

1 A bill to be entitled
2 An act relating to elections; amending s. 97.021,
3 F.S.; revising the definition of the term "marksense
4 ballots" for purposes of the Florida Election Code;
5 amending s. 99.012, F.S.; requiring an officer who
6 qualifies for federal office to resign from the office
7 he or she presently holds if the terms, or any part
8 thereof, run concurrently; providing requirements for
9 resignation; providing for automatic irrevocable
10 resignation in the event of noncompliance; specifying
11 that a resignation creates a vacancy in office and
12 providing requirements therefor; revising an
13 exemption; amending s. 99.021, F.S.; providing
14 requirements for persons seeking to qualify for
15 election as a candidate with no party affiliation;
16 amending s. 99.061, F.S.; providing an additional
17 means by which a candidate may pay his or her
18 qualifying fee; conforming provisions to changes made
19 by the act; amending s. 99.063, F.S.; conforming
20 provisions to changes made by the act; amending s.
21 99.0955, F.S.; providing requirements for persons
22 seeking to qualify as a candidate with no party
23 affiliation; amending s. 100.011, F.S.; prohibiting a
24 court from extending the official time of closing of
25 the polls except under certain circumstances; amending

26 | s. 100.3605, F.S.; requiring the governing body of a
27 | municipality to determine the date on which initial
28 | and runoff elections for municipal office are held and
29 | providing options therefor; preempting the state the
30 | authority to establish election dates for municipal
31 | elections; providing construction; amending s.
32 | 100.361, F.S.; requiring municipal recall elections to
33 | be held concurrently with municipal elections under
34 | certain conditions; amending s. 101.131, F.S.;
35 | prohibiting an elected official from being designated
36 | as a poll watcher; amending s. 101.151, F.S.;
37 | providing applicability of specified ballot
38 | requirements to a voter interface device; amending s.
39 | 101.20, F.S.; providing an exception to the
40 | requirement that a sample ballot be published by the
41 | supervisor of elections in a newspaper of general
42 | circulation in the county; amending ss. 101.5603 and
43 | 101.56075, F.S.; conforming provisions to changes made
44 | by the act; repealing s. 101.75, F.S., relating to
45 | change of dates for cause in municipal elections;
46 | amending s. 105.031, F.S.; providing an additional
47 | means by which certain nonpartisan candidates may pay
48 | their qualification fees; amending s. 121.121, F.S.;
49 | revising a cross-reference to conform to changes made
50 | by the act; extending the terms of incumbent elected

51 municipal officers until the next municipal election;
 52 providing effective dates.

53

54 Be It Enacted by the Legislature of the State of Florida:

55

56 Section 1. Paragraph (a) of subsection (5) of section
 57 97.021, Florida Statutes, is amended to read:

58 97.021 Definitions.—For the purposes of this code, except
 59 where the context clearly indicates otherwise, the term:

60 (5) "Ballot" or "official ballot" when used in reference
 61 to:

62 (a) "Marksense ballot ballots" means the that printed
 63 sheet of paper, used in conjunction with an electronic or
 64 electromechanical vote tabulation voting system, containing the
 65 names of candidates, or a statement of proposed constitutional
 66 amendments or other questions or propositions submitted to the
 67 electorate at an any election, or the selections made by the
 68 elector of candidates or other questions or propositions at an
 69 election, on which ~~sheet of paper~~ an elector casts his or her
 70 vote either directly by using a marking device to designate his
 71 or her ballot selections on the sheet of paper or indirectly
 72 through the use of a voter interface device used to designate
 73 his or her ballot selections on the sheet of paper.

74 Section 2. Subsections (4) through (7) of section 99.012,
 75 Florida Statutes, are renumbered as subsections (5) through (8),

76 | respectively, present subsection (7) is amended, and a new
 77 | subsection (4) is added to that section, to read:

78 | 99.012 Restrictions on individuals qualifying for public
 79 | office.—

80 | (4) (a) Any officer who qualifies for federal public office
 81 | must resign from the office he or she presently holds if the
 82 | terms, or any part thereof, run concurrently.

