

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/CS/SB 524

INTRODUCER: Appropriations Committee; Ethics and Elections Committee; and Senator Hutson

SUBJECT: Election Administration

DATE: February 28, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Biehl</u>	<u>Roberts</u>	<u>EE</u>	<b>Fav/CS</b>
2.	<u>Biehl/Hrdlicka</u>	<u>Sadberry</u>	<u>AP</u>	<b>Fav/CS</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 524 makes the following changes related to elections:

- Creates the Office of Election Crimes and Security within the Department of State and revises requirements for special officers who may investigate election law violations;
- Expands the prohibition against use of private donations for election-related expenses to apply to any kind of expense, including but not limited to the costs of related litigation;
- Increases and creates penalties that may be assessed against a third-party voter registration organization for certain violations;
- Increases the frequency with which voter registration list maintenance must be conducted, creates additional requirements for related information that must be provided to the Department of State, and requires inactive voters to confirm address of legal residence before being restored to active status;
- Conforms the mailing and canvassing timeframes for all-mail-ballot elections to those for vote-by-mail ballots in regular elections (effective January 1, 2024);
- Revises the date by which supervised voting must be requested;
- Expands a criminal penalty for early disclosure of election results and requires authorized observers of vote-by-mail ballot duplication to sign an affidavit acknowledging they are subject to the penalty;
- Prohibits the use of ranked-choice voting in any election in the state and preempts any conflicting local ordinances;
- Revises retention, maintenance, and information posting requirements for citizens' initiative petition signature forms;

- Authorizes amendment review processes to be halted if the validity of signatures for an initiative petition have expired;
- Increases criminal penalties for ballot harvesting and crimes related to ballot petition signatures;
- Requires county commissioners of single-member districts to run for election after each decennial redistricting; and
- Requires the Department of State to make specified reports regarding investigations of election law violations and to submit a plan to use identifying numbers to confirm the identity of each elector returning a vote-by-mail ballot.

Except as otherwise provided in the bill, the bill takes effect upon becoming a law.

## II. Present Situation:

For ease of organization and readability, the present situation is discussed below in conjunction with the effect of the proposed changes.

## III. Effect of Proposed Changes:

### **Investigations of Violations of Election Laws (Section 3, creating s. 97.022, F.S.; and Sections 18 and 19, amending ss. 102.091 and 102.101 ,F.S.)**

#### *Present Situation*

Current law vests jurisdiction to investigate and determine violations of chs. 104 and 106, F.S., in the Florida Elections Commission, but does not limit the jurisdiction of any other officers or agencies of government empowered by law to investigate, act upon, or dispose of alleged violations of the Election Code.<sup>1</sup>

In addition, the Secretary of State's duties include:<sup>2</sup>

- Maintaining a voter fraud hotline; and
- Conducting preliminary investigations into any irregularities or fraud involving voter registration, voting, candidate petition, or issue petition activities and reporting his or her findings to the statewide prosecutor or relevant state attorney, if warranted.

Current law also authorizes the governor to appoint special officers to investigate alleged violations of election laws, when it is deemed necessary to see that violators of election laws are apprehended and punished.<sup>3</sup> In addition, the sheriff must exercise vigilance in the detection of any violations of the election laws and in apprehending the violators.

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<sup>1</sup> Section 106.25(1), F.S.

<sup>2</sup> Sections 97.012(12) and (15), F.S.

<sup>3</sup> Section 102.091, F.S.

### *Effect of Proposed Changes*

The bill creates an Office of Election Crimes and Security (office) within the Department of State (DOS) to aid the Secretary of State in completion of his or her existing duties by:

- Receiving and reviewing notices and reports generated by government officials or any other person regarding alleged occurrences of election law violations or election irregularities;
- Initiating independent inquiries and conducting preliminary investigations into allegations of election law violations or election irregularities; and
- Overseeing the voter fraud hotline.

The bill provides that the office shall:

- Have a director appointed by the Secretary of State;
- Be based in Tallahassee;
- Employ nonsworn investigators to conduct any investigations; and
- Obtain any positions and resources necessary to accomplish its duties via the legislative appropriations process.

