

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 355 Supervisor of Elections Salaries

**SPONSOR(S):** Government Operations Subcommittee; Local Government Affairs Subcommittee; Artes

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/CS/SB 514

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	11 Y, 0 N, As CS	Darden	Miller
2) Government Operations Subcommittee	7 Y, 6 N, As CS	Toliver	Williamson
3) Local & Federal Affairs Committee	15 Y, 0 N	Darden	Kiner

### SUMMARY ANALYSIS

The supervisor of elections is a county officer created by the Florida Constitution. The supervisor of elections is responsible for administering the state's voter registration system at the local level and managing the logistics of elections conducted in the county.

The salaries for most county constitutional officers are set by a statewide formula. This formula provides a base salary determined by a county's population group and a group rate for each person in excess of minimum number needed to qualify for the population group. While the base salary differs between the various county constitutional officers, the additional salary above the base for the population group is calculated using the same multiplier rate for all officers except the supervisor of elections.

The bill increases the population group multiplier rates used to calculate the salaries above the base for supervisors of elections to the same as used for other county constitutional officers. The bill also increases the base salary for supervisors of elections to the rate used to calculate the salaries for tax collectors, property appraisers, and clerks of circuit court.

The bill would have an insignificant negative fiscal impact on local governments, since it would increase the compensation for the county supervisor of elections.

The effective date of the bill is July 1, 2016.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

##### Supervisor of Elections

The supervisor of elections is a county office created by the Florida Constitution.<sup>1</sup> The specific duties and responsibilities of the office are defined by ch. 98, F.S. (Registration Office, Officers, and Procedures).<sup>2</sup> The supervisor of elections is responsible for:

- Updating voter registration information;<sup>3</sup>
- Entering new voter registrations into the statewide voter registration system;<sup>4</sup>
- Determining if a voter registration applicant is ineligible;<sup>5</sup>
- Acting as the official custodian of documents received related to the registration of electors and changes in the voter registration status of electors of the county;<sup>6</sup>
- Preserving certain statements and other documentation concerning campaign finances pursuant to ch. 106, F.S.;<sup>7</sup>
- Appointing deputy supervisors;<sup>8</sup>
- Making training for voter registration procedures available to individuals, groups, centers for independent living, and public libraries in the county;<sup>9</sup>
- Ensuring voter registration and list maintenance procedures comply with state and federal statutes and regulations;<sup>10</sup>
- Maintaining the registration list to ensure the integrity of the electoral process;<sup>11</sup> and
- Maintaining a list of valid residential street addresses for the purposes of verifying the legal addresses of all voters residing in the county.<sup>12</sup>

The supervisor of elections is also responsible for managing the logistics of general, primary, and special elections.<sup>13</sup> These duties include:

- Providing recommendations to the board of county commissioners in drawing election precincts for the county and transmitting information to the Department of State;<sup>14</sup>
- Ensuring the security and maintenance of voting equipment;<sup>15</sup>
- Publishing a sample ballot in a newspaper of general circulation;<sup>16</sup>
- Appointing poll workers to serve as clerks or inspectors for each precinct of the county;<sup>17</sup>
- Conducting training for inspectors, clerks, and deputy sheriffs in their duties and responsibilities as election officials;<sup>18</sup>

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<sup>1</sup> Art. VIII, s. 1(d), Fla. Const. The other county constitutional officers are the sheriff, tax collector, property appraiser, and clerk of the circuit court.

<sup>2</sup> Chapter 98, F.S.

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

<sup>4</sup> *Id.*

<sup>5</sup> Section 98.045, F.S.

<sup>6</sup> Section 98.015(3), F.S.

<sup>7</sup> Section 98.015(5), F.S.

<sup>8</sup> Section 98.015(8), F.S.

<sup>9</sup> Section 98.015(9), F.S.

<sup>10</sup> Section 98.015(10), F.S.

<sup>11</sup> Section 98.065, F.S.

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

<sup>13</sup> *See generally* ch. 102, F.S.

<sup>14</sup> Section 101.001, F.S.

<sup>15</sup> Sections 101.015, 101.5612, F.S.

<sup>16</sup> Section 101.20, F.S.

<sup>17</sup> Section 102.012(1)(a), F.S.

