

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1011 Addresses of Legal Residence  
**SPONSOR(S):** Government Operations Subcommittee; Spano  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1360

| REFERENCE                             | ACTION              | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|---------------------------------------|---------------------|---------|--|
| 1) Government Operations Subcommittee | 12 Y, 0 N, As<br>CS | Toliver | Williamson                               |
| 2) State Affairs Committee            |                     |         |  |

### SUMMARY ANALYSIS

Current law requires the Department of State to prescribe by rule a uniform statewide voter registration application. The voter registration application must be designed to elicit certain information from an applicant. A voter registration application must contain a person's legal residence in order to be considered complete; however, the term legal residence is not defined within the Florida Election Code.

Supervisors of elections (supervisors) act as the receiver and custodian of voter registrations within their county. Supervisors must maintain a list of valid residential street addresses for the purpose of verifying the legal addresses of voters residing within their county.

The bill defines the term "address of legal residence" as the legal residence of a person replete with all information necessary to distinguish one residence from another, such as apartment numbers, lot numbers, room numbers, or dormitory room numbers. It requires the voter registration application to include the applicant's address of legal residence in order to be considered complete. Finally, the bill requires supervisors to include within their list of valid residential street addresses all information necessary to differentiate one residence from another.

The bill does not appear to have a fiscal impact on state government, but may have an insignificant fiscal impact on local governments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

The Florida Voter Registration Act (FVRA)<sup>1</sup> delineates the qualifications and requirements necessary for a person to register to vote in Florida.<sup>2</sup> In order to be a registered voter in Florida, a person must be at least 18 years of age, a citizen of the United States, a legal resident of Florida, a legal resident of the county in which the person seeks to be registered, and registers pursuant to the Florida Election Code.<sup>3</sup>

The Department of State must prescribe by rule a uniform statewide voter registration application.<sup>4</sup> The uniform statewide voter registration application must be designed to elicit certain information from the applicant.<sup>5</sup> A voter registration application is considered complete if it contains the following information necessary to establish the applicant's eligibility:<sup>6</sup>

- The applicant's name, legal residence address,<sup>7</sup> and date of birth.
- A mark in the checkbox affirming the applicant is a citizen of the United States.
- The applicant's current and valid Florida driver license number or identification number, or if the applicant does not have a Florida driver's license or identification card, then the last four numbers of his or her social security number.<sup>8</sup>
- A mark in the checkbox affirming that the applicant has not been convicted of a felony or that, if convicted, has had his or her civil rights restored.
- A mark in the checkbox affirming that the applicant has not been adjudicated mentally incapacitated with respect to voting or that, if so adjudicated, has had his or her right to vote restored.
- The applicant's signature or a digital signature transmitted by the Department of Highway Safety and Motor Vehicles.

The term "legal residence" is not defined in the Florida Election Code,<sup>9</sup> however, the term has been defined in case law.<sup>10</sup> A legal residence "is the place where a person has fixed an abode with the present intention of making it their permanent home."<sup>11</sup> Since a "legal residence consists of the concurrence of both fact and intention. The bona fides of the intention is a significant factor."<sup>12</sup>

Supervisors of elections (supervisors) act as the receiver and custodian of new voter registrations, as well as the receiver and custodian of any changes in the status of current registered electors within their county.<sup>13</sup> Supervisors must maintain a list of valid residential

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<sup>1</sup> Part II, ch. 97, F.S.

<sup>2</sup> See ss. 97.041-97.105, F.S.

<sup>3</sup> Section 97.041(1)(a), F.S.

<sup>4</sup> Section 97.052(1), F.S.; Fla. Admin. Code R. 1S-2.040 incorporating form DS-DE 39.

<sup>5</sup> See s. 97.052(2), F.S.

<sup>6</sup> Section 97.053(5)(a), F.S.

<sup>7</sup> The Florida Voter Registration Application, incorporated by the Division of Election into rule, has distinct sections for an applicant's: street address, apt/lot/unit number, city, county, and zip code. Fla. Admin. Code R. 1S-2.040 incorporating form DS-DE 39.

<sup>8</sup> If an applicant has not been issued a current and valid Florida driver license, identification card, or social security number, the applicant must affirm this fact in the manner prescribed in the uniform statewide voter registration application.

<sup>9</sup> "No provision of the Florida Election Code defines legal residency. However, this office and Florida courts have consistently construed legal residence to mean a permanent residence, domicile, or permanent abode, rather than a residence that is temporary." Op. Div. of Elections, DE 93-05.

<sup>10</sup> *Minick v. Minick*, 149 So. 483 (Fla. 1933).

<sup>11</sup> *Id.*

<sup>12</sup> *Bloomfield v. City of St. Petersburg Beach*, 82 So.2d 364 (Fla. 1955).

<sup>13</sup> Section 98.015(3), F.S.

street addresses<sup>14</sup> for the purpose of verifying the legal addresses of voters residing within their county.<sup>15</sup>

### **Effect of the Bill**

The bill defines the term “address of legal residence” for purposes of the Florida Election Code. It defines “address of legal residence” to mean the legal residential address of the elector and includes all information necessary to differentiate one residence from another, including, but not limited to, a distinguishing apartment, suite, lot, room, or dormitory room number or other identifier.

The bill requires the voter registration application to include the applicant’s address of legal residence in order to be considered complete.

Lastly, the bill requires supervisors to include within their list of valid residential addresses, to the maximum extent practicable, information necessary to differentiate one address from another, such as an apartment, suite, lot, room, or dormitory room number.

#### **B. SECTION DIRECTORY:**

Section 1: Amends s. 97.021, F.S., defining the term “address of legal residence.”

Section 2: Amends s. 98.053, F.S., adding address of legal residence to the requirements for a complete voter registration application.

Section 3: Amends s. 98.015, F.S., requiring supervisors to include any information necessary to distinguish one address from another within their list of valid street addresses.

Section 4: Provides an effective date of July 1, 2015.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

The bill does not appear to impact state government revenues.

##### **2. Expenditures:**

The bill does not appear to impact state government expenditures.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

##### **1. Revenues:**

The bill does not appear to impact local government revenues.

##### **2. Expenditures:**

Supervisors may experience a cost associated with revising their list of valid residential addresses to include information such as an apartment, suite, lot, room, or dormitory room number; however, it is likely the cost will be insignificant.

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<sup>14</sup> “Each county Supervisor shall submit electronically, at least monthly, by the 10<sup>th</sup> of each month, to the Division of Elections to the FVRS [Florida Voter Registration System] an uploaded index of valid residential street addresses so that the legal addresses on application can be verified as valid at the time of registering or updating a registration record.” Fla. Admin. Code R 1S-2.039(12)(a).

<sup>15</sup> Section 98.015(12), F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill is exempt from the mandate requirements because it is amending the elections laws.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of State may be required to revise its rule codifying the Florida voter registration application. The bill does not appear to require any additional rulemaking authority for the Department of State.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 24, 2015, the Government Operations Subcommittee adopted one amendment and reported the bill favorably with a committee substitute. The amendment removes redundant language that restates the definition of "address of legal residence."

This analysis is drafted to the committee substitute as approved by the Government Operations Subcommittee.