The bill specifies that its provisions do not limit the jurisdiction of any other office or agency of the state empowered by law to investigate, act upon, or dispose of alleged election law violations.

Regarding special officers, the bill:

- Requires the governor, in consultation with the executive director of the Florida Department of Law Enforcement (FDLE), to appoint special officers to investigate alleged violations of election laws.
- Requires a special officer to be a sworn special agent employed by the FDLE and specifies that at least one special officer in each operational region of the FDLE must be dedicated to the investigation of election laws.
- Provides that appointment as a special officer does not preclude a sworn special agent from conducting other investigations as long as such other investigations do not hinder or interfere with investigations of alleged violations of election laws.
- Adds special officers to the existing list of law enforcement officials who are prohibited from entering a polling place without permission from the clerk or a majority of the inspectors.<sup>4</sup>

The bill requires the DOS to annually report to the governor, the Senate President, and the House Speaker the following information related to investigations of alleged election law violations or election irregularities:

- The total number of complaints received and independent investigations initiated and the number referred to another agency for further investigation or prosecution, including the total of those sent to a special officer.
- For each violation or irregularity investigated, the source of the alleged violation or irregularity; the law allegedly violated or the nature of the irregularity reported; the county in which it occurred; whether it was referred to another agency for further investigation or prosecution, and if so, to which agency; and the current status of the investigation or resulting criminal case.

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<sup>4</sup> See s. 102.101, F.S.

This report is due each January 15 for activities during the prior calendar year.

**Prohibition on Use of Private Donations for Election Administration Expenses (Section 4, amending s. 97.0291, F.S.)**

*Present Situation*

Current law prohibits an agency or state or local official responsible for conducting elections from soliciting, accepting, or using any donation from an individual or nongovernmental entity for the purpose of funding election-related expenses or voter education, outreach, or registration programs.

*Effect of Proposed Changes*

The bill expands the prohibition to apply to any type of election administration-related expense, specifically including, but not limited to, the cost of any related litigation.

**Fines Imposed on Third-Party Voter Registration Organizations (Section 6, amending s. 97.0575, F.S.)**

*Present Situation*

A third-party voter registration organization is any person, entity, or organization soliciting or collecting voter registration applications, but does not include:<sup>5</sup>

- A person who seeks only to register to vote or collect a voter registration application from that person's spouse, child, or parent; or
- A person engaged in registering to vote or collecting voter registration applications as an employee or agent of the Division of Elections (division) within the DOS, supervisor of elections (supervisor), Department of Highway Safety and Motor Vehicles (DHSMV), or a voter registration agency.<sup>6</sup>

An organization that collects voter registration applications must deliver each application to the division or the supervisor in the county in which the applicant resides within 14 days after the application was completed by the applicant, but not after registration closes for the next ensuing election. If an organization fails to meet the deadline, it is liable for specified fines. The aggregate fine which may be assessed against an organization, including affiliate organizations, for violations committed in a calendar year is \$1,000.<sup>7</sup>

*Effect of Proposed Changes*

The bill increases the calendar-year aggregate fine cap to \$50,000.

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<sup>5</sup> Section 97.021(40), F.S.

<sup>6</sup> A voter registration agency is any office that provides public assistance, any office that serves persons with disabilities, any center for independent living, or any public library (s. 97.021(44), F.S.).

<sup>7</sup> Section 97.0575(3)(a), F.S. The \$1,000 cap was established in 2007 (s. 2, ch. 2007-30, Laws of Fla.).

The bill also creates a new penalty that provides that if a person collecting applications on behalf of an organization is found guilty of altering an application without consent,<sup>8</sup> the organization is subject to a fine of \$1,000 per altered application.

**Voter Registration List Maintenance (Sections 7, 8, 9, 10, and 14, amending ss. 98.065, 98.0655, 98.075, 98.093, and 101.043, F.S.)**

*Present Situation*

Current law requires each supervisor to conduct a general voter registration list maintenance program (program) to ensure accurate and current voter registration records.<sup>9</sup> Each program must be conducted, at a minimum, in each odd-numbered year and must be completed no later than 90 days prior to the start of any federal election,<sup>10</sup> as required by the National Voter Registration Act.

