

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: SB 7064

INTRODUCER: Ethics and Elections Committee

SUBJECT: Elections

DATE: April 7, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Fox</u>	<u>Roberts</u>		EE Submitted as Committee Bill
1.	<u>Sneed</u>	<u>Miller</u>	<u>ATD</u>	Pre-meeting
2.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

I. Summary:

SB 7064 is an elections administration bill that makes a number of substantive changes to the Florida Election Code, including:

- **Online Voter Registration:** Directs the Division of Elections in the Department of State to develop an Online Voter Registration system. The online system must be able to accept applications beginning October 1, 2017. Further directs the division to submit a report to the President of the Senate and the Speaker of the House by January 1, 2016 regarding the implementation of the system;
- **Voter Signature Updates:** Allows voters to update their signatures until 5 p.m. on the day before the election, for the purpose of canvassing absentee and provisional ballots;
- **Voter IDs:** Expands the list of permissible voter IDs to include U.S. passport *cards*, federal veterans health ID cards, and Florida concealed weapons/firearms licenses;
- **Mail-Ballot-Only Elections:** Authorizes *candidate* mail-ballot-only elections in certain municipalities;
- **Absentee Ballot Information:** Extends the daily deadline for supervisors to upload absentee ballot information to the Division of Elections during an election cycle, from 8 a.m. to noon; and,
- **Voting Precincts:** Beginning in 2021, requires voting precincts to conform to U.S. Census block boundaries, except in certain cases involving changed county, incorporated municipality, or other political subdivision boundaries.

The bill also makes technical and conforming changes to the election code, including modifying the requirements for sample ballot publication, correcting an erroneous deadline on Absentee Ballot Affidavits used to “cure” missing voter signatures, and modifying the timing requirements for designating early voting sites in special elections.

According to the Department of State, development of the online voter registration system is estimated to cost between \$250,000 and \$1,800,000. Funds are available in the department's Federal Grants Trust Fund for the one-time development costs and recurring operating costs of the online registration system. The trust fund includes federal funds awarded to the states pursuant to the Help America Vote Act of 2002 (HAVA).

According to information provided by the Department of Highway Safety and Motor Vehicles on a similar 2014 bill, implementation of the bill will cost an estimated \$20,400 for system programming hours to conduct voter information verification on voter registration applications submitted online.

Except as otherwise indicated, the bill takes effect on July 1, 2015.

II. Present Situation:

Most of the issues in the bill are part of the 2015 legislative package of the Florida State Association of Supervisors of Elections ("FSASE"). Because the election administration issues presented are wide-ranging and discrete, this analysis will incorporate the Present Situation into the section-by-section analysis below (see, **Part III., Effect of Proposed Changes**).

III. Effect of Proposed Changes:

The bill makes the following changes, most of which are included in the 2015 FSASE legislative package:

Section 1. Online Voter Registration. Creates s. 97.0525, F.S., directing the Division of Elections to develop a secure, online voter registration ("OVR") system to become operation on October 1, 2017. This section contains the substance of CS/SB 228 (2015), by the Ethics and Elections Committee and Senators Clemens and Richter.

According to the National Conference of State Legislatures ("NCSL"), 20 states currently offer OVR.¹ An additional four states have adopted legislation authorizing OVR but have yet to implement it, including Hawaii (2012) and West Virginia (2013). Three states — Michigan, New Mexico, and Ohio — offer some form of "limited online registration."²

Florida was not included among these states, though it does have an electronic system for submitting voter registration applications from Department of Highway Safety & Motor Vehicles ("DHSMV") offices — which includes a voter's digital signature.³ Floridians not registering

¹ National Conference of State Legislatures, Online Voter Registration, Overview (Dec. 10, 2014), available at <http://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx> (last accessed 3.9.2014).

² *Id.*

³ DHSMV's staff analysis on a similar OVR bill from the 2014 Regular Session provides:

Currently, driver license examiners ask driver license or identification card applicants if the applicant would like to apply to register to vote or update his or her current voter registration information during the credential process. If so, an electronic voter registration application is completed, with a digital signature, and the voter oath is administered. The voter registration application includes data specific to the voter registration process, such as whether the person is a convicted felon, party affiliation, military status, whether the person needs voting assistance and previous voter registration data. The voter application also requires the examiner to re-key the

electronically at a DHSMV office must fill out a paper voter registration application and return it to their local county supervisor of elections, or to any of the following entities: any supervisor of elections' office in the state, or to a voter registration agency — including an armed forces recruitment office, a public library, or the Division of Elections.⁴ The division's website and most (if not all) county supervisor's websites contain an electronic version of the official Florida Voter Registration Application which can be printed out, sworn, and affirmed by the applicant's signature, and mailed.⁵

Beginning October 1, 2017, the bill creates an online voter registration system for registering first-time voters and updating existing voter registrations. The division is tasked with establishing the secure Internet website and developing security measures to prevent unauthorized tampering with a voter's registration information, including the use of a unique identifier for each applicant. The system must also comply with certain federal laws to ensure equal access to voters with disabilities.