83 | (b) The resignation is irrevocable.

84 | (c) The resignation must be submitted in writing no later
 85 | than the date upon which the officer qualifies for office.

86 | (d) The written resignation must be effective no later
 87 | than the earlier of:

88 | 1. The date the officer would take office, if elected; or

89 | 2. The date the officer's successor is required to take
 90 | office.

91 | (e)1. An elected district, county, or municipal officer
 92 | must submit his or her resignation to the officer before whom he
 93 | or she qualified for the office he or she holds, and must submit
 94 | a copy of his or her resignation to the Governor and the
 95 | Department of State.

96 | 2. An appointed district, county, or municipal officer
 97 | must submit his or her resignation to the officer or authority
 98 | which appointed him or her to the office he or she holds, and
 99 | must submit a copy of his or her resignation to the Governor and
 100 | the Department of State.

101 3. Any other officer must submit his or her resignation to
102 the Governor, and must submit a copy of his or her resignation
103 to the Department of State.

104 (f)1. The failure of an officer who qualifies for federal
105 public office to submit a resignation pursuant to this
106 subsection constitutes an automatic irrevocable resignation,
107 effective immediately, from the office he or she presently
108 holds.

109 2. The Department of State shall send a notice of
110 automatic resignation to the Governor and, if the person is a
111 district, county, or municipal officer, shall send a copy of the
112 notice of automatic resignation to:

113 a. The officer before whom he or she qualified if he or
114 she held an elective office; or

115 b. The officer or authority who appointed him or her if he
116 or she held an appointive office.

117 (g) Notwithstanding any special act to the contrary, an
118 elected officer's resignation creates a vacancy in office to be
119 filled by election, thereby authorizing persons to qualify as
120 candidates for nomination and election as if the officer's term
121 was otherwise scheduled to expire. An elected charter county
122 officer's or elected municipal officer's resignation creates a
123 vacancy in office to be filled for that portion of the officer's
124 unexpired term in a manner provided by the respective charter.
125 The office is deemed vacant on the effective date of the

126 | resignation submitted by the officer in his or her written
 127 | resignation.

128 | (8)-(7) Nothing contained in subsection (3) or subsection
 129 | (4) relates to persons holding any federal office ~~or seeking the~~
 130 | ~~office of President or Vice President.~~

131 | Section 3. Subsection (1) of section 99.021, Florida
 132 | Statutes, is amended to read:

133 | 99.021 Form of candidate oath.—

134 | (1) (a) 1. Each candidate, whether a party candidate, a
 135 | candidate with no party affiliation, or a write-in candidate, in
 136 | order to qualify for nomination or election to any office other
 137 | than a judicial office as defined in chapter 105 or a federal
 138 | office, shall take and subscribe to an oath or affirmation in
 139 | writing. A copy of the oath or affirmation shall be made
 140 | available to the candidate by the officer before whom such
 141 | candidate seeks to qualify and shall be substantially in the
 142 | following form:

143 | State of Florida

144 | County of....

145 | Before me, an officer authorized to administer oaths,
 146 | personally appeared ... (please print name as you wish it to
 147 | appear on the ballot) ..., to me well known, who, being sworn,
 148 | says that he or she is a candidate for the office of; that
 149 | he or she is a qualified elector of County, Florida; that
 150 | he or she is qualified under the Constitution and the laws of

151 Florida to hold the office to which he or she desires to be
 152 nominated or elected; that he or she has qualified for no other
 153 public office in the state, the term of which office or any part
 154 thereof runs concurrent with that of the office he or she seeks;
 155 that he or she has resigned from any office from which he or she
 156 is required to resign pursuant to s. 99.012, Florida Statutes;
 157 and that he or she will support the Constitution of the United
 158 States and the Constitution of the State of Florida.

159 ... (Signature of candidate) ...

160 ... (Address) ...