Each supervisor must incorporate in the program one or more of the following options for identifying change-of-address information:<sup>11</sup>

- Information supplied by the U.S. Postal Service through its licensees;
- Information identified from returned nonforwardable return-if-undeliverable mail sent to all registered voters in the county; or
- Information identified from returned nonforwardable return-if-undeliverable address confirmation requests<sup>12</sup> mailed to all registered voters who have not voted in the last two years and who did not make any written requests that their registration records be updated during that time.

Current law also requires the DOS to engage in list maintenance activities to ensure the maintenance of accurate and current voter registration records.<sup>13</sup> In part, those activities must include identifying registered voters who are deceased by comparing information received from either:<sup>14</sup>

- The Department of Health (DOH); or
- The U.S. Social Security Administration.

Certain officials are required to provide specified information to the DOS for its use in voter list maintenance activities.<sup>15</sup>

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<sup>8</sup> Section 104.012(4), F.S., makes it a third-degree felony for a person to alter the voter registration application of any other person without the other person's knowledge and consent.

<sup>9</sup> Section 98.065(1), F.S.

<sup>10</sup> Section 98.065(3), F.S.

<sup>11</sup> Section 98.065(2), F.S.

<sup>12</sup> The address confirmation request is a form prescribed by the Department of State that must include the voter's name and address of legal residence as shown on the voter registration record and a request that the voter notify the supervisor if either the voter's name or address of legal residence is incorrect (s. 98.0655, F.S.). "Address of legal residence" means 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 (s. 97.021(3), F.S.).

<sup>13</sup> Section 98.075(1), F.S.

<sup>14</sup> Section 98.075(3), F.S.

<sup>15</sup> Section 98.093, F.S.

A recent operational audit of the DOS relating to voting systems standards and certification, voter registration records maintenance, selected administrative activities, and prior audit follow-up included the following findings:<sup>16</sup>

- DOS controls over voter registration records maintenance need enhancement to better identify duplicate registrations and registrations for deceased voters and convicted felons, and to ensure that potential voter registration record errors are appropriately investigated and corrected.
- DOS controls for ensuring that persons who register or preregister to vote satisfy statutory age requirements need improvement.
- DOS records did not always evidence the timely receipt of forms from supervisors certifying that voter address and voter registration records maintenance activities were conducted in accordance with state law.

### *Effect of Proposed Changes*

The bill increases the frequency with which each supervisor must conduct a program to at least once every year. It revises the options for identifying change-of-address information to provide that each supervisor must:

- Use change-of-address information from the U.S. Postal Service through its licensees and, in odd-numbered years, identify change-of-address information from returned nonforwardable return-if-undeliverable address confirmation requests mailed to all registered voters who have not voted in the last three years and who did not make any written requests that their registration records be updated during that time; or
- Identify change-of-address information from returned nonforwardable return-if-undeliverable mail sent to all registered voters in the county.

Regarding voter addresses, the bill:

- Specifies procedures to be followed regarding which addresses should be used in conducting program activities;
- Requires an inactive voter to confirm his or her current address of legal residence before he or she may be restored to active status;
- Revises requirements for the address confirmation request form to require it to additionally include a voter registration application and a notice regarding penalties for submitting false voter registration information and requires the DOS to create a new identifying number solicitation form for use in requesting such a number for each voter who does not have one on file; and
- Clarifies that identification presented at a poll may be used to confirm the voter's address.

The bill clarifies that a prohibition against removing a voter's name from the statewide voter registration system within 90 days of a federal election does not preclude the correction of registration records based on information submitted by the voter.

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<sup>16</sup> State of Florida Auditor General, Operational Audit of Department of State, Report No. 2021-096, January 2021, [https://flauditor.gov/pages/pdf\\_files/2021-096.pdf](https://flauditor.gov/pages/pdf_files/2021-096.pdf) (last viewed February 20, 2022).

