

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 125 CS Voter Registration
SPONSOR(S): Evers and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 208

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Ethics & Elections Committee	8 Y, 2 N, w/CS	West	Mitchell
2) Agriculture & Environment Appropriations Committee			
3) State Administration Council			
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

NOTE: The Ethics & Elections Committee adopted a strike-all amendment on January 25, 2006, which substantially modifies the bill. See Part IV for a complete description of the amendment.

HB 125 requires commercial subagents of the Fish and Wildlife Conservation Commission (FWCC) that sell resident hunting, fishing, combination licenses or trapping permits to offer voter registration applications to those purchasing a license or permit. Subagents who fail to provide voter registration applications face a civil penalty of \$500 for the first infraction, \$1,000 for the second and \$2,500 for each infraction thereafter.

County supervisors of elections would be responsible for identifying and sending the appropriate number of voter registration applications to the subagents. Supervisors who fail to send the registration applications face fines that are similar to those imposed on subagents.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty

This bill would require private company employees to distribute voter registration applications or face civil penalties. Because of personal belief, some individuals, may not want to be involved in voter registration activities.

B. EFFECT OF PROPOSED CHANGES:

HB 125 enhances the opportunities of Florida residents to register to vote and keep their registration current. HB 125 requires commercial subagents of the FWCC that sell resident hunting, fishing, combination licenses or trapping permits to offer voter registration applications to those purchasing a license or permit. Subagents who fail to provide voter registration applications face a civil penalty of \$500 for the first infraction, \$1,000 for the second and \$2,500 for each infraction thereafter.

County supervisors of elections would be responsible for identifying and sending the appropriate number of voter registration applications to the subagents. Supervisors who fail to send the registration applications face fines that are similar to those imposed on subagents.

It is unclear how the definition of "third party voter registration organization" in s. 97.027(36), F.S., would apply to FWCC subagents. That section provides:

"Third-party registration organization" means any person, entity, or organization soliciting or collecting voter registration applications. A third-party voter registration organization does not include:

- (a) A political party;
- (b) A person who seeks only to register to vote or collect voter registration applications from that person's spouse, child, or parent; or
- (c) A person engaged in registering to vote or collecting voter registration applications as an employee or agent of the division, supervisor of elections, Department of Highway Safety and Motor Vehicles, or a voter registration agency.

If FWCC subagents are considered "third party voter registration organizations," they will be subject to the rules and penalties described in s. 97.0575, F.S., including:

- naming a registered agent to be filed with the Division of Elections;
- listing officers and people responsible for day to day operations;
- filing each quarter where they have conducted voter registration; and
- the imposition of fines on all officers of the company and persons collecting registrations ranging from \$500-\$5,000, plus applicable criminal penalties, if a registration is not delivered to the supervisor within ten days.

If FWCC subagents are deemed "voter registration agencies" under s. 97.021(40)¹, F.S., the following duties would be required of them:

- acceptance of voter registrations from each license applicant (ss. 97.053, 97.058(1), F.S.);
- development of a form that each applicant will answer in regard to voter registration (s. 97.058(2), F.S.);
- forwarding completed registrations to the applicable supervisor within 5 days (s. 97.058(6), F.S.);
- retention of any declinations to register for 2 years (s. 97.058(8), F.S.);
- no showing of political preference when registering persons (s. 97.058(8), F.S.); and
- oversight by the FWCC of the conduct of subagents in regard to voter registration (s. 97.058(10), F.S.).

There are additional prohibitions imposed on voter registration agencies. A person who provides such services shall not:

- seek to influence an applicant's political preference or party registration;
- display any such political preference or party allegiance;
- make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or
- make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

The Department of State (Department) raised the following concerns with HB 125:

- **Regulations/compliance:** The Department is concerned that FWCC subagents would not be bound by the regulations governing the Department of State, the supervisors of elections, voter registration agencies, or third-party voter registration organizations. They are especially concerned that the subagents would not be regulated in regards to promoting undue political influence and turning in voter registration timely.
- **Notice:** The bill contains no mechanism for supervisors of elections to receive an initial list or updates of subagents so that they can provide these subagents with voter registration applications.
- **Responsibilities:** FWCC subagents will be responsible for giving certain persons an "opportunity to register to update a voter registration record." This would cause problems with persons not buying a license and receiving a voter registration, potentially making the subagent a "third-party voter registration organization." The bill is unclear as to whether the subagent will simply hand out registration applications or also be required to receive completed applications and forward them to the supervisors. The subagents are not given a timeline for sending registrations to the supervisors of elections. No one is charged with the responsibility to train the subagents.

