

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 531 Brevard County
SPONSOR(S): Local Administration & Veterans Affairs Subcommittee, Fine
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	16 Y, 0 N, As CS	Darden	Miller
2) Public Integrity & Elections Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The political party designation of major party candidates in each general election for a partisan office are printed on the ballot by the supervisor of elections based on the results of a primary election, special primary election, or the selection of a candidate by an appropriate executive committee of a political party. Candidates for nonpartisan offices are listed in alphabetical order with no reference to political party affiliation. While the Florida Election Code generally contemplates partisan elections, some offices are elected in a nonpartisan manner based on provisions of the Florida Constitution, general law, or a special act creating the office.

Candidates for local government offices may be elected using a variety of districting systems specified by law. These may include at-large elections by all electors of the local government unit or members selected from districts either at-large or by the electors of the district.

The bill requires the Brevard County Supervisor of Elections to print party designations on the ballot for all candidates other than candidates for judicial and school board elections and provides that the members of any governmental unit in Brevard County that are designated for election in districts or other geographic designations may only be elected by qualified electors of that district or other geographical designation in the relevant primary, general, runoff, or other election.

These requirements would apply to all elections held in Brevard County on or after January 1, 2022.

Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. The provisions of House Rule 5.5(b) appear to apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Political Party Designations

The political party designation of major party candidates in each general election for a partisan office are printed on the ballot by the supervisor of elections based on the results of a primary election, special primary election, or the selection of a candidate by an appropriate executive committee of a political party.¹ The names of candidates for nonpartisan offices,² as well as minor party candidates and candidates with no party affiliation for partisan offices, are printed on the ballot in compliance with other provisions of the Florida Election Code.³ Nonpartisan offices are placed on a separate section of the ballot from elections for partisan offices.⁴ Candidates are listed in alphabetical order and no reference to political party affiliation may appear on the ballot.⁵

While the Florida Election Code “generally contemplates partisan elections,” some offices are elected in nonpartisan manner.⁶ The Florida Constitution requires nonpartisan elections for school board members.⁷ Candidates for judicial office, including candidates for judicial retention, are prohibited from campaigning or qualifying for office based on party affiliation.⁸ Municipal elections may be conducted on a nonpartisan basis if specified by the special act creating the municipality, the municipality’s charter, or an ordinance adopted by the municipality.⁹ Members of the governing body of special districts are elected in nonpartisan elections, unless partisan elections are required by the district’s charter.¹⁰

Districting

Counties

The Florida Constitution requires each county commission to divide the county into districts of contiguous territory with as equal population as practicable following each decennial census.¹¹ One commissioner residing in each district is elected as provided by law. Each county commission consists of five or seven members serving staggered terms of four years, unless otherwise provided by a county charter. The default county election system requires the county commission to draw five districts nearly equal in population as possible, with one commissioner elected from each district by the qualified electors of the entire county.¹² This system is used by 41 of the state’s 67 counties.¹³ Alternatively, county commissioners may be elected from single-member districts, a structure created by voter approval at a referendum.¹⁴ A referendum to convert to single-member districts may be called

¹ See s. 101.2512(1), F.S. (requirements for printing candidate names of general election ballots, excluding candidates in nonpartisan elections, minor party candidates, and candidates with no party affiliation).

² A “nonpartisan office” is an office for which a candidate is prohibited from campaigning or qualifying for election or retention in office based on party affiliation. S. 97.021(23), F.S.

³ S. 101.2512(2), F.S.

⁴ S. 105.041(1), F.S.

⁵ S. 105.041(2)-(3), F.S.

⁶ See *Orange Cnty. v. Singh*, 268 So. 3d 668, 671-672 (Fla. 2019).

⁷ Art. IX, s. 4(a), Fla. Const.

⁸ S. 105.011(2), F.S.

⁹ See s. 100.3605(1), F.S. (providing that the Florida Election Code governs municipal elections in the absence of a special act, charter provision, or ordinance governing the issue and prohibiting municipalities from adopting charter provisions or ordinances that conflict with provisions of the Florida Election Code that expressly apply to municipalities), see also *Orange Cnty. v. Singh*, 268 So. 3d at 673 (contrasting nonpartisan municipal elections with county elections).

¹⁰ S. 189.04(2)(c), F.S.

¹¹ Art. IX, s. 1, Fla. Const.

¹² S. 124.01, F.S.

¹³ Fla. Ass’n of Counties, *County Redistricting*, <https://www.fl-counties.com/county-districting> (last visited Jan. 7, 2022).