The bill adds the DHSMV as an agency with which the DOS must compare information regarding deceased voters.<sup>17</sup>

Relating to duties of officials to furnish information to the DOS, the bill requires:

- Each clerk of court to report monthly to the DOS specified information on the terms of sentence, including any financial obligations, of all persons listed in the clerk's records who reside within this state and have been convicted of a felony.
- The DHSMV to report monthly to the DOS specified information pertaining to persons who presented evidence of non-U.S. citizenship upon being issued a new or renewed Florida driver license or Florida identification card.<sup>18</sup>

### **Vote-by-Mail Ballots (Sections 15, 20, 24, and 25, amending ss. 101.5614, 104.0616, and 921.0022)**

#### ***Present Situation***

Florida law allows an elector to request a vote-by-mail (VBM) ballot to be used in lieu of voting at the polls during early voting or on Election Day. An elector does not need to provide a reason for a VBM ballot request.

Any person who distributes, orders, requests, collects, delivers, or otherwise physically possesses more than two VBM ballots per election in addition to his or her own ballot or a ballot belonging to an immediate family members commits a first-degree felony.<sup>19</sup>

When returned VBM ballots are being counted, a duplicate must be made and substituted for any ballot:<sup>20</sup>

- That is physically damaged so that it cannot properly be tabulated by the voting system's automatic tabulating equipment;
- That contains an overvoted race; or
- In which every race is undervoted.

The duplicate copies must be made in the presence of witnesses and include all valid votes as determined by the canvassing board based on rules adopted by the division. Upon request, a

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<sup>17</sup> The federal Drivers Privacy Protection Act (DPPA) protects personal information collected by state departments of motor vehicles and held in motor vehicle records (18 U.S.C. 2721). The DPPA defines "personal information" to mean information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information. "Motor vehicle record" means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles. The DPPA specifies permissible uses of protected personal information, including, but not limited to, use by any government agency in carrying out its functions.

<sup>18</sup> Specifically, the bill requires that the DHSMV report for each person his or her name; address; date of birth; social security number, if applicable; and Florida driver license number or Florida identification card number. Social security numbers held by an agency are confidential and exempt from public-records disclosure requirements, but may be disclosed if expressly required by state law (s. 119.071(5)(a)5., F.S.). Also, see discussion of the DPPA above.

<sup>19</sup> Section 104.0616(2), F.S. "Immediate family" means a person's spouse or the parent, child, grandparent, grandchild, or sibling of the person or the person's spouse (s. 104.0616(1), F.S.). A first degree misdemeanor is punishable by a fine of up to \$1,000 and jail time of up to 1 year (ss. 775.082 and 775.083, F.S.).

<sup>20</sup> Section 101.5614(4)(a), F.S.

physically present candidate, a political party official, a political committee official, or an authorized designee thereof must be allowed to observe the duplication of ballots.<sup>21</sup>

It is a third-degree felony for any supervisor, deputy supervisor, canvassing board member, election board member, or election employee to release the results of any election before the closing of the polls in that county on election day.<sup>22</sup>

### ***Effect of Proposed Changes***

The bill requires the DOS to submit to the Senate President and the House Speaker by January 1, 2023, a report detailing a plan, and any draft legislation necessary for implementation, to obtain a Florida driver license number, Florida identification card number, social security number, or any part thereof to confirm the identity of each registered voter returning a VBM ballot. The DOS must, at a minimum, review relevant federal law, processes of other states, and input from supervisors representing large, medium, and small populations. The DOS must review certain issues to develop and implement the plan, which include:

- Coordination with the DHSMV and other agencies in obtaining the required number for each registered voter who does not have such numbers on file in the Florida Voter Registration System;
- How to input such numbers in the Florida Voter Registration System and how to protect the information, including prescribing the form of return mailing envelope;
- Educational outreach to inform voters on changes to the VBM process; and
- Costs associated with the development and implementation of the plan.

The bill increases the criminal penalty for “ballot harvesting” to a third-degree felony and specifies that it is a Level 1 offense.<sup>23</sup>

The bill expands the existing criminal penalty for release of election results prior to poll closing to:

- Include any person authorized to observe, review, or inspect ballot materials or observe canvassing; and
- Also prohibit the release of any information about votes cast for or against any candidate or ballot measure.