161 Sworn to and subscribed before me this day of,
 162 ...(year)...., at County, Florida.

163 ... (Signature and title of officer administering oath) ...

164 2. Each candidate for federal office, whether a party
 165 candidate, a candidate with no party affiliation, or a write-in
 166 candidate, in order to qualify for nomination or election to
 167 office shall take and subscribe to an oath or affirmation in
 168 writing. A copy of the oath or affirmation shall be made
 169 available to the candidate by the officer before whom such
 170 candidate seeks to qualify and shall be substantially in the
 171 following form:

172 State of Florida

173 County of

174 Before me, an officer authorized to administer oaths,
 175 personally appeared ... (please print name as you wish it to

176 appear on the ballot)...., to me well known, who, being sworn,
 177 says that he or she is a candidate for the office of; that
 178 he or she is qualified under the Constitution and laws of the
 179 United States to hold the office to which he or she desires to
 180 be nominated or elected; that he or she has qualified for no
 181 other public office in the state, the term of which office or
 182 any part thereof runs concurrent with that of the office he or
 183 she seeks; and that he or she will support the Constitution of
 184 the United States.

185 ...(Signature of candidate)...

186 ...(Address)...

187 Sworn to and subscribed before me this day of,
 188 ... (year)...., at County, Florida.

189 ...(Signature and title of officer administering oath)...

190 (b) ~~In addition,~~ Any person seeking to qualify for
 191 nomination as a candidate of any political party shall, at the
 192 time of subscribing to the oath or affirmation, state in
 193 writing:

194 1. The party of which the person is a member.

195 2. That the person has not been a registered member of any
 196 other political party for 365 days before the beginning of
 197 qualifying preceding the general election for which the person
 198 seeks to qualify.

199 3. That the person has paid the assessment levied against
 200 him or her, if any, as a candidate for said office by the

201 executive committee of the party of which he or she is a member.

202 (c) Any person seeking to qualify for election as a
 203 candidate with no party affiliation shall, at the time of
 204 subscribing to the oath or affirmation, state in writing that he
 205 or she is registered without party affiliation.

206 (d)~~(e)~~ The officer before whom such person qualifies shall
 207 certify the name of such person to the supervisor of elections
 208 in each county affected by such candidacy so that the name of
 209 such person may be printed on the ballot. Each person seeking
 210 election as a write-in candidate shall subscribe to the oath
 211 prescribed in this section in order to be entitled to have
 212 write-in ballots cast for him or her counted.

213 Section 4. Paragraph (a) of subsection (7) of section
 214 99.061, Florida Statutes, is amended to read:

215 99.061 Method of qualifying for nomination or election to
 216 federal, state, county, or district office.—

217 (7) (a) In order for a candidate to be qualified, the
 218 following items must be received by the filing officer by the
 219 end of the qualifying period:

220 1. A properly executed check or certified check drawn upon
 221 the candidate's campaign account payable to the person or entity
 222 as prescribed by the filing officer in an amount not less than
 223 the fee required by s. 99.092, unless the candidate obtained the
 224 required number of signatures on petitions pursuant to s.
 225 99.095. The filing fee for a special district candidate is not

226 required to be drawn upon the candidate's campaign account. If a
227 candidate's check is returned by the bank for any reason, the
228 filing officer shall immediately notify the candidate and the
229 candidate shall have until the end of qualifying to pay the fee
230 with a cashier's check purchased from funds of the campaign
231 account. Failure to pay the fee as provided in this subparagraph
232 shall disqualify the candidate.

233 2. The candidate's oath required by s. 99.021, which must
234 contain the name of the candidate as it is to appear on the
235 ballot; the office sought, including the district or group
236 number if applicable; and the signature of the candidate, which
237 must be verified under oath or affirmation pursuant to s.
238 92.525(1) (a).

239 3. If the office sought is partisan, the written statement
240 of political party affiliation required by s. 99.021(1) (b) or,
241 if a person is seeking to qualify for election as a candidate
242 with no party affiliation, the written statement required by s.
243 99.021(1) (c).

