

**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 Ethics and Elections

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BILL: SPB 7050

INTRODUCER: For consideration by the Ethics and Elections Committee

SUBJECT: Elections

DATE: April 3, 2023

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

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Biehl	Roberts		<b>Pre-meeting</b>

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**I. Summary:**

SPB 7050 makes the following changes to the Election Code:

- Enhances an existing requirement for signature matching training.
- Clarifies authority of the Office of Election Crimes and Security and duties of the statewide prosecutor.
- Requires certain first-time Florida voters to vote in person.
- Revises registration requirements, procedures, deadlines, and fines for third-party voter registration organizations.
- Adds to content that must be included on voter information cards.
- Revises processes to be used by supervisors of elections and the Department of State in voter registration list maintenance activities and enhances information other governmental entities must provide for that purpose.
- Reenacts a public records exemption for certain voter registration information received from other states or the District of Columbia.
- Clarifies and modernizes requirements for disseminating voter signature update information and for the process of signature verification.
- Updates and enhances requirements for post-election reports.
- Creates a new candidate disclosure requirement for certain outstanding fines and fees.
- Prescribes requirements for use of a candidate nickname on a ballot.
- Specifies how candidates with the same surname running for the same office in a general election may be distinguished on the ballot.
- Clarifies the costs that supervisors may charge for verification of signatures on petitions.
- Modernizes certain notice requirements by authorizing notice to be made on specified websites instead of in a local newspaper.
- Modernizes requirements for precinct boundary data maintained by supervisors.
- Clarifies situations in which a provisional ballot must be voted.
- Implements some of the recommendations in the Department of State's vote-by-mail report.
- Provides an additional option for discretionary early voting days.
- Clarifies the allowable number of alternate members of county canvassing boards.

- Modifies timeframes for meetings of the Elections Canvassing Commission, submission of county returns by county canvassing boards, and certification of presidential electors.
- Allows state committeemen and state committeewomen to prequalify.
- Clarifies the existing felony for casting more than one ballot.
- Creates a new criminal penalty for harassing or threatening an election worker.
- Revises required frequency for campaign finance reports and preempts local governments from enacting reporting schedules that differ from those provided in statute.
- Adds text messages to the types of services and costs that do not constitute contributions that count toward specified contribution limits.
- Creates new framework regulating use of voter guides.
- Adjusts fines that may be imposed for violations of specified election laws.

The bill takes effect July 1, 2023.

## II. Present Situation:

Please see “Effect of Proposed Changes.”

## III. Effect of Proposed Changes:

### Signature Matching Training (Section 1)

#### *Present Situation*

Current law requires the Secretary of State to provide formal signature matching training to supervisors of elections (supervisors) and county canvassing board members.<sup>1</sup> Canvassing boards may count vote-by-mail and provisional ballots only if the signature on the voter’s certificate or in the cure affidavit matches the elector’s signature in the registration books or precinct register.<sup>2</sup>

#### *Effect of Proposed Changes*

The bill specifies that the signature matching training provided by the Secretary of State is mandatory and that any person whose duties require verification of signatures must undergo the training.

The bill also requires the Department of State (department) to adopt rules governing signature matching procedures and training.

### Office of Election Crimes and Security (Section 2)

#### *Present Situation*

The Office of Election Crimes and Security (office) is part of the department and is tasked with aiding the Secretary of State in completion of his or her duty to:<sup>3</sup>

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<sup>1</sup> Section 97.012(17), F.S.

<sup>2</sup> See ss. 101.048(2)(b) and 101.68, F.S.

<sup>3</sup> Section 97.022, F.S.

- Maintain a voter fraud hotline and provide election fraud education to the public;<sup>4</sup> and
- Conduct preliminary investigations into any irregularities or fraud involving voter registration, voting, candidate petition, or issue petition activities and report findings to the statewide prosecutor<sup>5</sup> or the state attorney for the judicial circuit in which the alleged violation occurred for prosecution, if warranted.<sup>6</sup>

Specifically, the office may:

- Receive and review notices and reports generated by government officials or any other person regarding alleged occurrences of election law violations or election irregularities in Florida; and
- Initiate independent inquiries and conduct preliminary investigations into allegations of election law violations or election irregularities in Florida.<sup>7</sup>

In addition to referring violations to the statewide prosecutor or state attorney for prosecution, the office may refer allegations to a special officer for further investigation.<sup>8</sup>

### *Effect of Proposed Changes*

The bill further clarifies the authority of the office by specifying it may make referrals for further legal action to:

- The Department of Law Enforcement;
- The Office of Statewide Prosecution; or
- The state attorney with jurisdiction over the matter.

The bill also specifies the following provisions related to the statewide prosecutor:

- Upon receipt of a complaint referred by the office, the statewide prosecutor must promptly and thoroughly investigate the complaint, undertake any related criminal action as justified by law, and report to the office the results of any such investigation, any related action taken, and the final disposition of the complaint.<sup>9</sup>
- Failure or refusal of the statewide prosecutor to prosecute or initiate action on a complaint or referral by the office or the Department of Law Enforcement does not bar further action by any other law enforcement entity with jurisdiction.

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<sup>4</sup> Section 97.012(12), F.S.

<sup>5</sup> The Florida Constitution establishes a position of statewide prosecutor within the Office of the Attorney General and specifies authority of the statewide prosecutor (Art. IV, s. 4(b), FLA. CONST.). The authority of the statewide prosecutor is further defined in statute, which creates an Office of Statewide Prosecution in the Department of Legal Affairs (s. 16.56(1), F.S.).