The bill also requires each authorized observer of VBM ballot duplication to sign an affidavit affirming his or her acknowledgment that disclosure of election results discerned from observing the ballot duplication process while the election is ongoing is a felony.

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<sup>21</sup> *Id.*

<sup>22</sup> Section 101.5614(8), F.S. A third degree felony is punishable by a fine of up to \$5,000 and a term of imprisonment of up to 5 years (ss. 775.082 and 775.083, F.S.).

<sup>23</sup> “Level 1” is the least severe offense level in the offense severity ranking chart, which is used in conjunction with the Criminal Punishment Code worksheet to compute a sentence score for felony offenders (s. 921.0022(1) and (2), F.S.). Florida Rule of Criminal Procedure 3.704(c)(2) provides that all third degree felonies are Level 1 offenses unless otherwise specified.



**All-Mail-Ballot Elections (Section 16, amending s. 101.6103, F.S.)*****Present Situation***

Local referendum elections may be conducted entirely by mail ballot (all-mail-ballot elections) if certain conditions are met.<sup>24</sup> The supervisor must mail the ballots no sooner than the 20th day before the election and no later than the 10th day before the election.<sup>25</sup> The canvassing board may begin the canvassing of mail ballots at 7 a.m. on the sixth day before the election.<sup>26</sup>

***Effect of Proposed Changes***

Effective January 1, 2024, the bill conforms the mailing and canvassing timeframes for ballots in an all-mail-ballot election to those for vote-by-mail balloting in regular elections.<sup>27</sup> The bill also applies the criminal penalty for early release of election results to canvassing conducted for all-mail-ballot elections.

**Supervised Voting (Section 17, amending s. 101.655, F.S.)*****Present Situation***

The administrator of an assisted living facility or nursing home facility may request that the supervisor send a supervised voting team to deliver ballots to residents of the facility and supervise the residents' voting of the ballots. A request for such supervised voting must be made in writing no later than 21 days prior to the election for which the request is submitted.<sup>28</sup>

***Effect of Proposed Changes***

The bill revises the date by which the request must be made to 28 days before the election for which the request is submitted.

**Use of Ranked-Choice Voting (Section 13, creating s. 101.019, F.S.)*****Present Situation***

In a ranked-choice voting system (RCV), voters rank all the candidates for a given office by their preferences. Ballots are tabulated in multiple rounds following the elimination of a candidate until a single candidate attains a majority.<sup>29</sup>

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<sup>24</sup> Section 101.6102, F.S.

<sup>25</sup> Section 101.6103(1), F.S.

<sup>26</sup> Section 101.6103(6), F.S.

<sup>27</sup> Section 101.62(4), F.S., provides that supervisors must mail VBM ballots to absent uniformed services voters and overseas voters no later than 45 days before a presidential preference primary election, primary election, or general election, and must mail the ballots to all other voters between the 40th and 33rd days before such an election. Section 101.68(2)(a), F.S., provides that canvassing of VBM ballots may begin upon the completion of the public testing of automatic tabulating equipment pursuant to s. 101.5612(2), F.S., but must begin canvassing no later than noon on the day following the election.

<sup>28</sup> Section 101.655, F.S.

<sup>29</sup> "Ranked-Choice Voting," National Conference of State Legislatures, <https://www.ncsl.org/research/elections-and-campaigns/ranked-choice-voting636934215.aspx> (last viewed February 20, 2022).

Alaska and Maine are the only states in the country to have established the use of RCV for all congressional and state elections. A number of cities across the United States also use the method for municipal elections.<sup>30</sup>

Florida statutes do not specifically address the use of RCV. They require state elections to be decided by winner-takes-all primary and general elections but provide no such specification for local elections.<sup>31</sup> Sarasota County voters approved RCV in a 2007 referendum, but the method has not been implemented due to concerns about voting systems and legality.<sup>32</sup> The City of Clearwater considered holding an RCV referendum but decided against it because the city would not be able to implement the system unless the state recognized it as a legal method.<sup>33</sup>

Statutorily required audits<sup>34</sup> and currently authorized voting systems<sup>35</sup> may not accommodate the use of ranked-choice voting in the state.

