

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 1080

INTRODUCER: Senator Yarborough

SUBJECT: Local Redistricting

DATE: April 5, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cleary	Roberts	EE	Favorable
2.	_____	_____	CA	_____
3.	_____	_____	RC	_____

I. Summary:

Senate Bill 1080 amends current Florida Law by:

County:

- Prohibiting county commission districts from being drawn with the intent to favor or disfavor a candidate for county commission or an incumbent county commissioner based on the candidate's or incumbent's residential address.
- Replaces the term "possible" with the word "practicable" with regard to equalizing population.

Municipality:

- Requiring each municipality, to periodically fix the boundaries of its districts, in odd numbered years, to keep them as nearly equal in proportion to their respective populations as practicable.
- Prohibiting municipal districts from being drawn with the intent to favor or disfavor a candidate for the governing body or an incumbent member of the governing body based on the candidate's or incumbent's residential address.

District School Board:

- Prohibiting district school board member residence areas from being drawn with the intent to favor or disfavor a candidate for district school board member or an incumbent district school board member based on the candidate's or incumbent's residential address.

This act takes effect July 1, 2023.

II. Present Situation:

Background:

Redistricting is the process of redrawing boundaries for political districts done by the Legislature and certain local jurisdictions from which Florida voters elect members of the U.S. House of Representatives, state senators, state representatives, county commissioners, school board members and applicable municipalities. Redistricting is usually done every 10 years after the decennial census and is based on the population collected by the U.S. Census Bureau's most recent decennial census. Redistricting is the redrawing of these districts to adjust for uneven growth rates in different parts of the state or jurisdiction. Districts determine which voters participate in which elections. Redistricting plans must comply with applicable requirements of the U.S. Constitution¹, the federal Voting Rights Act², the Florida Constitution³, and related court decisions.

Counties: County Commissioners

Article VIII of the Florida Constitution establishes the authority for home rule by counties and municipalities in Florida. The Legislature is required to divide the state into counties.⁴ Pursuant either to general or special law, a county government may be adopted by charter approved by the county voters.⁵ A county without a charter has such powers of self-government as provided by general⁶ or special law.⁷ A county with a charter has all powers of self-government not inconsistent with general law or special law approved by the county voters.⁸ The Florida constitution provides unique authorization⁹ for specific home rule charters including those of Duval¹⁰ and Miami-Dade Counties.¹¹ Currently, 20 Florida counties have adopted charters.¹²

¹ See Article I, s. 2, U.S. CONST.; See also s. 2, 14th and 15th Amendments, U.S. CONST.

² See 52 U.S.C. s. 10301(a) (Section 2 of the Voting Rights Act).

³ See Article III ss. 20 and 21, FLA. CONST.; See also Article VIII s. 1(e), FLA. CONST.

⁴ Article VIII, s. 1(a), FLA. CONST.

⁵ Section 125.60, F.S.

⁶ Chapter 125, Part I, F.S.

⁷ Article VIII, s. 1(f), FLA. CONST.

⁸ Article VIII, s. 1(g), FLA. CONST.

⁹ Article VIII, s. 6(e), FLA. CONST. incorporating by reference s., 9, 10, 11, 24 from Article VIII of the 1885 Constitution, states that these specific provisions respectively for Duval, Miami-Dade, Monroe, and Hillsborough Counties, "shall remain in full force and effect as to each county affected, as if this article had not been adopted, until that county shall expressly adopt a charter or home rule plan pursuant to this article."

¹⁰ The consolidated government of the City of Jacksonville was created by ch. 67.1320, Laws of Fla., adopted pursuant to Art. VIII, s. 9, FLA CONST. (1885).

¹¹ In 1956, an amendment to the 1885 Florida Constitution provided Dade County with the authority to adopt, revise, and amend from time to time a home rule charter government for the county. The voters of Dade County approved that charter on May 21, 1957. Dade County, now known as Miami-Dade County, has unique home rule status. Article VIII, s. 11(5) of the 1885 Florida Constitution, now incorporated by reference in art. VIII, s. 6(e), FLA. CONST. (1968), further provided the Metropolitan Dade County Home Rule Charter, and any subsequent ordinances enacted pursuant to the charter, may conflict with, modify, or nullify any existing local, special, or general law applicable only to Dade County. Accordingly, Miami-Dade County ordinances enacted pursuant to the Charter may implicitly, as well as expressly, amend or repeal a special act that conflicts with a Miami-Dade County ordinance. Effectively, the Miami Dade Charter can only be altered through constitutional amendment, general law, or county actions approved by referendum. *Chase. V. Cowart*, 102 So.2d 147, 149-50 (Fla. 1958).

