

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Rules Subcommittee on Ethics and Elections

BILL: SB 116

INTRODUCER: Senator Wise

SUBJECT: Freeholder Voting

DATE: September 29, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Roberts	EE	Pre-meeting
2.	_____	_____	RC	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Section 100.241(2), F.S., requires a voter participating in a freeholder election to submit a sworn affidavit to an election inspector affirming that he or she is a qualified elector and freeholder residing in the county, district, or municipality in which the election or referendum is to be held. Senate Bill 116 permits freeholders to submit a written declaration affirming his or her status as a freeholder qualified to vote in a freeholder election in lieu of an affidavit. The bill also makes it a third degree felony for a person to provide a false declaration of freeholder status.

Senate Bill 116 substantially amends s. 100.241, F.S.

II. Present Situation:

A freeholder election is an election in which only qualified electors who own land in the jurisdiction may vote. Typically, freeholder elections concern bond issuance, district creation, and officer selection in counties, municipalities, and special districts. Some examples of freeholder elections in Florida are:

- issuance of local bonds to finance or refinance capital projects;¹
- freeholders who are qualified electors residing in a county must approve the issuance of bonds;²
- general obligations bonds;³

¹ Section 12, Article VII, Florida Constitution.

² Section 130.03, F.S.

³ Section 153.07, F.S.

- bonds to build bridges over navigable streams;⁴
- creation of a water or sewer district in unincorporated areas;⁵
- issuance of bonds for water or sewer districts;⁶ and,
- creation of special neighborhood improvement districts.⁷

By statute, “each registered elector who makes a sworn affidavit of ownership to the inspectors, giving either a legal description, address, or location of property in the elector’s name which is not wholly exempt from taxation shall be...considered a freeholder.”⁸ Currently, each freeholder voting in a freeholder election must submit an affidavit made before an inspector affirming that he or she is a freeholder and qualified elector residing in the county, district, or municipality in which the election or referendum is to be held.⁹ When a freeholder is voting by absentee ballot, he or she submits the same affidavit as those freeholders voting at the polls. However, the freeholder must go through the additional burden of finding a notary public to notarize his or her affidavit. If an election is limited to freeholders, a person who is not a freeholder commits a first degree misdemeanor if they vote in the freeholder election.¹⁰

Compliance with the affidavit requirement may be difficult, if not impossible, for an active duty military freeholder or other Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”) freeholder. Efforts to obtain notarization can be logistically difficult, if not dangerous in some circumstances. Further, voter participation may be impacted by excessive fees charged by overseas notaries public.

III. Effect of Proposed Changes:

The bill provides an alternative to the freeholder’s affidavit requirement by allowing the freeholder to submit a written declaration as provided in s. 92.525, F.S., attesting that he or she is a freeholder, a qualified elector residing in the county, district, or municipality in which the election or referendum is to be held, and identifying his or her property. Section 92.525, F.S., authorizes verification of a document by oath or affirmation before an officer or by signing a written declaration.¹¹ The form of the written declaration is specified in s. 92.525(2), F.S., which provides:

A written declaration means the following statement: “Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true,” followed by the signature of the person making the declaration, except when a verification on information or belief is permitted by law, in which case the words “to the best of my knowledge and belief” may be added. The written declaration shall be printed or

⁴ Section 130.18, F.S.

⁵ Section 153.53, F.S.

⁶ Section 153.56, F.S.

⁷ Section 163.511, F.S.

⁸ Section 100.241(3), F.S.

⁹ Section 100.241(2), F.S.

¹⁰ Section 100.241(5), F.S.

¹¹ Section 92.525(1), F.S.

typed at the end of or immediately below the document being verified and above the signature of the person making the declaration.

Pursuant to s. 92.525(3), F.S., a person who knowingly makes a false declaration commits perjury by false written declaration, a third degree felony.

By giving freeholders the choice to either execute a written declaration or to complete a sworn affidavit, the bill alleviates the difficulty absentee and UOCAVA voters may have in obtaining notarization because s. 92.525, F.S., does not require that a written declaration be countersigned. Finally, the bill makes it a third degree felony for any person to knowingly make a false written declaration.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