### *Effect of Proposed Changes*

The bill:

- Prohibits the use of a ranked-choice voting method from being used in determining the election or the nomination of any candidate to any local, state, or federal office in this state.
- Provides that any existing or future ordinance enacted by a local governmental entity which is in conflict with the prohibition against ranked-choice voting is void.

### **Citizens' Initiatives (Sections 1, 2, and 12, amending ss. 15.21, 16.061, and 100.371, F.S.)**

#### *Present Situation*

The Florida Constitution provides citizens the right to propose constitutional amendments through an initiative petition process.<sup>36</sup> The process includes the following signature requirements:

- The total number of signatures must be equal to at least 8 percent of the number of voters in the last presidential election.
- The signatures must come from voters in at least one-half of the congressional districts of the state.<sup>37</sup>

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<sup>30</sup> *Id.*

<sup>31</sup> See ss. 100.061 and 100.181, F.S. In this method, also known as plurality voting, voters select one candidate per race on a ballot and the candidate who receives the most votes wins.

<sup>32</sup> "Sarasota City Commission may pause plan for advancing ranked-choice voting," Sarasota Herald-Tribune, September 22, 2021, <https://www.heraldtribune.com/story/news/politics/elections/local/2021/09/22/sarasota-file-suit-determine-if-can-pursue-ranked-choice-voting/5796054001/> (last viewed February 20, 2022).

<sup>33</sup> "Clearwater drops ranked choice voting referendum," Tampa Bay Times, October 8, 2021, <https://www.tampabay.com/news/clearwater/2021/10/08/clearwater-drops-ranked-choice-voting-referendum/> (last viewed February 20, 2022).

<sup>34</sup> Current law requires two post-election reports: 1) immediately after certification of each election, the county canvassing board or the local board responsible for certifying the election must conduct a manual audit or an automated, independent audit of the voting systems used in randomly selected precincts; and 2) at the end of each general election year, the supervisor in each county must report the total number of overvotes and undervotes for specified races (ss. 101.591 and 101.595, F.S.).

<sup>35</sup> The DOS must examine and certify a voting system before it can be used in an election (s. 101.5605, F.S.). A voting system may only be approved by the DOS if it meets specified criteria (s. 101.5606, F.S.).

<sup>36</sup> FLA. CONST. art. XI, s. 3.

<sup>37</sup> FLA. CONST. art. XI, s. 3.

The steps in the citizens' initiative petition process are as follows:

- The individual or group wishing to propose an amendment must register as a political committee with the division within the DOS.<sup>38</sup>
- The sponsoring political committee must submit its initiative petition form to the division for approval of its format.<sup>39</sup>
- After the division approves the format of a petition form, the division assigns a serial number to the initiative petition.<sup>40</sup>
- After assignment of a serial number, the sponsoring political committee may begin circulating petitions for signature by registered Florida voters.<sup>41</sup>
- Each signed initiative petition form must be submitted by the sponsoring political committee to the supervisor's office in the county of residence of the signee for signature verification.<sup>42</sup>
- When the sponsoring political committee has obtained specified thresholds for verified signatures,<sup>43</sup> the Secretary of State (Secretary) sends the petition to the Attorney General,<sup>44</sup> who must, within 30 days of receipt, petition the Florida Supreme Court (Court) for an advisory opinion as to whether the text of the proposed amendment complies with state constitutional requirements,<sup>45</sup> whether the proposed amendment is facially invalid under the United States Constitution, and whether the proposed ballot title and substance comply with statutory requirements.<sup>46,47</sup> The Secretary concurrently sends a copy of the petition to the Financial Impact Estimating Conference, which completes and submits to the Court a financial impact statement for the proposed amendment.<sup>48</sup>
- By February 1 of the year of the general election, the Secretary determines whether the required number and distribution of signatures has been met.<sup>49</sup> If so, the Secretary issues a certificate of ballot position to the sponsoring political committee.<sup>50</sup> No later than the next day, the division director assigns the designated number for the proposed amendment.<sup>51</sup>

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<sup>38</sup> Section 100.371(2), F.S.