244 4. The completed form for the appointment of campaign
245 treasurer and designation of campaign depository, as required by
246 s. 106.021.

247 5. The full and public disclosure or statement of
248 financial interests required by subsection (5). A public officer
249 who has filed the full and public disclosure or statement of
250 financial interests with the Commission on Ethics or the

251 supervisor of elections prior to qualifying for office may file
 252 a copy of that disclosure at the time of qualifying.

253 Section 5. Paragraph (b) of subsection (2) of section
 254 99.063, Florida Statutes, is amended to read:

255 99.063 Candidates for Governor and Lieutenant Governor.—

256 (2) No later than 5 p.m. of the 9th day following the
 257 primary election, each designated candidate for Lieutenant
 258 Governor shall file with the Department of State:

259 (b) If the office sought is partisan, the written
 260 statement of political party affiliation required by s.
 261 99.021(1) (b) or, if a person is seeking to qualify for election
 262 as a candidate with no party affiliation, the written statement
 263 required by s. 99.021(1) (c).

264 Section 6. Subsection (1) of section 99.0955, Florida
 265 Statutes, is amended to read:

266 99.0955 Candidates with no party affiliation; name on
 267 general election ballot.—

268 (1) Each person seeking to qualify for election as a
 269 candidate with no party affiliation shall file his or her
 270 qualifying papers and pay the qualifying fee or qualify by the
 271 petition process pursuant to s. 99.095 with the officer and
 272 during the times and under the circumstances prescribed in s.
 273 99.061. A person seeking to qualify for election as a candidate
 274 with no party affiliation must be registered without party
 275 affiliation at the time of qualification. Upon qualifying, the

276 candidate is entitled to have his or her name placed on the
 277 general election ballot.

278 Section 7. Subsections (3) and (4) of section 100.011,
 279 Florida Statutes, are renumbered as subsections (4) and (5),
 280 respectively, and a new subsection (3) is added to that section
 281 to read:

282 100.011 Opening and closing of polls, all elections;
 283 expenses.—

284 (3) A court may not extend the official time of closing of
 285 the polls unless there is a specific showing or finding of fact
 286 that extraordinary circumstances exist to justify the extension.
 287 Extraordinary circumstances may include an act of God or any
 288 other circumstance that materially impairs the physical
 289 operation of the polling equipment.

290 Section 8. Effective July 1, 2020, section 100.3605,
 291 Florida Statutes, is amended to read:

292 100.3605 Conduct of municipal elections.—

293 (1) The Florida Election Code, chapters 97-106, shall
 294 govern the conduct of a municipality's election in the absence
 295 of an applicable special act, charter, or ordinance provision.
 296 No charter or ordinance provision shall be adopted which
 297 conflicts with or exempts a municipality from any provision in
 298 the Florida Election Code that expressly applies to
 299 municipalities.

300 (2) (a) The governing body of a municipality shall

301 determine if an election for municipal office is held on the
 302 same date as the general election, the first Tuesday after the
 303 first Monday in November in an odd-numbered year, or the first
 304 Tuesday after the first Monday in April in an odd-numbered or
 305 even-numbered year.

306 (b) If a municipal charter or ordinance requires a runoff
 307 election for municipal office, the governing body of a
 308 municipality shall conduct its elections in one of the following
 309 formats:

310 1. The initial election shall be held at the primary
 311 election on the Tuesday 10 weeks before the general election and
 312 the runoff election shall be held on the same date as the
 313 general election.

314 2. The initial election shall be held at an election on
 315 the Tuesday 10 weeks before the election held on the first
 316 Tuesday after the first Monday in November in an odd-numbered
 317 year and the runoff election shall be held at an election on the
 318 first Tuesday after the first Monday in November in an odd-
 319 numbered year.

320 3. The initial election shall be held at an election on
 321 the Tuesday 10 weeks before the first Tuesday after the first
 322 Monday in April and the runoff election shall be held at an
 323 election on the first Tuesday after the first Monday in April.