- Informing the clerk of each polling location about the area in which soliciting is unlawful;<sup>19</sup>
- Creating the form for tabulation of votes and proclamation of results;<sup>20</sup>
- Serving as a member of the county canvassing board to publicly review absentee and provisional ballots;<sup>21</sup> and
- Presenting the certification of election to the winning candidate.<sup>22</sup>

### Compensation of County Officials

Since 1961, the salaries of county elected officials have been standardized across the state.<sup>23</sup> Previously, the salaries of county officials had been adjusted by a “haphazard, preferential, [and] inequitable” series of special acts.<sup>24</sup> The current system applies to all officials, except for those whose salary is set by a county home rule charter and officials of counties with a chartered consolidated form of government.<sup>25</sup>

The salaries of county elected officials are funded at the county level, by a resolution of the board of county commissioners in concurrence with the elected official involved.<sup>26</sup> This resolution remains in effect for the official’s current term of office, but may be rescinded at the end of each fiscal year by an agreement between the official and the board of county commissioners.<sup>27</sup> The payment of the official’s salary comes from the budget for his or her office, but the county is liable for paying the officer’s salary from the general revenue fund if the budget for the office is insufficient.<sup>28</sup> If this occurs, the county must notify the Department of Financial Services and the deficiency is listed in the comptroller’s annual report of county finances and county fee officers.<sup>29</sup>

The salaries for all county elected officials are based on a formula established by statute.<sup>30</sup> For the offices created by the Florida Constitution,<sup>31</sup> the salary schedule divides counties into six groups based on population.<sup>32</sup> These groups range from population group I, consisting of counties with less than 50,000 residents, to population group VI, consisting of counties with 1,000,000 or more residents. The salary rate of the official is calculated by adding the base salary for the county’s population group to the product of the county’s group rate and the number of residents in excess of the minimum for the population group.

Currently, all county constitutional officers except the supervisor of elections have the same group rate for each population group.<sup>33</sup> The current population group rate differential between the supervisor of elections and other county constitutional officers has existed since 1980.<sup>34</sup> The base salaries for county constitutional officers have more variance, with the sheriff receiving the highest amount, the clerk of

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<sup>18</sup> Section 102.014(1), F.S.

<sup>19</sup> Section 102.031(4)(c), F.S. “Soliciting” includes, but is not limited to, seeking votes, facts, opinions, or contributions; distributing political or campaign materials, leaflets, and handouts; conducting an unauthorized poll; seeking signatures on a petition; and selling any item. Section 102.031 (4)(b), F.S.

<sup>20</sup> Section 102.071, F.S.

<sup>21</sup> Section 102.141, F.S.

<sup>22</sup> Section 102.155, F.S.

<sup>23</sup> Chapter 61-461, Laws of Fla., codified as Ch. 145, F.S.

<sup>24</sup> Section 145.011(2), F.S.

<sup>25</sup> Section 145.012, F.S.

<sup>26</sup> Section 145.022(1), F.S.

<sup>27</sup> Section 145.022(2), F.S.

<sup>28</sup> Section 145.141, F.S.

<sup>29</sup> *Id.*

<sup>30</sup> *See* s. 145.031, F.S. (board of county commissioners); *see also* s. 145.051, F.S. (clerk of circuit court).

<sup>31</sup> Art. VIII, s. 1(d), Fla. Const.

<sup>32</sup> *See* s. 145.051, F.S. (clerk of circuit court); *see also* s. 145.071, F.S. (sheriff).

<sup>33</sup> *Compare* s. 145.051, F.S. (clerk of circuit court), s. 145.071 (sheriff), s. 145.10 (property appraiser), s. 145.11 (tax collector), *with* s. 145.091 (supervisor of elections).

<sup>34</sup> *See* ch. 80-377, Laws of Fla. (increasing group rate for clerk of circuit court, sheriff, property appraiser, and tax collector in all county with less than 1,000,000 residents); *but see* ch. 85-322, Laws of Fla. (eliminating separate population group for counties with less than 10,000 residents for all county constitutional officers, increasing base salary for all county constitutional officers, establishing a group rate for all county constitutional officers in counties with 1,000,000 or more residents).

circuit court, tax collector, and property appraiser each receiving the same, lower amount, and the supervisor of elections receiving the lowest amount.<sup>35</sup> This gradation has existed in essentially the same form since the current formula was enacted in 1973.<sup>36</sup>

The final salary<sup>37</sup> paid to each county constitutional officer is determined by the product of the salary rate calculated from the relevant section of ch. 145, F.S., the annual factor,<sup>38</sup> the cumulative annual factor,<sup>39</sup> and the initial factor.<sup>40</sup> The annual factor and the cumulative annual factor are certified each year by the Department of Management Services.<sup>41</sup> Each constitutional officer is eligible for an additional \$2,000 per year if that officer meets the certification requirement applicable to the office.<sup>42</sup>

### **Effect of Proposed Changes**

The bill increases the group rate used in calculating the salary of supervisor of elections to the group rate used for other county constitutional officers. The bill also increases the base salary for supervisors of elections to the rate used to calculate the salaries for tax collectors, property appraisers, and clerks of circuit court.

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

Section 1: Amends s. 145.09, F.S., increasing the base salary and group rate for the supervisor of elections.

Section 2: Provides an effective date of October 1, 2016.

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

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

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

None.

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

None.