<sup>39</sup> Rule 1S-2.009 (Constitutional Amendment by Initiative Petition), F.A.C.

<sup>40</sup> *Id.*

<sup>41</sup> *See id.* and s. 100.371(2), F.S.

<sup>42</sup> Section 100.371(11)(a), F.S. Each signature must be verified by the relevant supervisor of elections. The sponsoring political committee must pay the actual cost of verification to the supervisor.

<sup>43</sup> The verified signatures on petitions must be equal to at least 25 percent of the number of signatures required statewide and in at least one-half of Florida's congressional districts.

<sup>44</sup> Section 15.21, F.S.

<sup>45</sup> FLA. CONST. art. XI, s. 3, in part limits citizens' initiatives (except those limiting the power of government to raise revenue) to a single subject.

<sup>46</sup> Section 101.161, F.S., provides format and content requirements for ballot titles and summaries. The ballot summary must be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. The ballot title must consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of. However, those requirements do not apply to amendments or revisions proposed by joint resolution of the Legislature. All proposals are subject to requirements pertaining to a financial impact statement that must be included in the ballot summary.

<sup>47</sup> Section 16.061(1), F.S.

<sup>48</sup> Section 100.371(13), F.S.

<sup>49</sup> Section 100.371(1), F.S.

<sup>50</sup> Section 100.371(12), F.S.

<sup>51</sup> Rule 1S-2.0011 (Constitutional Amendment Ballot Position), F.A.C.

For each initiative, each supervisor must retain signature forms for at least one year following the election in which the issue appeared on the ballot or until the division notifies the supervisors that the committee that circulated the petition is no longer seeking to obtain ballot position.<sup>52</sup>

Each supervisor must post on his or her website the aggregate number of verified valid signatures and the distribution of such signatures by congressional district for each amendment proposed by initiative, along with certain information specific to the reporting period.<sup>53</sup>

### *Effect of Proposed Changes*

The bill:

- Requires each supervisor to separate valid and invalid signature forms.
- Revises the signature form retention period to at least one year following the election for which the issue was circulated.
- Adds to website posting requirements the following information for each initiative: total number of signatures submitted, total number of invalid signatures, and total number of signatures processed.

The bill also requires the proposed amendment review processes of the Secretary of State and Attorney General to be halted if the validity of signatures for the initiative period have expired.

### **Penalties Related to Ballot Petitions (Sections 21 and 22, amending ss. 104.185 and 104.186, F.S.)**

#### *Present Situation*

Current law makes it a first-degree misdemeanor to:

- Sign another person's name or a fictitious name to any petition to secure ballot position for a candidate, a minor political party, or an issue;<sup>54</sup> and
- To compensate a petition circulator based on number of petition forms gathered.<sup>55</sup>

#### *Effect of Proposed Changes*

The bill increases the criminal penalty for each of the offenses to make each a third degree felony.

### **Election of County Commissioners in Single-Member Districts (Sections 11 and 23, amending ss. 100.041 and 124.011, F.S.)**

#### *Present Situation*

The Florida Constitution provides that each board of county commissioners shall consist of five or seven members serving staggered terms of four years. After each decennial census, the board of county commissioners divides the county into districts of contiguous territory as nearly equal

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<sup>52</sup> Section 100.371(11)(a), F.S.

<sup>53</sup> Section 100.371(11)(c), F.S.

<sup>54</sup> Section 104.185(2), F.S.

<sup>55</sup> Section 104.186, F.S.

in population as practicable. One commissioner in each district must be elected as provided by law.<sup>56</sup>

The statutes implementing the constitutional provisions specify:

- County commissioners may be elected at-large in some counties and from single-member districts in other counties.<sup>57</sup>
- For single-member districts, each commissioner from an odd-numbered district is elected at the general election in each year the number of which is a multiple of four. Each commissioner from an even-numbered district is elected at the general election in each even-numbered year the number of which is not a multiple of four.<sup>58</sup>

### *Effect of Proposed Changes*

The bill provides that in the election following each constitutionally required, decennial redistricting, each county commissioner in a single-member district must be elected and their terms will thereafter be staggered as provided in law. The provision does not apply to commissioners in:

- Miami-Dade County.
- Any county the charter of which limits the number of terms a commissioner may serve.
- Any county in which voters have never approved a charter amendment limiting the number of terms a commissioner may serve regardless of subsequent judicial nullification.

