

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 541 Addresses of Legal Residence

SPONSOR(S): Spano

TIED BILLS: **IDEN./SIM. BILLS:** SB 744

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	12 Y, 0 N	Toliver	Williamson
2) State Affairs Committee	16 Y, 0 N	Toliver	Camechis

SUMMARY ANALYSIS

Current law requires the Department of State to prescribe by rule a uniform statewide voter registration application. The 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” to mean the legal residence of an elector and includes all information necessary to distinguish one residence from another, such as apartment numbers, lot numbers, room numbers, or dormitory room numbers. The bill 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:

Background

The Florida Voter Registration Act¹ delineates the qualifications and requirements necessary for a person to register to vote in Florida.² In order to become a registered voter in Florida, a person must register pursuant to The Florida Election Code³ and must be at least 18 years of age, a citizen of the United States, a legal resident of Florida, and a legal resident of the county in which the person seeks to be registered.⁴

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

- The applicant's name, legal residence address,⁷ 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 from a Florida identification card, or if the applicant does not have a Florida driver license or identification card, the last four numbers of his or her social security number.⁸
- A mark in the checkbox affirming that the applicant has not been convicted of a felony or that, if convicted, the applicant 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, the applicant 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.⁹

The term "legal residence" is not defined in The Florida Election Code;¹⁰ however, the term has been defined in case law.¹¹ A legal residence "is the place where a person has fixed an abode with the present intention of making it their permanent home."¹² According to the Florida Supreme Court, a "legal residence consists of the concurrence of both fact and intention."¹³

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 voter registration status of electors within their

¹ Part II, ch. 97, F.S.

² See ss. 97.041-97.105, F.S.

³ Chapters 97-106, F.S. are cited as The Florida Election Code.

⁴ Section 97.041(1)(a), F.S.

⁵ Section 97.052(1), F.S.; Fla. Admin. Code R. 1S-2.040 incorporating form DS-DE 39.

⁶ Section 97.052(2), F.S.

⁷ The Florida Voter Registration Application, incorporated by the Division of Elections 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.

⁸ If an applicant has not been issued a current and valid Florida driver license, Florida identification card, or social security number, the applicant must affirm this fact in the manner prescribed in the uniform statewide voter registration application. Section 97.053(5)(a)5.b., F.S.

⁹ Section 97.053(5)(a), F.S.

¹⁰ "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.

¹¹ *Minick v. Minick*, 149 So. 483 (Fla. 1933).

¹² *Id.*

¹³ *Bloomfield v. City of St. Petersburg Beach*, 82 So.2d 364 (Fla. 1955).

county.¹⁴ Supervisors must maintain a list of valid residential street addresses for the purpose of verifying the legal addresses of voters residing within their county.¹⁵

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 street 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. 97.053, F.S., requiring a voter registration application to include the applicant’s address of legal residence.

Section 3 amends s. 97.057, F.S., conforming a cross-reference.

Section 4 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 5 provides an effective date of July 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:

None.

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

¹⁴ Section 98.015(3), F.S.

¹⁵ Section 98.015(12), F.S.

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Art. VII, S. 18 of the State Constitution because it is an election law.

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

None.