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

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

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<sup>35</sup> E.g. In population group I, the base salary of the sheriff is \$23,350 per year, the base salary of the clerk of circuit court, tax collector, and property appraiser is \$21,250 per year, and the base salary for the supervisor of elections is \$17,228.

<sup>36</sup> See ch. 73-173, Laws of Fla. (In population group I, base salary of sheriff was \$15,000, base salary of clerk of circuit court was \$14,000, base salary of property appraiser and tax collector was \$12,000, base salary of supervisor of elections was \$8,500); see also ch. 85-322, Laws of Fla. (increasing base salaries for all county constitutional officers, with population group I sheriff base salary of \$21,250; clerk of circuit court, tax collector, and property appraiser base salary of \$19,150, supervisor of elections base salary of \$15,128).

<sup>37</sup> A sample final salary calculation is attached in Appendix A.

<sup>38</sup> Section 145.19(1)(a), F.S. The “annual factor” is 1 plus the lessor of the average percentage increase in the salaries of state career service employees for the current fiscal year or seven percent

<sup>39</sup> Section 145.19(1)(b), F.S. The “cumulative annual factor” of the product of all annual factors prior to the current fiscal year.

<sup>40</sup> Section 145.19(1)(c), F.S. The “initial factor” is 1.292.

<sup>41</sup> Section 145.19(2), F.S.

<sup>42</sup> Section 145.051(2)(a), F.S. (certification requirements for clerk of circuit court established by Florida Supreme Court); s. 145.071(2)(a), F.S. (certification requirements for sheriff established by FDLE); s. 145.09(3)(a), F.S. (certification requirements for supervisor of elections established by Department of State ); s. 145.10 (2)(a), F.S. (certification requirements for property appraiser established by Department of Revenue); s. 145.11(2)(a), F.S. (certification requirements for tax collector established by Department of Revenue).

None.

2. Expenditures:

The base salary and group rate changes would result in additional compensation to the supervisors of elections. According to the Office of Economic and Demographic Research, the statewide total cost would be \$1.24 million in salary increases, which is an average increase of \$18,540 per county.<sup>43</sup>

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Florida Constitution<sup>44</sup> may apply because this bill requires counties to increase the compensation for the supervisor of elections; however, an exemption may apply as the fiscal impact is likely to be insignificant.<sup>45</sup>

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 18, 2015, the Local Government Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment increased the base salary for the supervisor of elections in each population group to the base salary for tax collectors, property appraisers, and the clerk of circuit court.

On January 26, 2016, the Government Operations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment changed the effective date to October 1, 2016, to coincide with the beginning of the fiscal year for local governments.

This analysis is drafted to the committee substitute reported favorably by the Government Operations Subcommittee.

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<sup>43</sup>See *Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2015-16*, Office of Economic and Demographic Research, pp. 9-10 (salaries for supervisors of elections and tax collectors).

<sup>44</sup> Art. VII, s. 18, Fla. Const.

<sup>45</sup> A law having an insignificant fiscal impact on counties or municipalities is exempt from art. VII, s. 18, Fla. Const. Art. VII, s. 18(d), Fla. Const. *E.g. see* Adopted FY 15 Budget, Hillsborough County at p. 28, available at <http://www.hillsboroughcounty.org/index.aspx?NID=3637> (\$20,000 is 0.00049% of FY 2015-16 Hillsborough County budget); *see also* Tentative Budget 2015-2016, Liberty County at p. 2, available at <http://libertybocc.com/commissioners/budget/> (\$20,000 is 0.36% of FY 2015-16 Liberty County budget).

### **APPENDIX A: Final Salary Calculation**

Salaries for the five constitutionally-created county officers are calculated according to the following formula:

$$[\text{Base Salary} + (\text{Population Above Group Minimum} \times \text{Group Rate})] \times (\text{Initial Factor}) \times (\text{Certified Annual Factor}) \times (\text{Certified Cumulative Annual Factor}) = \text{Total Salary}$$

Example: Calculation of 2015 salary for Indian River County Supervisor of Elections:

$$\{(\$23,228) + [(40,955) \times (0.025) = \$1,023.88]\} \times (1.292) \times (1.0011) \times (3.2949) = \$103,354$$

The following table shows the impact of the bill on this calculation:

	Current Law	HB 355/SB 514
2014 Population Estimate	140,955	140,955
Group Number Minimum	100,000	100,000
Base Salary for Group	\$23,228	<b>\$27,550</b>
Population Above Group Minimum	40,955	40,955
Group Rate for Group	0.025	<b>0.02625</b>
(Population Above Group Minimum) x (Group Rate)	\$1023.88	\$1075.07
Initial Factor	1.292	1.292
Certified Annual Factor	1.0011	1.0011
Certified Cumulative Annual Factor	3.2949	3.2949
Final Salary	\$103,354	\$121,911
Difference		<b>\$18,637</b>