Upon submission of a completed online voter registration application, the website must generate an immediate electronic confirmation that the supervisor has received it and will provide the applicant instruction with respect to checking the status of the application.

Specifically, the new online voting system will:

- Compare an applicant's driver's license number or Florida ID number with DHSMV records to confirm the name and birth date of the applicant.
- *If the applicant's name and birth date are consistent*, electronically transmit the application to the appropriate supervisor of elections along with the applicant's digital signature (if he or she has on file with DHSMV), in which case the application process can proceed electronically.
- *If an otherwise eligible applicant's name and birth cannot be verified, or if the applicant has no driver's license or Florida ID card*, the system must populate the form and direct the applicant to print, sign and date the application and deliver it to the appropriate Supervisor of Elections for disposition pursuant to s. 97.073, F.S.⁶

Section 2. OVR Implementation Schedule. Creates an unnumbered section of Florida Statutes, requiring the Division of Elections, by January 1, 2016, to provide a written report to the Legislature summarizing progress to date in implementing OVR, expected implementation timeframes, and any further necessary legislative proposals, if any.

customer's address in order to verify it against a Department of State database, as required by law. The customer receives a printed application for his or her review. At the close of business, the day's voter registration applications, changes, and declinations are submitted electronically to the Department of State.

DHSMV's 2014 Agency Legislative Bill Analysis, *SB 784*, at p.2 (January 31, 2014) (Section 2.1., Present Situation), available at, <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=3210> (last visited 3.9.2015).

⁴ Florida Department of State website, <http://election.dos.state.fl.us/voter-registration/voter-reg.shtml> (last accessed 2.7.2014).

⁵ Florida Voter Registration Application Form, available at the Division of Elections website, <http://election.dos.state.fl.us/pdf/webappform.pdf> (last visited 3.9.2015).

⁶ Section 97.073, F.S., requires a Supervisor of Elections to request any required information missing from the voter registration application.

Section 3. Voter Registration IDs/Absentee Registrants. Amends s. 97.0535, F.S., authorizing the use of the following types of voter IDs for a very narrow class of mail-in, voter registration applicants (who are required to produce additional identification in addition to a voter registration application):⁷

- U.S. Passport cards⁸ (as opposed to U.S. Passport books);
- U.S. Dept. of Veterans Affairs veteran health ID cards; and,
- Florida concealed carry weapons/firearms licenses.

Florida law currently allows the following forms of ID for these special absentee applicants: U.S. Passport; debit or credit card; military ID; student ID; retirement center ID; neighborhood association ID; public assistance ID.

Section 4. Voter Signature Updates. Amends s. 98.077, F.S., allowing voters to update their signatures up until *5 p.m. on the day before an election*, for purposes of verifying absentee and provisional ballots. Currently, a voter may change their signature up until the canvassing board begins canvassing absentee ballots, which can start as early as 15 days before an election.⁹

Section 5. Voting Precincts/Polling Place Boundaries. Amends s. 101.001, F.S., providing that beginning after the 2020 U.S. Decennial Census, supervisors may only use U.S. Census block boundaries to create or alter voting precincts. In cases where the Census block boundaries split or conflict with the boundary of a county, incorporated municipality, or other political subdivision, such boundaries may be used (provided they meet the Census criteria for block boundaries).¹⁰ Currently, supervisors have additional options for establishing precinct boundaries.¹¹

⁷ This expansion applies to applicants who: 1) Register to vote by mail; 2) Have never previously voted in Florida; and, 3) Have NOT been issued a current and valid Florida driver license, Florida ID card, or social security number. Section 97.0535, F.S. Some exemptions to the additional ID requirements apply. *Id.*