324 (c) This subsection does not affect the manner in which
 325 vacancies in municipal office are filled or recall elections for

326 municipal officers are conducted.

327 (d) Notwithstanding any general law, special law, local
 328 law, municipal charter, or municipal ordinance, this subsection
 329 provides the exclusive method for establishing the dates of
 330 elections for municipal office in this state. Any general law,
 331 special law, local law, municipal charter, or municipal
 332 ordinance that conflicts with this subsection is superseded to
 333 the extent of the conflict.

334 (3) The governing body of a municipality may, by
 335 ordinance, ~~change the dates for qualifying and for the election~~
 336 ~~of members of the governing body of the municipality and provide~~
 337 for the orderly transition of office resulting from election
 338 ~~such~~ date changes.

339 Section 9. Subsection (4) of section 100.361, Florida
 340 Statutes, is amended to read:

341 100.361 Municipal recall.—

342 (4) RECALL ELECTION.—If the person designated in the
 343 petition files with the clerk, within 5 days after the last-
 344 mentioned notice, his or her written resignation, the clerk
 345 shall at once notify the governing body of that fact, and the
 346 resignation shall be irrevocable. The governing body shall then
 347 proceed to fill the vacancy according to the provisions of the
 348 appropriate law. In the absence of a resignation, the chief
 349 judge of the judicial circuit in which the municipality is
 350 located shall fix a day for holding a recall election for the

351 removal of those not resigning. Any such election shall be held
 352 not less than 30 days or more than 60 days after the expiration
 353 of the 5-day period last-mentioned and at the same time as any
 354 other general, municipal, or special election held within the
 355 period; but if no such election is to be held within that
 356 period, the judge shall call a special recall election to be
 357 held within the period aforesaid.

358 Section 10. Subsection (3) of section 101.131, Florida
 359 Statutes, is amended to read:

360 101.131 Watchers at polls.—

361 (3) Any elected official, ~~No~~ candidate, ~~or~~ sheriff, deputy
 362 sheriff, police officer, or other law enforcement officer may
 363 not be designated as a poll watcher.

364 Section 11. Subsection (10) is added to section 101.151,
 365 Florida Statutes, to read:

366 101.151 Specifications for ballots.—

367 (10) With respect to any certified voting system that uses
 368 a voter interface device to designate the elector's ballot
 369 selections on a printed sheet of paper, this section, s.
 370 101.161, and ss. 101.2512-101.254 that prescribe the ballot
 371 layout apply only to the display of candidates and issues on the
 372 voter interface device.

373 Section 12. Subsection (2) of section 101.20, Florida
 374 Statutes, is amended to read:

375 101.20 Publication of ballot form; sample ballots.—

376 (2) Upon completion of the list of qualified candidates
 377 and before the day of an election, a sample ballot shall be
 378 published by the supervisor of elections in a newspaper of
 379 general circulation in the county unless the supervisor mails a
 380 sample ballot to each registered elector or to each household in
 381 which there is a registered elector at least 7 days⁷ before the
 382 day of an election. A supervisor may send a sample ballot to
 383 each registered elector by e-mail at least 7 days before the day
 384 of an election if an e-mail address has been provided and the
 385 elector has opted to receive a sample ballot by electronic
 386 delivery. ~~If an e-mail address has not been provided, or if the~~
 387 ~~elector has not opted for electronic delivery, a sample ballot~~
 388 ~~may be mailed to each registered elector or to each household in~~
 389 ~~which there is a registered elector at least 7 days before an~~
 390 ~~election.~~

391 Section 13. Subsection (5) of section 101.5603, Florida
 392 Statutes, is amended to read:

393 101.5603 Definitions relating to Electronic Voting Systems
 394 Act.—As used in this act, the term:

395 (5) "Marking device" means any approved device for marking
 396 a ballot with ink or other substance, including through a voter
 397 interface device, which will enable the ballot to be tabulated
 398 by means of automatic tabulating equipment.