Duties of the supervisors of elections are unclear. The bill does not make clear the supervisors responsibility in regards to training the subagents or to the supplying and

¹ Section 97.021(40), F.S., defines "voter registration agency" as "any office that provides public assistance, any office that serves persons with disabilities, any center for independent living, or any public library."

picking up of registrations. The bill does not address how a supervisor will know when registration applications are needed.

- **Authority to Assess:** The bill does not address who would assess civil penalties. Under subsection (2) of section 372.574, F.S., which is unamended by the bill, the FWCC or any other law enforcement agency has the authority to enforce the statute.
- **Cost:** There is a cost associated to the supervisors with providing copies of voter registration applications to all the subagents.
- **Unintended Exposure to Criminal Penalties:** Under the bill, a supervisor of elections could potentially be subject to criminal sanctions. Under subsection (1)(d) of section 372.574, F.S., any person who violates any provision of section 372.574, F.S., is subject to 2nd degree misdemeanor charges. The bill does not amend this subsection to create an exception for the newly-created provision.
- **Legislative Intent:** The bill's effect is somewhat contrary to the recent trends and legislative interest in monitoring the flow of voter registration applications and activities. This past year, the Legislature specifically enacted section 97.0575, F.S., to address wide-spread complaints during the 2004 general election year that third-party voter registration groups were diverting and culling information from completed registration applications before turning them in to the supervisors of elections' offices, and that these organizations were either failing to submit them timely or not submitting them at all.

The bill as filed is effective upon becoming a law.

C. SECTION DIRECTORY:

Section 1 amends s. 375.574, F.S., to require subagents of the FWCC to conduct voter registration activity and provides penalties for non-compliance.

Section 2 provides the effective date as upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

2. Expenditures:

There would be little, if any, extra expense to the Department or supervisors, as they are currently responsible for reaching out to citizens in order to educate them on voting and elections, and to enhance voter registration opportunities.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There will be some impact on the subagents that must provide the voter registration applications and for training on voter registration. Some commercial enterprises may feel that the civil penalties of up to \$5,000 imposed on third-party voter registration organizations do not warrant engaging in the sale of hunting and fishing licenses.

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

The Ethics & Elections Committee adopted a strike-all amendment on January 25, 2006, which substantially modifies the bill. The strike-all does the following:

Section 1.

- Requires supervisors of elections to supply voter registration applications to the FWCC.

Section 2.

- Requires places that sell hunting, fishing or trapping licenses or permits to make available voter registration applications.
- Clarifies that the FWCC and its subagents are not voter registration agencies or third-party registration organizations.

Section 3.

- Effective October 1, 2006.
- If a person indicates when buying a license that he or she would like a voter registration application, this information will be made available to the supervisor of elections who will then send a voter registration application to the person.
- The FWCC may meet its responsibility to provide voter registration applications by making registration information available to supervisors of elections on an internet website.

- Provides that the FWCC will include a link to a voter registration application on its website.

Section 4.

- Provides an effective date of upon becoming a law.

The penalties that were contained in the original bill have been removed by the strike-all.

Representative Reagan offered one amendment to the strike-all amendment which was adopted. The amendment simply clarifies in section 2 of the bill that subagents *shall* offer voter registration applications and *may* provide them to persons, if requested.

Additional Notes from January 25, 2006 Meeting:

Two other states have recently considered similar legislation. House Bill 712 was filed in Montana in 2005. The bill would have required any site where license fees were accepted to also provide voter registration applications, and would have exempted these sites from being considered voter registration agencies. House Bill 712 died in committee.

In Georgia, SB 541 was enacted and recently signed into law. The bill requires most places where fish and wildlife licenses are sold to also conduct voter registration. Georgia adopted an approach that is similar to Florida's approach with regard to voter registration at driver's licenses offices and motor voter. Under the new law, the additional information needed for voter registration is added to the fish and wildlife license application and if the person wants to register, this additional information is included. The information is then transmitted electronically or on the proper application to the Secretary of State on a daily basis. Persons selling licenses are considered deputy registrars and are subject to similar restrictions for political activity as voter registration agencies in Florida.

Currently, there are 680 subagents that sell hunting, fishing or trapping licenses or permits in Florida. Of these, 174 are Wal-Mart stores.