

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 Committee on Ethics and Elections

BILL: SB 1372

INTRODUCER: Senator Brandes

SUBJECT: Elections

DATE: January 31, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|--------------------|
| 1. | Mitchell | Roberts | EE | Pre-meeting |
| 2. | | | JU | |
| 3. | | | RC | |

I. Summary:

SB 1372 makes largely technical, election administration changes that the Florida State Supervisors of Elections Association (“FSE,” formerly “FSASE”) deems necessary or desirable for the 2020 general election cycle. Specifically, the bill:

- Removes a prohibition against using the address on a voter’s identification presented at the polls as the basis for confirming or challenging an elector’s legal residence.
- Moves up the date for testing vote-tabulating equipment, to conform with 2019 statutory changes authorizing earlier canvassing of vote-by-mail ballots.
- Eliminates the duplication and substitution of vote-by-mail ballots with overvotes.
- Authorizes the initial mail-out date for domestic ballots in an all-mail, local referendum election to conform to the 2019 statutory changes for domestic vote-by-mail ballots in other elections (as soon as 40 days before an election).
- Allows state and county political party executive committee person candidates to pre-qualify to run for office any time before the current deadline, to alleviate supervisors’ administrative burdens during the qualifying week.

The bill takes effect July 1, 2020.

II. Present Situation:

SB 1372 contains the “technical,” election administration component of the FSE’s 2020 legislative package.¹

¹ FSASE, *2020 Legislative Priorities and Issues* (on file with the Senate Committee on Ethics and Elections) [hereinafter, *FSE 2020 Legislative Package*]. Note that the change conforming the initial mail-out date for ballots in all-vote-by-mail-ballot elections is not specifically mentioned in the FSE’s written package.

Voter ID at the Polls

Section 101.043, F.S., governs voter intake at the polls on Election Day and during early voting, including such items as voter identification, signing-in the voter, signature verification, address verification, confirming the voter's precinct, issuance of the proper ballot, etc.

The FSE's 2020 legislative package identifies a conflict between the following two paragraphs of subsection (1) of that section.²

(b) If the (voter's) picture identification does not contain the signature of the elector,³ an additional identification that provides the elector's signature shall be required. The address appearing on the identification presented by the elector may not be used as the basis to confirm an elector's legal residence or otherwise challenge an elector's legal residence. ...

(c) When an elector presents his or her picture identification to the clerk or inspector and the elector's address on the picture identification matches the elector's address in the supervisor's records, the elector may not be asked to provide additional information or to recite his or her home address.

The FSE proposes eliminating the underlined language above from paragraph (b).⁴

Logic & Accuracy Testing; Voting Tabulators

Each county election supervisor publicly tests the voting tabulating equipment for proper operation within 10 days before the start of early voting in the county.⁵ Since each supervisor has the discretion to begin early voting from the 10th to the 15th day before the election,⁶ supervisors must conduct logic and accuracy testing sometime between the 20th and 25th days before an election.

In 2019, the Legislature's major election administration reform act moved up by one week the earliest starting date to canvass vote-by-mail ballots from the 15th to the 22nd day before the start of an election.⁷ The act's oversight in not conforming the overlapping logic and accuracy testing dates, however, means that supervisors who don't starting early voting until the 10th, 11th, or 12th day before an election will have to delay starting their vote-by-mail canvass by a couple of days in order to complete logic and accuracy testing.

The FSE's 2020 Legislative Package recommends moving the date for the start of vote-by-mail canvassing to 25 days before the election.⁸

² Section 101.043(1)(b) and (c), F.S.

³ The statute enumerates 12 acceptable types of voter IDs with pictures, some of which may not contain a voter's signature. Section 101.043(1)(a), F.S.

⁴ *FSE 2020 Legislative Package, supra* note 1.

⁵ Section 101.5612 (1) and (2), F.S.

⁶ Section 101.657(1)(d), F.S.

⁷ Section 101.68(2)(a), F.S.

⁸ *FSE 2020 Legislative Package, supra* note 1.

Defective Ballot Duplication

Current law requires poll workers to duplicate two types of defective ballots in the presence of witnesses and to substitute the duplicate ballot for the original:⁹

- Physically damaged ballots that cannot be properly counted by the tabulators; and
- Overvoted and completely undervoted Ballots, including all valid votes as determined by the canvassing board based on rules adopted by the Division of Elections.

The FSE’s position is that, “(T)his duplication (of overvoted ballots) is very time consuming and completely wasteful.”¹⁰

All-Mail-Ballot, Local Issue Elections

While not well-known or often implemented, Florida law does authorize the conduct of local referendum elections through an all-mail-ballot process (the “Mail Ballot Election Act”).¹¹ Domestic all-mail ballots may not be sent to voters before the 20th day before the election.¹²

In 2019, the Legislature adopted a major election administration reform act that moved up the authorization date to begin mailing domestic vote-by-mail ballots in candidate elections, from 35 to 40 days before the election.¹³ No corresponding change, however, was made to the initial ballot mailing date for all-mail-ballot elections.

Political Party Committeeperson Qualifying Dates

Candidates for major political party executive committeepersons may qualify at the same time as most state and local partisan candidates, from noon on the 71st day before the primary election through noon on the 67th day.¹⁴ The FSE asserts that this qualifying period is “a very busy week for every SOE (supervisor of elections).”¹⁵

III. Effect of Proposed Changes:

Section 1. Amends s. 101.043, F.S.; removes a perceived conflict regarding providing voter ID and confirming the voter’s address and precinct.

Section 2. Amends s. 101.5612, F.S.; moves the date for Logic and Accuracy Testing for vote tabulating equipment from any day not more than 10 days to any day not more than 25 days before the beginning of early voting to conform with 2019 statutory changes allowing canvassing boards to start canvassing vote-by-mail ballots on the 22nd day before an election; makes a conforming change to the public notice requirement.

⁹ Section 101.5614(4)(a), F.S.

¹⁰ *FSE 2020 Legislative Package*, *supra* note 1.

¹¹ See generally §§ 101.6101-101.6107, F.S.

¹² Section 101.6103(1), F.S.

¹³ Section 101.62(4)(b), F.S.

¹⁴ Section 103.091(4), F.S.; *see* s. 99.061(3), F.S.

¹⁵ *FSE 2020 Legislative Package*, *supra* note 1.

Section 3. Amends s. 101.5614, F.S.; removes the requirement to duplicate and substitute overvoted ballots.

Section 4. Amends s. 101.6103, F.S.; allows supervisors to mail domestic vote-by-mail ballots and instructions to electors in all-mail-ballot, local referenda elections starting on the 40th day before the elections, to align with 2019 changes for mailing domestic, partisan candidate ballots.

Section 5. Amends s. 103.091, F.S.; allows state and county major political party executive committee person candidates to seek to qualify to run for office any time before the current deadline (noon of the 67th day before the primary election). This will likely alleviate administrative burdens on the supervisors of elections during the qualifying week.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. Bills which affect state or local elections are exempt from Article VII, section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Local supervisors of elections may realize some cost savings with respect to mailing vote-by-mail ballots in all-mail-ballot, local referenda elections at the same time as partisan candidates. Such savings are expected to be minimal, and will not impact state revenues since such elections are paid for by the local counties and any savings will accrue thereto.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 101.043, 101.5612, 101.5614, 101.6103, and 103.091.

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.