot, sample
408 ballot, ballot pamphlet, or other official matter or that any
409 neglect of duty relating to the placing of any name on a ballot,
410 sample ballot, ballot pamphlet, or other official matter or in
411 the printing of a ballot, sample ballot, ballot pamphlet, or
412 other official matter has occurred or is about to occur.

413 (2) A peremptory writ of mandamus shall be issued only
414 upon evidence of the following:

415 (a) The error, omission, or neglect is in violation of ss.
416 101.2601-101.2611 or the State Constitution.

417 (b) The issuance of the writ will not substantially
418 interfere with the conduct of the election.

419 (3) The action or appeal shall have priority over all

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420 other civil matters.

421 (4) Venue for a proceeding under this section shall be
422 exclusively in Leon County in any of the following instances:

423 (a) The Secretary of State is named as a real party in
424 interest or as a respondent.

425 (b) A candidate for statewide elective office is named as
426 a party.

427 (c) A statewide measure that is to be placed on the ballot
428 is the subject of the proceeding.

429 Section 12. Section 101.2611, Florida Statutes, is created
430 to read:

431 101.2611 Mailing of ballot pamphlets.--

432 (1) The Secretary of State shall deliver printed ballot
433 pamphlets to each supervisor of elections in adequate time for
434 each supervisor of elections to mail the ballot pamphlets to
435 voters before the election at which measures contained in the
436 ballot pamphlet are to be voted on unless a voter has registered
437 fewer than 29 days before the election. The mailing shall
438 commence not fewer than 40 days before the election and shall be
439 completed no later than 21 days before the election to voters
440 who registered on or before the 60th day before the election.
441 The supervisor of elections shall mail one copy of the ballot
442 pamphlet to each registered voter at the postal address stated
443 on the voter's registration record. The supervisor of elections
444 may mail only one ballot pamphlet to two or more registered
445 voters having the same surname and the same postal address.

446 (2) No later than 10 days before the election, the
447 supervisor of elections shall mail ballot pamphlets to voters

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448 registering after the 60th day before the election and before
449 the 28th day before the election.

450 (3) The supervisor of elections shall mail a ballot
451 pamphlet to any person requesting a ballot pamphlet. Three
452 copies of the ballot pamphlet, to be supplied by the Secretary
453 of State, shall be kept at every polling place for the voters
454 while an election is in progress.

455 (4) Any costs incurred by a county for mailing the ballot
456 pamphlets shall be reimbursed to the county by the Secretary of
457 State.

458 (5) If applicable, the supervisor of elections shall
459 include and mail with each ballot pamphlet a supplement
460 containing candidate statements.

461 Section 13. This act shall take effect July 1, 2006.