¹² Alachua, Brevard, Broward, Charlotte, Clay, Columbia, Duval (consolidated government with the City of Jacksonville, ch. 67-1320, Laws of Fla.), Hillsborough, Lee, Leon, Miami-Dade, Orange, Osceola, Palm Beach, Pinellas, Polk, Sarasota,

The Florida Constitution provides that each county, except as otherwise provided by county charter, is governed by a board of county commissioners composed of five or seven members serving staggered four-year terms.¹³ Each county must be divided into districts that are contiguous and as nearly equal in population as practicable, which are redrawn after the decennial census.¹⁴ One commissioner must reside in each district as provided by law. The default method created by general law provides that each county has a five-member commission, with a commissioner representing each district elected at-large by all voters of the county.¹⁵ County commissioners are responsible for making periodic boundary adjustments to ensure district populations, are nearly equal as possible, but these changes may only be made during odd-numbered years.¹⁶ Counties are also subject to federal requirements, which include equal population¹⁷ and compliance with the Voting Rights Act.¹⁸

Subject to approval in a referendum of county's voters, the commission may alternately be structured as:

- A five-member board, with each member elected only by qualified electors who reside in the same county commission district as the commissioner; or
- A seven-member board, with five members elected only by the qualified electors who reside in the same county commission district as the commissioner and two members elected at-large.¹⁹

Most of the state's 67 counties use the default five-member board, elected at-large method, 20 counties elect commissioners from single-member districts and seven counties use the seven member board system.²⁰

Seminole, Volusia, and Wakulla Counties. See the *Local Government Formation Manual*, Appendix C, p. 106, available at <https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeID=3227&Session=2023&DocumentType=General+Publications&FileName=2022+Local+Government+Formation+Manual.pdf> (last visited March 31, 2023).

¹³ Article VIII, s. 1(e), FLA. CONST.

¹⁴ *Id.*

¹⁵ Section 124.011(1), F.S.

¹⁶ Section 124.01(3), F.S.

¹⁷ Equal population is specifically mandated by the Florida Constitution and is based on the constitutional concept of "One Person, One Vote," derived by the U.S. Supreme Court from the Equal Protection Clause of the U.S. Constitution. County commissioners in arranging their districts do not have to create districts with identical population so long as the population of each district is equal to that of the others as near as it is practicable to attain that end. See *Prince v. State ex rel. Williams*, 157 Fla. 103, 25 So. 2d 5 (1946); According to U.S. Supreme Court Case law a redistricting plan presumptively meets the "One Person One Vote," mandate so long as the "maximum deviation" does not exceed 10%. See *Chapman v. Meier*, 420 U.S. 1 (1975). Nevertheless, any significant deviation (even within the 10 percent overall deviation margin) must be "based on legitimate considerations incident to the effectuations of a rational state policy . . ." See *Reynolds v. Sims*, 377 U.S. 533, 579 (1964).

¹⁸ 52 U.S.C. 10301

¹⁹ Section 124.011(1)(a)-(b), F.S.

²⁰ Fla. Association of Counties, *County Districting*, available at <https://www.fl-counties.com/county-districting> (last visited March 31, 2023). On November 8, 2022, the voters of Alachua County approved an amendment to s. 2.2(A), of the county charter and now require county commissioners to be elected only by the qualified electors within their respective districts.

Municipalities

A municipality is a local government entity created to perform functions and provide services for the particular benefit of the population within the municipality, in addition to those provided by the county. The term “municipality” may be used interchangeably with the terms “town,” “city,” and “village.”

The Florida Constitution provides that municipalities may be established or abolished and their charters amended pursuant to general or special law.²¹ Under the Florida Constitution and Municipal Home Rule Powers Act²² municipalities are constitutionally granted all government, corporate, and proprietary powers necessary to enable them to conduct municipal government, perform municipal functions, render municipal services and may exercise any power for municipal purpose except as provided by law.²³ Additionally, municipalities are constitutionally authorized to exercise any power for municipal purpose except when expressly prohibited by general or special law.²⁴ The paramount law of a municipality is its charter, which gives the municipality all the powers it possesses.²⁵

The Constitution does not specify the form of organization for municipal government, and there is no requirement of uniformity in the form of government established for all the municipalities in the state. The powers of municipal government may be given to a Mayor, elected as the top official, or vested in a city council or other such governing body chosen by the electors to make policy and decision that impact the specific city or town.²⁶ The city charter and related laws guide the city council. The only constitutional requirement as to the municipal form of government is that each municipal legislative body must be elected.²⁷ There are two primary forms of municipal government, the commission form and council-manager form. In the commission form of municipal government, the city commission is elected by the voters, whose members in turn elect a mayor from their own number to preside over meetings.²⁸ The elected commissioners head the various departments.²⁹ In the council-manager form of municipal government a professionally trained administrator known as the city manager is hired, who exercises administrative functions and also selects the heads of city departments.³⁰

Municipalities must comply with federal law and its own local charters when redistricting. There is no state constitutional or specific state statute provision that addresses requirements for municipal redistricting.

²¹ Article VIII, s. 2, FLA. CONST.

²² Chapter 166, F.S.

²³ 12A Fla. Jur 2d Counties, Etc. s. 95.

²⁴ Article VIII, s. 2(b), FLA. CONST.

²⁵ *Jackson v. Leon Cnty. Elections Canvassing Bd.*, 204 So. 3d 571, 574 (Fla. Dist. Ct. App. 2016).

²⁶ 12A Fla. Jur 2d Counties, Etc. s. 105.

²⁷ Article VIII, s. 2(b), FLA. CONST.

