

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 Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: PCS/CS/SB 1352 (508548)

INTRODUCER: Community Affairs Committee and Senator Ring

SUBJECT: Paper Reduction

DATE: April 21, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Roberts	EE	Fav/1 amendment
2.	Anderson	Yeatman	CA	Fav/CS
3.	Carey	Martin	ATD	Fav/CS
4.	Carey	Hansen	AP	Pre-Meeting
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

PCS/CS/SB 1352 addresses the stated goal of the State of Florida to decrease the paperwork burden associated with the conduct of state business. This bill furthers that goal by permitting the use of an electronic medium to collect and disseminate information as required by law in selected settings.

There is no fiscal impact to state revenues or expenditures. There may be a fiscal impact to local governments as supervisors of elections will be required to maintain email addresses for electronic ballots, and to property appraisers who will be required to provide notice of proposed property taxes and non-ad valorem assessments on a website.

The bill:

- Requires the statewide voter registration application to elicit the voter registration applicant's e-mail address and an indication of whether the applicant wishes to receive sample ballots by e-mail.
- Authorizes the supervisor of elections to provide electronic sample ballots to electors if certain requirements are met.

- Requires the clerk of a board of county commissioners to electronically transmit to the Department of State enacted ordinances, amendments, and emergency ordinances, and requires the Department to electronically confirm by e-mail the receipt and the effective date of such filings with the clerk.
- Permits the clerk of a value adjustment board to electronically notify the taxpayer and property appraiser of the board's decision in certain hearings if electronic means is selected by the taxpayer.
- Authorizes the property appraiser to prepare and make available certain tax information on his or her office's website, if the county governing board of that jurisdiction approves the measure by ordinance at the request of the property appraiser.
- Requires the property appraiser to provide legal notice in a periodical meeting the requirements of s. 50.011, F.S., that the notice of proposed property tax rates and non-ad valorem assessments are available on the property appraiser's website and authorizes notification of same by e-mail to persons who have requested such notice.

This bill substantially amends the following sections of the Florida Statutes: 97.052, 101.20, 125.66, 194.034, and 200.069.

II. Present Situation:

The Florida Legislature has on various occasions expressed that the reduction of the use of paper, where feasible, is the policy of the state.¹ This bill furthers the goal of lowering the use of paper by permitting the use of an electronic medium to collect and disseminate information as required by law in selected settings.

Voter Registration and Sample Ballots

Current law requires the Department of State to prescribe by rule a uniform statewide voter registration application.² The application must elicit certain information from the voter applicant, such as the applicant's name, date of birth, and address of legal residence.³ The application does not request a voter's e-mail address.

Current law also requires the supervisor of elections to publish a sample ballot in a newspaper of general circulation in the county, prior to the day of the election. If the county has an addressograph or similar system, the supervisor may mail a sample ballot to each registered elector in lieu of publication. The sample ballot must be mailed at least seven days prior to any election.⁴

¹ See sections 23.20-23.22, F.S. "The state must minimize the paperwork burden by evaluating its need for information, determining whether it already has access to the necessary information, and coordinating data collection initiatives at their source." Section 23.20(4), F.S. See also section 120.74(1)(e), F.S. "[E]ach agency shall perform a formal review of its rules every 2 years. In the review, each agency must [s]eek to improve efficiency, reduce paperwork, or decrease costs to government and the private sector."

² Section 97.052(1), F.S.

³ Section 97.052(2), F.S.

⁴ Section 101.20(2), F.S.