⁸ The U.S. State Department began producing the U.S. Passport Card on July 14, 2008; as of September 2013, more than 7,000,000 Passport Cards were issued to U.S. citizens. U.S. Dept. of State, Bureau of Consular Affairs web site, U.S. Passport Card, History, available at <http://travel.state.gov/content/passports/english/passports/information/card.html> (last accessed 3.9.2015) The card is intended as a less expensive, wallet-size alternative to a passport book for those who travel frequently by land or sea (not air) to Canada, Mexico, the Caribbean or the Bahamas. From a security standpoint, applicants must produce the same documents and are subject to the same standards of identity as those applying for a passport book. U.S. Dept. of State, Bureau of Consular Affairs web site, Passports, Frequently Asked Questions, U.S. Passport Card, available at <http://travel.state.gov/content/passports/english/passports/FAQs.html> (last accessed 3.9.2015).

⁹ Sections 98.077(4), 101.68(2)(a), F.S. This change correlates with the current deadline for “curing” an absentee ballot that is *missing* a voter’s signature, a new process authorized in statute at the request of the FSASE in 2013. Section 101.68(4), F.S.; Ch. 2013-57, s. 15, LAWS OF FLA. Prior to that time, once a ballot was received by a supervisor it was deemed “cast” — meaning in “final” form — for purposes of making changes or additions. *Id.* As such, the change in this section represents a wholesale expansion of the concept of “curing” defective ballots post-submission/post-receipt by a supervisor.

¹⁰ This exemption is meant to account for post-Census political boundary changes, such as when a municipality annexes a parcel of land; the Decennial Census represents only a “snapshot” in time, with 10 years between “photos.”

¹¹ Current law provides that U.S. Census block boundaries must be used to draw precincts, unless there’s a census block boundary split or those boundaries conflict with the following:

- Governmental unit boundaries reported in the most recent U.S. Census Boundary and Annexation Survey;
- Visible features that are readily distinguishable on the ground (i.e., streets, railroads, tracks, streams, lakes), and that are indicated on certain maps;
- Boundaries of public parks, public school grounds, or churches; or,
- Boundaries of counties, incorporated municipalities, or other political subdivisions that meet criteria established by the U.S. Census Bureau for block boundaries.

Section 101.001(3)(e), F.S.

Section 6. Voter ID at the Polls. Amends s. 101.043, F.S., adding the following types of acceptable voter IDs at the polls to the nine (9) currently authorized¹² — the same new IDs as the bill authorizes for certain first-time, voter registration applicants:

- U.S. Passport *cards* (as opposed to U.S. Passport books);
- U.S. Dept. of Veterans Affairs veteran health ID cards; and,
- Florida concealed carry weapons/firearms licenses.

Section 7. Sample Ballot Publication. Amends s. 101.20, F.S., allowing supervisors to either publish a sample ballot in a local newspaper before an election **or** send a registered voter a sample ballot by U.S. Mail or e-mail.

Prior to the passage of the 2013 Paper Reduction Act,¹³ supervisors of elections had the option to *either* publish a sample ballot in a newspaper of general circulation in the county or mail one by U.S. Mail to registered voters. The Act authorized sending sample ballots by e-mail, but also set-up the *double requirement* of publishing **and** sending a sample ballot.

Section 8. All-Mail-Ballot Elections; *municipal candidates*. Amends s. 101.6102, F.S., allowing cities to conduct *candidate* elections exclusively by mail, if approved by the governing body of the municipality and the supervisor of elections. Currently, only local *referenda* elections may be conducted with all-mail balloting.¹⁴

Section 9. Absentee Ballot Information; *daily data updates*. Amends s. 101.62, F.S., delaying until noon the supervisor's daily reporting of absentee ballot progress information.¹⁵

Beginning 60 days before the primary until 15 days after the general election, the county supervisors currently must provide the absentee ballot progress information at *8 a.m. every day, including weekends*, in electronic format. They must contemporaneously provide this information to the Division of Elections. The information is made available to the voter requesting the absentee ballot, election officials, political parties, qualified candidates with

¹² The following forms of voter IDs are currently acceptable at the polls:

1. Florida driver license;
2. Florida ID card;
3. U.S. passport;
4. Debit or credit card;
5. Military identification;
6. Student identification;
7. Retirement center ID;
8. Neighborhood association ID; or,
9. Public assistance ID.

Section 101.043(1)(a), F.S.

¹³ 2013-192, LAWS OF FLA.

¹⁴ Section 101.6102, F.S.