²⁸ 12A Fla. Jur 2d Counties, Etc. s. 105.

²⁹ *Id.*

³⁰ *Baynard v. Windom*, 63 So. 2d 773, 775 (Fla. 1952).

District School Board Member Residence Areas

Unless otherwise voted upon by electors, each county shall constitute a school district.³¹ In Florida, there are 67 school districts to match the 67 counties in the state.³² Each school district must have a school board composed of five or more members.³³ The school boards operate, control, and supervise all free public schools within the school district and determine the rate of school district taxes within constitutional limits.³⁴ The powers and duties of the district school board are further set forth in law.³⁵

School board members are chosen by a vote of qualified electors in non-partisan elections and serve in appropriately staggered terms of four years, as provided by law.³⁶ For election purposes, a school district is divided into at least five district school board member residence areas.³⁷ For districts with more than five school board members, the district can be divided into five district school board member residence areas, with the remaining district school board members serving at large, or the district can be divided into district school board member residence areas for each member.³⁸ A candidate for a district school board must be a resident of the district board member residence area from which the candidate seeks election at the time he or she qualifies.³⁹

Members of the district school board can be elected by either district-wide election or a single member district election.⁴⁰ In a district-wide election, all qualified electors in the district must be entitled to vote for one candidate from each district school board member residence area.⁴¹ In school districts with single-member representation, candidates for the school board shall be elected only by qualified electors who reside in the same residence area as the candidate.⁴²

Florida Statute requires for the purpose of electing district school board members, that each district be divided into school districts, as nearly as practicable, equal in population.⁴³ Further Florida Statute provides that a district school board may make any change that it deems necessary in the boundaries of any district school board member residence area provided that

³¹ Article IX, S. 4(a), FLA. CONST.; s. 1001.30, F.S. Two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district.

³² Florida Department of Education, http://web03.fldoe.org/schools/schoolmap_text.asp (last visited March 31, 2023).

³³ Article IX, s. 4(a), FLA. CONST.

³⁴ Article IX, s. 4(b), FLA. CONST.

³⁵ Sections 1001.41 and 1001.42, F.S.

³⁶ Section 1001.35, F.S.; Article IX, s. 4(a), FLA. CONST., was amended as part of a larger election reform packaged offered by the 1997/1998 Constitutional Revision Commission. Prior to the amendment, school board members were elected in partisan races. William A. Buzzett and Deborah K. Kearney, Annotation, Article IX, s. 4, FLA. CONST., West's Florida Statutes Annotated, Florida Constitution – 1968 Revision (2020).

³⁷ Section 1001.36(1), F.S.

³⁸ Section 1001.36(1)(a), F.S.

³⁹ Sections 1001.36 and 1001.362(2)(b)1.-2., F.S.

⁴⁰ In 43 school districts, school members are elected by a district-wide vote of electors. In 21 school districts, school board members are elected by a vote of the electors within their residence area (single member district election). In four school districts, some school board members are elected by a vote of the electors within their residence area and other are elected by a district wide vote. "2018-2019 Florida School Board Fast Facts," Florida School Boards Association (2019), <https://fsba.org/wp-content/uploads/2019/08/2018-2019-School-Board-Fast-Facts.pdf> (Last visited March 31, 2023).

⁴¹ Section 1001.361, F.S.

⁴² Section 1001.362(2)(b), F.S.

⁴³ Section 1001.361(1)(a), F.S.

such changes do not affect the residence qualifications of any incumbent member during the for which he or she is elected.⁴⁴

III. Effect of Proposed Changes:

The bill makes the following proposed changes:

Section 1: Division of counties into districts; county commissioners

- Prohibits districts from being drawn with the intent to favor or disfavor a candidate for county commission or an incumbent county commissioner based on the candidate's or incumbent's residential address.
- Replaces the term "possible" with the word "practicable" with regard to equalizing population.
- Nullifies any ordinance enacted or adopted by a county on or after July 1, 2023 which is in conflict with this prohibition.

Section 2: Division of municipalities into districts

- Creates a new section 166.0321, Florida Statutes.
- Requires each municipality to periodically fix the boundaries of its districts for the purpose of keeping them as nearly equal in proportion to their respective populations as practicable.
- Requires such periodic redistricting only to occur in odd-numbered years.
- Prohibits districts from being drawn with the intent to favor or disfavor a candidate for member of the governing body or an incumbent member of the governing body based on the candidate's or incumbent's residential address.
- Nullifies any ordinance enacted or adopted by a county on or after July 1, 2023 which is in conflict with this prohibition.

Section 3: District school board member residence areas.

- Prohibits school board residence areas from being drawn with the intent to favor or disfavor a candidate for district school board member or an incumbent district school board member based on the candidate's or incumbent's residential address.
- Nullifies any ordinance enacted or adopted by a county on or after July 1, 2023 which is in conflict with this prohibition.

Section 4: Effective Date

- The act takes effect on July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁴⁴ Section 1001.36(2), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate. Most likely negligible.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 124.01; 1001.36.
This bill creates the following section of the Florida Statutes: 166.0321.

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.

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