Transmittal of Enacted Ordinances

Current law provides requirements for counties to adhere to when exercising the ordinance-making powers conferred by the State Constitution.⁵ It establishes the following regular enactment procedure:

The board of county commissioners at any regular or special meeting may enact or amend any ordinance ... if notice of intent to consider such ordinance is given at least 10 days prior to said meeting by publication in a newspaper of general circulation in the county. A copy of such notice shall be kept available for public inspection during the regular business hours of the office of the clerk of the board of county commissioners. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the county where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.⁶

Certified copies of ordinances or amendments thereto must be filed with the Department of State by the clerk of the board of county commissioners within 10 days after enactment by the board. The ordinances or amendments take effect upon filing with the Department of State, unless the ordinance prescribes a later effective date.⁷

Value Adjustment Boards

Value adjustment boards are constituted in each county to conduct administrative hearings relating to assessments, complaints relating to homestead exemptions, appeals from tax exemptions denied, and appeals concerning ad valorem deferrals and classifications.⁸ The value adjustment board must render a written decision within 20 calendar days after the last day the board is in session. The clerk must then provide notice of the board's decision by first-class mail.⁹

Property Appraisers

Current law requires each property appraiser to provide notice of proposed property taxes and non-ad valorem assessments by first-class mail to each taxpayer listed on the current year's assessments. Elements that must be included on such notice are prescribed by statute.¹⁰

⁵ Section 125.66(1), F.S.

⁶ Section 125.66(2)(a), F.S.

⁷ Section 125.66(2)(b), F.S.

⁸ Section 194.032(1)(a), F.S.

⁹ Section 194.034(2), F.S.

¹⁰ Section 200.069, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 97.052, F.S., to require the statewide voter registration application to include a field for an applicant's e-mail address and an indication of whether the applicant wishes to receive sample ballots by e-mail.

Section 2 amends s. 101.20(2), F.S., to permit a supervisor of elections to provide electronic sample ballots to electors who have provided e-mail addresses and opted into the electronic ballot delivery system. It allows a supervisor of elections to mail or e-mail sample ballots to registered electors in lieu of publishing such ballots in a newspaper of general circulation in the county.

Section 3 amends s. 125.66(2)(b), F.S., to require a clerk of a board of county commissioners to electronically transmit to the Department of State enacted ordinances, amendments, and emergency ordinances. It requires the Department of State to electronically confirm by e-mail the receipt and the effective date of such filings with the clerk of the board of county commissioners.

Section 4 amends s. 194.034(2), F.S., to permit the clerk of a value adjustment board to electronically notify the taxpayer and property appraiser of the value adjustment board's decision in a hearing held pursuant to s. 194.034, F.S., if electronic means is selected by the taxpayer on the originally filed petition.

Section 5 amends s. 200.069, F.S., to require a property appraiser to provide legal notice in a newspaper or periodical meeting the requirements of s. 50.011, F.S., that proposed property taxes and non-ad valorem assessments are available for viewing and download at the appraiser's website. It also authorizes a property appraiser to provide notification by e-mail to property owners or other interested parties who have registered an e-mail address with the appraiser.

The property appraiser may prepare and make available on his or her office's website a notice of proposed property taxes and non-ad valorem assessments for each taxpayer listed on the year's assessment roll as a separate web page, link, attachment, or document, only after the county governing board has approved the measure by ordinance, as requested by the property appraiser. Such online notice from the appraiser must meet specified criteria, including, but not limited to, specifying all substantive elements required for such notice. The property appraiser may display the required substantive elements in a format different from that prescribed by the Department of Revenue only upon receiving prior written permission from the executive director of the Department. The format may contain additional substantive elements deemed important by the appraiser, in addition to the elements provided for by law.

Section 6 provides an effective date of October 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Sec. 18, of the Constitution of the State of Florida excuses local governments from complying with state mandates that impose negative fiscal consequences.

Subsection (a) provides, “No county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds” unless certain requirements are met. However, several exemptions and exceptions exist.

Subsection (d) of Art. VII, Sec. 18, exempts those laws that have an insignificant fiscal impact from the requirements of the mandates provision. Whether a particular bill results in a significant impact must be determined on an aggregate, statewide basis. Laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10 (\$1.9 million for FY 2012-2013¹¹), are exempt.¹²

This bill could cause counties to incur additional expenses associated with the requirement that the property appraiser post certain tax information on his or her office’s website. The overall collective financial impact would appear unlikely to exceed \$1.9 million per year in the aggregate. Accordingly, it would appear as if the bill is exempt from paragraph (a).

