

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 Education PreK-12

BILL: SB 444

INTRODUCER: Senator Ingoglia

SUBJECT: District School Board Elections

DATE: April 3, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Biehl</u>	<u>Roberts</u>	<u>EE</u>	Favorable
2.	<u>Sagues</u>	<u>Bouck</u>	<u>ED</u>	Pre-meeting
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 444 revises the residency requirement for school board candidates. Current law requires a candidate for school board to be a resident of the district school board member residence area in which he or she seeks election at the time he or she qualifies to run for the office. This bill changes the time at which the residency requirement must be met to the time at which an elected school board member assumes office.

The bill takes effect July 1, 2023.

II. Present Situation:

Many elected offices require that the public officials holding them live within a specified district or area. Unless otherwise provided for constitutionally, legislatively, or judicially, any residency requirement for an elected office must be met at the time of assuming office.¹ Some offices with specified residency requirements are below.

Office	Point at Which Residency Requirement Must be Met
City commissioner	At time of assuming office, unless otherwise provided by city charter or ordinance ²

¹ Florida Division of Elections, *Guidelines for Determining When Residency Qualifications for Elected Office Must be Met* (2018), available at <https://soe.dos.state.fl.us/pdf/DE%20Guide%200008%20-%20Guidelines%20for%20Determining%20When%20Residency%20Qualifications....pdf>.

² See *Nichols v. State*, 177 So.2d 467 (Fla. 1965); *Marina v. Leahy*, 578 So.2d 382; and Division of Elections, *Advisory Opinions by Year* (94-04 and 92-10), <https://www.dos.myflorida.com/elections/laws-rules/advisory-opinions/advisory-opinions-by-year/> (last visited March 27, 2023).

Congressional member (U.S. Senator or U.S. Representative)	At time of election ³
County commissioner	At time of election ⁴
Constitutional county officers (clerk of court, supervisor of elections, property tax appraiser, sheriff)	At time of assuming office ⁵
Governor, Lieutenant Governor, or Cabinet member	At time of election ⁶
Judge	At time of assuming office ⁷
State legislators	At time of election ⁸
School board members	At time of qualifying ⁹
School superintendent	At time of assuming office ¹⁰

For the purpose of electing district school board members, each district must be divided into at least five district school board member residence areas.¹¹ A district may also have 7 district school board members, with 5 residence areas and two members elected at large, contingent upon district school board resolution approved by voters in the district.¹²

Each candidate for district school board member must, at the time she or he qualifies, be a resident of the district school board member residence area from which the candidate seeks election. Each candidate who qualifies to have her or his name placed on the ballot is listed according to the district school board member residence area in which she or he resides. The candidate from each district school board member residence area who receives the highest number of votes in the general election is elected to the district school board.¹³

³ U.S. CONST. art. 1, ss. 2 and 3.

⁴ See *State v. Grassi*, 532 So.2d 1055 (Fla. 1988); FLA. CONST. art. VII, s. 1(e) (Amended 1998), Division of Elections, *Advisory Opinions by Year* (94-04 and 92-10), <https://www.dos.myflorida.com/elections/laws-rules/advisory-opinions/advisory-opinions-by-year/> (last visited March 27, 2023), and Office of Attorney General, *Attorney General Opinion 74-293*, <http://myfloridalegal.com/ago.nsf/Opinions/BA862ABB5A8981B3852566B3005C4A25> (last visited Mar. 27, 2023).

⁵ See Division of Elections, *Advisory Opinions by Year* (90-30, 94-04 and 92-10), <https://www.dos.myflorida.com/elections/laws-rules/advisory-opinions/advisory-opinions-by-year/> (last visited Mar. 27, 2023)

⁶ FLA. CONST. art. IV, s. 5, (Amended 1998).

⁷ See FLA. CONST. art. V, s. 8 (Amended 1998), and Division of Elections, *Advisory Opinions by Year* (78-31 and 94-04), <https://www.dos.myflorida.com/elections/laws-rules/advisory-opinions/advisory-opinions-by-year/> (last visited Mar. 27, 2023).

⁸ See *Ruiz v. Farias*, 43 So.3d 124 (Fla. 3DCA 2010).

⁹ See ss. 1001.34 and 1001.361, F.S.; and Division of Elections opinions 82-02 and 94-04.

¹⁰ See Division of Elections, *Advisory Opinions by Year* (94-04), <https://www.dos.myflorida.com/elections/laws-rules/advisory-opinions/advisory-opinions-by-year/> (last visited Mar. 27, 2023).

¹¹ Section 1001.36(1), F.S.

¹² Sections 1001.36(1) and 1001.34(2), F.S.

¹³ Section 1001.361, F.S.

III. Effect of Proposed Changes:

The bill brings the residency requirement for school board members more in line with those for other offices by providing that a school board member must meet the residency requirement at the time he or she assumes office.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1001.361, Florida Statutes.

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.