¹⁵ Information reported includes each request for an absentee ballot, the date the request was made, the date the absentee ballot was delivered to the voter, a designee, or the post office, the date the ballot was received back by the supervisor, and the absence of the voter's signature on the absentee ballot certificate (if applicable). Section 101.62(3), F.S.

opposition in an upcoming election, and registered political committees for political purposes only.¹⁶

The identified purpose of delaying the daily data update is to coincide with the noontime early voting data upload that supervisors must provide to the division for 8 to 14 days preceding the primary and general elections.¹⁷ That adds up to about one month of early voting uploads, assuming a county chooses the maximum 14 days of early voting for each election; the absentee ballot data upload occurs for about 5 months — give or take.

Section 10. Conforming. Amends s. 101.65, F.S., modifying the absentee ballot voter instructions to incorporate the new deadline created by the bill for updating signatures on file with the supervisor of elections (5 p.m. on the day before the election, instead of when absentee ballot canvassing begins [up to 15 days before an election]).

Section 11. Early Voting Sites; special elections. Amends s. 101.657, F.S., granting supervisors discretion to designate early voting sites in special elections “as necessary” instead of 30 days before an election; time frames are often tighter than in a primary or general election. This change should impact only designation of the *timing*, not the types, of early voting sites.

Sections 12 and 13. Conforming/Technical. Amends ss. 101.68 and 101.6923, F.S., modifying instructions for absentee ballot affidavits and the voter’s certificate for first-time absentee voters to incorporate various changes made in other sections of bill; also, corrects an erroneous deadline on the Absentee Ballot Affidavit with respect to “curing” an absentee ballot without a signature.

Section 14. Effective Date. The bill takes effect on July 1, 2015, except as otherwise provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁶ It is unclear whether, and, if so, to what extent, this 4-hour delay might adversely impact the ability of candidates, parties, and political committees to coordinate their absentee ballot get-out-the-vote (“GOTV”) drives.

¹⁷ Florida State Assn. of Supervisors of Elections, [2015 FSASE Legislative Priorities](http://myfloridaelections.com/ew_pages/2015_fsase_legislative_priorities_12815.pdf) at p. 2 (undated), available at http://myfloridaelections.com/ew_pages/2015_fsase_legislative_priorities_12815.pdf (last accessed 3.10.2015); see also s. 101.657, F.S. (discussing the timing of early voting and the daily data upload requirement).

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:**Sample Ballot Publication*****Revenue; recurring***

SB 7064 may cause local newspapers to lose some revenue in the form of fees for publishing sample ballots, as supervisors of elections are increasingly moving to mailing (or e-mailing, as of the last election cycle) sample ballots to voters' residences. The overall amount of revenue lost will depend on how many supervisors choose to mail or e-mail sample ballots in lieu of publication.

C. Government Sector Impact:**Sample Ballot Publication*****Expenditures; recurring***

Supervisors of elections will save money each election by either foregoing newspaper publication or the mailing or e-mailing of sample ballots to voters. The amount saved will depend on the number of registered voters in the county and the cost of the particular method of distribution or publication.

Online Voter Registration***Expenditures; nonrecurring (DHSMV)***

In its agency bill analysis on SB 784 (2014), which was nearly identical to Section 1 of this bill, the DHSMV estimated that it will take about 270 nonrecurring programming hours at a cost of \$20,400 to provide verification for the name, date of birth, Florida Driver's license number, or Florida identification card number after voter registration applications are submitted online. The DHSMV has not yet provided an agency bill analysis CS/SB 228 (2015), the Committee's stand-alone OVR bill.

Expenditures; recurring/nonrecurring (DOS)

According to the Division of Elections, the cost of developing and operating an online voter registration system is indeterminate, yet likely significant. Based on information from other states, the division projects that development costs could range from \$250,000 to \$1,800,000. The division may also need to enlist the services of experts to ensure that

the new system meets nationally accepted accessibility standards for individuals with disabilities.

Additionally, the Division of Elections states that the proposed system could negatively disrupt and delay two independent ongoing major multi-year system modernization efforts for the Department of State and DHSMV. The Department of State has initiated plans to update its Florida Voter Registration System (FVRS). DHSMV has completed year 1 of a 5-year plan to rewrite its Driver and Vehicle Identification Database system (DAVID).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 97.0525, 97.0535, 98.077, 101.001, 101.043, 101.20, 101.6102, 101.62, 101.65, 101.657, 101.68, and 101.6923.

This bill creates an unnumbered section of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.