### **Conforming Changes (Section 5, amending s. 97.057, F.S.)**

The bill conforms a cross-reference.

### **Effective Date of the Bill (Section 26)**

Except as otherwise provided in the bill, the bill takes effect upon becoming a law.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

Not applicable. Bills that affect state or local elections are exempt from the requirements of Art. VII, s. 18 of the Florida Constitution.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

<sup>56</sup> FLA. CONST. art. VIII, s. 1(e).

<sup>57</sup> Section 124.011, F.S.

<sup>58</sup> Section 100.041(2)(a), F.S.

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:

A third-party voter registration organization that commits multiple violations in one calendar year may be affected by the increased and new penalties under the bill.

C. Government Sector Impact:

The requirement that certain special officers be dedicated to investigating election law violations and the creation of the new Office of Election Crimes and Security may require funding for additional positions. SB 2500 includes an appropriation for the new office, contingent upon the passage of this bill (Specific Appropriations 3146-3151).

Increasing the frequency with which voter registration list maintenance must be conducted and requiring mailings regarding identifying numbers will increase supervisor workload and mailing costs. Requiring governmental officials and agencies to report additional information to the DOS for list maintenance purposes may increase workload for those official and agencies. SB 2500 includes an appropriation for the new positions in the division for voter registration activities, contingent upon the passage of this bill (Specific Appropriation 3131).

The Criminal Justice Impact Estimating Conference has not reviewed the bill for any prison bed impacts due to the increased criminal penalties under the bill, although the impact is expected to be minimal.

The increase in fines may result in an indeterminate, positive fiscal impact to the General Revenue Fund.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 97.022 and 101.019.

This bill substantially amends the following sections of the Florida Statutes: 15.21, 16.061, 97.0291, 97.057, 97.0575, 98.065, 98.0655, 98.075, 98.093, 100.043, 101.5614, 101.6103, 101.655, 102.091, 102.101, 104.0616, 104.185, 104.186, 124.011, and 921.0022.

The bill creates an undesignated section of Florida law.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Appropriations on February 24, 2022:**

The committee substitute revises the bill by:

- Streamlining provisions regarding voter list maintenance.
- Removing the requirement for a voter to provide an identifying number when voting by mail and removing the corresponding language requiring a three-envelope system.
- Conforming mail ballot mailing and canvassing provisions for all-mail-ballot elections to those for vote-by-mail balloting in regular elections.
- Expanding Department of State reporting provisions to require a study of all issues involving a plan to modify VBM procedures to ensure election integrity.
- Adding a new financial penalty for a third-party voter registration organization if a person collecting applications on its behalf is found guilty of altering an application without consent.
- Clarifying that an identification presented at a poll may be used to confirm the voter's address.
- Removing the requirement that supervisors provide a method of viewing and copying valid and invalid signature forms for initiative petitions.
- Adding new provisions authorizing amendment review processes to be halted if the validity of signatures for the initiative petition have expired.
- Adjusting the date by which supervised voting must be requested.
- Adding a new requirement that after each decennial redistricting, certain county commissioners must be reelected, with exceptions.

**CS by Ethics and Elections on February 1, 2022:**

The committee substitute does the following:

- Retains a prohibition against the use of ranked-choice voting that is in the original bill.
- Revises the original bill's removal of an annual cap on fines against a third-party voter registration organization to instead increase it to \$50,000 from the current \$1,000.
- Removes from the original bill provisions related to candidate disclosures and early voting sites.

- Adds new provisions related to an Office of Election Crimes and Security within the DOS; special officers to investigate election law violations; vote-by-mail procedures; voter registration list maintenance; criminal penalties for early disclosure of election results, ballot harvesting, compensating persons for petition signatures, and signing another person's name to a petition; signature-gathering for citizens' initiatives; and DOS reporting requirements.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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