The mandates provision does not apply to the changes being made to ss. 97.052 and 101.20, F.S., because subsection 18(d) of Article VII, Fla. Const., explicitly exempts election laws from the mandates provision.

B. Public Records/Open Meetings Issues:

Current law provides a public record exemption for certain information held by an agency for purposes of voter registration.¹³ SB 1260 is the public records bill linked to SB 1352 expanding the current public records exemption for voter registration information to include e-mail addresses of a voter registration applicant or voter.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Preclearance Requirement

The Department of State provided the following comments regarding preclearance:

Under section 5 of the Voting Rights Act, new statewide legislation that implements a voting change, including but not

¹¹ Based on the Demographic Estimating Conference’s final population estimate for April 1, 2012, which was adopted on November 7, 2012. The Executive Summary can be found at:

<http://edr.state.fl.us/Content/conferences/population/demographicsummary.pdf> (Last visited on March 15, 2013).

¹² See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Fiscal Impact*, (September 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited on March 15, 2013).

¹³ Section 97.0585, F.S.

limited to, a change in the manner of voting, change in registration, balloting, and the counting of votes, change in candidacy requirements and qualifications, change in the composition of the electorate that may vote for a candidate, or change affecting the creation or abolition of an elective office, is subject to preclearance by the U.S. Department of Justice or the federal District Court for the District of Columbia. The preclearance review is to determine if the change has a discriminatory purpose or effect that denies or abridges the right to vote on account of race, color or membership in a language minority group in a covered jurisdiction. Florida has five covered jurisdictions subject to preclearance: Collier, Hardee, Hendry, Hillsborough, and Monroe counties. Until precleared by federal authorities, the legislation is unenforceable in these five counties.¹⁴

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of State does not anticipate any fiscal impact associated with modifying the uniform statewide voter application.

There may be a fiscal impact on supervisors of elections associated with maintaining the e-mail address of voters and voter registration applicants, and with monitoring which registered voters wish to receive sample ballots electronically. Additionally, there may be costs to supervisors of elections related to establishing a system to send sample ballots electronically. However, it is anticipated that some, if not most, of these costs may be offset by savings resulting from the electronic provision of sample ballots.

There may be a fiscal impact on property appraisers associated with the requirement that a property appraiser prepare and make available on his or her office's website notice of proposed property taxes and non-ad valorem assessments for each taxpayer listed on the year's assessment roll.

¹⁴ Department of State, *Analysis on Senate Bill 1352* (March 4, 2013) (on file with the staff of the Senate Community Affairs Committee).

VI. Technical Deficiencies:

According to the Department of Revenue's analysis of SB 1352, "It is not clear how the property appraisers will prove compliance with ss. 200.065 and 200.069, F.S., when electronic notification is used."¹⁵

Also, s. 200.065, F.S., refers to the mailing of the TRIM Notice with regard to the TRIM timeline and the deadline for filing VAB petitions. This section would have to be updated to refer to the posting of the notices online.¹⁶

VII. Related Issues:

According to the Department of Revenue's analysis of SB 1352, "Section 4 of this bill would require amendments to the VAB petition form, DR-486, and Rule 12D-9.015, F.A.C."¹⁷

VIII. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on April 17, 2013:

The committee substitute authorizes, rather than requires, the property appraiser to make certain information available on a website, and only after approval by ordinance adopted by the county governing board of that jurisdiction at the request of the property appraiser. In addition, the property appraiser is required to provide legal notice meeting the statutory requirements of legal and official advertisements.

CS by Community Affairs on March 20, 2013:

The committee substitute removes the portions of the bill dealing with bail bondsman, and changes the effective date to October 1, 2013.

- B. **Amendments:**

None.

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

¹⁵ Department of Revenue, *Analysis on Senate Bill 1352* (March 12, 2013) (on file with the staff of the Senate Community Affairs Committee).

¹⁶ *Id.*

¹⁷ *Id.*