¹⁴ S. 124.011, F.S.

by the county commission or electors of the county may petition to have the proposition placed on the ballot by gathering the signatures of at least ten percent of the qualified electors of the county.¹⁵ The referendum may convert the county commission to a five-member body, with all members elected in districts, or a seven-member body with five members elected in districts and two members elected at-large by the qualified electors of the entire county.¹⁶

The Brevard County Board of County Commissioners is a five-member board elected from single-member districts.¹⁷

Municipalities

Neither the Florida Constitution nor general law provide criteria for dividing municipalities into districts,¹⁸ leaving the topic to municipal charters and relevant case law.¹⁹

The charter of the City of Cape Canaveral, for example, provides for a city council composed of a mayor and four council members elected by the voters of the municipality at-large.²⁰ Council members serve staggered terms, with two seats placed on the ballot each election.²¹ All candidates for the position appear on a single ballot, with the two candidates receiving the highest number of votes elected to office.

The charter of the City of Melbourne provides for a city council composed of a mayor and six other members elected by the voters of the municipality at-large.²² All members except the mayor represent districts and the member representing each district must reside in the district.

The charter of the Town of Malabar provides for a five-member town council selected from single-member districts by the electors of those districts and a mayor elected at-large by all municipal electors.²³

School Districts

The Florida Constitution requires each school board to contain at least five members elected in nonpartisan elections as provided by law.²⁴ General law provides that each school district may be governed by a five-member board, elected by the residents of each “school board member residence area,” or a seven-member board, with five members elected from “school board member residence areas” and two members elected at-large.²⁵ The school board members are responsible for drawing the “school board member residence areas” to be as equitable in population as possible.²⁶ Changes to residence areas can only be made in odd-numbered years and may not be drawn as to disqualify an existing school board member from completing their present term.²⁷ School board members are elected by all residents of the school district.²⁸

The Brevard County School District is governed by a five-member board.²⁹

¹⁵ S. 124.011(3), F.S.

¹⁶ S. 124.011, F.S.

¹⁷ See Fla. Ass’n of Counties, County Redistricting, <https://www.fl-counties.com/county-districting> (last visited Jan. 7, 2022) and Brevard Cnty., *Brevard County Board of County Commissioners*, <http://www.brevardfl.gov/CountyCommission> (last visited Jan. 7, 2022).

¹⁸ See art. VIII, s. 2, Fla. Const. (requiring municipal governing bodies to be elected without further specification) and s. 100.361, F.S. (recall provisions for municipal officers containing provisions for members elected from districts and at-large).

¹⁹ *Avery v. Midland Cnty.*, 390 U.S. 474 (1968) (applying “one man, one vote” principle of *Reynolds v. Sims* to local governments).

²⁰ Cape Canaveral, Fla., Charter, art. II, s. 2.02(a).

²¹ Cape Canaveral, Fla., Charter, art. VI, s. 6.03.

²² Melbourne, Fla., Charter, s. II, s. 2.01(1)(a).

²³ Malabar, Fla., Charter, art. II, s. 2.02.

²⁴ Art. IX, s. 4(a), Fla. Const.

²⁵ S. 1001.36, F.S.

²⁶ S. 1001.36(1), F.S.

²⁷ S. 1001.36(2), F.S.

²⁸ S. 1001.361, F.S.

²⁹ Brevard Public Schools, *School Board*, <https://www.brevardschools.org/Page/2302> (last visited Jan. 7, 2022).

Special Districts

The composition of the governing body of each special district, including whether its members are elected and whether those elections are at-large or occur in single-member districts, is specified by the special act, ordinance, or administrative rule creating the district.³⁰

Effect of Proposed Changes

The bill requires the Brevard County Supervisor of Elections to print party designations on the ballot for all candidates other than candidates for judicial and school board elections.

The bill requires that the members of any governmental unit in Brevard County that are designated for election in districts, wards, precincts, or other geographical designations, may only be elected by qualified electors of that district, ward, precinct, or other geographical designation in the relevant primary, general, runoff, or other election. This provision includes members of the board of the Brevard County School District, notwithstanding s. 1001.361, F.S.

These requirements would apply to all elections held in Brevard County on or after January 1, 2022.

B. SECTION DIRECTORY:

Section 1: Requires the Brevard County Supervisor of Elections to print party designations for all candidates other than candidates in judicial and school board elections and requires elections to governmental units in Brevard County that are marked by a geographical designation to only be open to qualified electors of that geographical designation. The provisions would apply to all Brevard County elections held on or after January 1, 2022.

Section 2: Provides an effective date of July 1, 2022.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? October 7, 2021.

WHERE? *Florida Daily*, a daily newspaper of general circulation published in Brevard County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

³⁰ See ss. 189.02(4)(e) and 189.031(3)(e), (j), F.S.

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 13, 2022, the Local Administration & Veterans Affairs Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS clarifies that school board elections are not subject to the printing of party designation provision of the bill, but are subject to provisions concerning the election of members from districts.

This analysis is drafted to the committee substitute adopted by the Local Administration & Veterans Affairs Subcommittee.