399 Section 14. Subsection (1) of section 101.56075, Florida
 400 Statutes, is amended to read:

401 101.56075 Voting methods.—

402 (1) Except as provided in subsection (2), all voting shall
403 be by marksense ballot using ~~utilizing~~ a marking device for the
404 purpose of designating ballot selections.

405 Section 15. Section 101.75, Florida Statutes, is repealed.

406 Section 16. Paragraph (a) of subsection (5) of section
407 105.031, Florida Statutes, is amended to read:

408 105.031 Qualification; filing fee; candidate's oath; items
409 required to be filed.—

410 (5) ITEMS REQUIRED TO BE FILED.—

411 (a) In order for a candidate for judicial office or the
412 office of school board member to be qualified, the following
413 items must be received by the filing officer by the end of the
414 qualifying period:

415 1. Except for candidates for retention to judicial office,
416 a properly executed check or certified check drawn upon the
417 candidate's campaign account in an amount not less than the fee
418 required by subsection (3) or, in lieu thereof, the copy of the
419 notice of obtaining ballot position pursuant to s. 105.035. If a
420 candidate's check is returned by the bank for any reason, the
421 filing officer shall immediately notify the candidate and the
422 candidate shall, the end of qualifying notwithstanding, have 48
423 hours from the time such notification is received, excluding
424 Saturdays, Sundays, and legal holidays, to pay the fee with a
425 cashier's check purchased from funds of the campaign account.

426 Failure to pay the fee as provided in this subparagraph shall
 427 disqualify the candidate.

428 2. The candidate's oath required by subsection (4), which
 429 must contain the name of the candidate as it is to appear on the
 430 ballot; the office sought, including the district or group
 431 number if applicable; and the signature of the candidate, duly
 432 acknowledged.

433 3. The loyalty oath required by s. 876.05, signed by the
 434 candidate and duly acknowledged.

435 4. The completed form for the appointment of campaign
 436 treasurer and designation of campaign depository, as required by
 437 s. 106.021. In addition, each candidate for judicial office,
 438 including an incumbent judge, shall file a statement with the
 439 qualifying officer, within 10 days after filing the appointment
 440 of campaign treasurer and designation of campaign depository,
 441 stating that the candidate has read and understands the
 442 requirements of the Florida Code of Judicial Conduct. Such
 443 statement shall be in substantially the following form:

444
 445 Statement of Candidate for Judicial Office

446
 447 I, ...(name of candidate)..., a judicial candidate, have
 448 received, read, and understand the requirements of the Florida
 449 Code of Judicial Conduct.

450 ...(Signature of candidate)...

451 ... (Date) ...

452

453 5. The full and public disclosure of financial interests
 454 required by s. 8, Art. II of the State Constitution or the
 455 statement of financial interests required by s. 112.3145,
 456 whichever is applicable. A public officer who has filed the full
 457 and public disclosure or statement of financial interests with
 458 the Commission on Ethics or the supervisor of elections prior to
 459 qualifying for office may file a copy of that disclosure at the
 460 time of qualifying.

461 Section 17. Subsection (2) of section 121.121, Florida
 462 Statutes, is amended to read:

463 121.121 Authorized leaves of absence.—

464 (2) A member who is required to resign his or her office
 465 as a subordinate officer, deputy sheriff, or police officer
 466 because he or she is a candidate for a public office which is
 467 currently held by his or her superior officer who is also a
 468 candidate for reelection to the same office, in accordance with
 469 s. 99.012(5) ~~99.012(4)~~, shall, upon return to covered
 470 employment, be eligible to purchase retirement credit for the
 471 period between his or her date of resignation and the beginning
 472 of the term of office for which he or she was a candidate as a
 473 leave of absence without pay, as provided in subsection (1).

474 Section 18. To provide for an orderly transition of
 475 office, the terms of incumbent elected municipal officers are

476 | extended until the next municipal election held in accordance
477 | with this act.

478 | Section 19. Except as otherwise expressly provided in this
479 | act, this act shall take effect July 1, 2017.