<sup>6</sup> Section 97.012(15), F.S.

<sup>7</sup> Section 97.022(1), F.S.

<sup>8</sup> A special officer is a sworn special agent in the Florida Department of Law Enforcement who is appointed to investigate alleged violations of election laws (s. 102.091(2), F.S.).

<sup>9</sup> The office must submit an annual report to the Governor and the Legislature that details information, including disposition, on allegations of election law violations conducted in the previous year (s. 97.022(7), F.S.).

## **Special Requirements for Certain First-Time Voters (Sections 3, 24, 25, and 26)**

### ***Present Situation***

Current law requires first-time Florida voters who registered by mail and have never been issued a current and valid Florida driver license, Florida identification card, or social security number to include a copy of a specified form of identification with a returned vote-by-mail ballot, unless a federally mandated exception applies.<sup>10</sup>

Current law also specifies vote-by-mail ballot instructions for these certain first-time voters.<sup>11</sup>

If such a special VBM ballot has a signature deficiency, it may be cured until 7 p.m. on Election Day.<sup>12</sup>

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

The bill requires *all* first-time Florida voters who have never been issued a current and valid Florida driver license, a Florida identification card, or a social security number to *vote in person* the first time, unless a federally mandated exception applies.

The bill extends to cure period for a signature deficiency until 5 p.m. on the 2nd day after the election to conform the timeframe to that for other VBM ballots.

The bill also conforms vote-by-mail ballot instructions accordingly.

## **Third-Party Voter Registration Organizations (Section 5)**

### ***Present Situation***

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

- 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), supervisor, Department of Highway Safety and Motor Vehicles, or a voter registration agency<sup>13,14</sup>

Before engaging in any voter registration activities, an organization must register and provide to the division specified information related to the organization's officers, the organization's registered agent, and each registration agent registering persons to vote on behalf of the organization.<sup>15</sup> The registration of an organization does not automatically expire at any point; the organization must affirmatively request cancellation.

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<sup>10</sup> Sections 97.0535, F.S.

<sup>11</sup> Section 101.6923, F.S.

<sup>12</sup> Section 101.6925, F.S.

<sup>13</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>14</sup> Section 97.021(40), F.S.

<sup>15</sup> Section 97.0575(1), F.S.

An organization that collects voter registration applications must deliver each application to the division or the supervisor of elections 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.<sup>16</sup> If an organization fails to meet the deadline, it is liable for the following fines:

- \$50 for each application delivered to the division or supervisor more than 14 days after it was submitted to the organization, and \$250 for each such application if the organization or person acting on its behalf acted willfully.
- \$100 for each application delivered to the division or supervisor after the book-closing deadline, and \$500 for each such application if the organization or person acting on its behalf acted willfully.
- \$500 for each application not delivered at all, and \$1,000 for each such application if the organization or person acting on its behalf acted willfully.<sup>17</sup>

The aggregate fine which may be assessed against an organization, including affiliate organizations, for violations committed in a calendar year is \$50,000.

If a person collecting applications on behalf of an organization alters an application without the applicant's knowledge and consent and is criminally convicted, the organization is liable for a fine in the amount of \$1,000 for each application altered.<sup>18</sup>

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

The bill requires organizations to register for each specific general election cycle for which the organization will engage in voter registration activities. The registration of an organization will automatically expire at the end of each general election cycle for which it registers. The bill excludes state or local subsidiaries of registered political parties from these expiration and re-registration provisions.

The bill creates a new requirement that organizations provide a receipt to each applicant upon accepting the application. The bill requires the division to adopt by rule a uniform format for the receipt that must include, but need not be limited to, the name of the applicant, the date received, the name of the organization, the name of the registration agent, the applicant's political party affiliation, and the county in which the applicant resides.

The bill reduces the number of days an organization has to deliver an application to 10<sup>19</sup> from 14.

The bill increases fines for late-delivered applications as follows:

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<sup>16</sup> Section 97.0575(3)(a), F.S.

<sup>17</sup> *Id.*

<sup>18</sup> Section 97.0575(4), F.S.

<sup>19</sup> A federal district court order in 2012 specified that 10 is the minimum number of days the Legislature may allow third-party voter registration organizations to deliver voter registration applications (*League of Women Voters of Florida v. Browning*, 863 F.Supp.2d 1155, United States District Court, N.D. Florida).

- For each application delivered more than 10 days after it was submitted – to \$50 *per each day late*, up to a maximum of \$2,500, and to \$2,500 if the organization or person acting on its behalf acted willfully.
- For each application delivered after the book-closing deadline – to \$100 *per each day late*, up to a maximum of \$5,000, and to \$5,000 if the organization or person acting on its behalf acted willfully.
- For each application not delivered at all – to \$5,000 if the organization or person acting on its behalf acted willfully.

The bill increases the aggregate fine which may be assessed an organization, including affiliate organizations, for violations committed in a calendar year to \$100,000.

The bill provides that it is a third-degree felony for a person collecting applications on behalf of an organization to copy the application or retain personal information from the application for any reason other than to provide such application or information to the organization.

The bill creates a new prohibition against an organization mailing or otherwise providing an application upon which any information about an applicant has been filled in before it is provided to the applicant. The bill provides that an organization that violates this prohibition is liable for a \$50 fine for each such application.

## **Voter Information Cards (Section 6)**

### ***Present Situation***

Current law requires each supervisor to provide a voter information card with specified information to all registered voters in the supervisor's county.<sup>20</sup> A supervisor must issue a new card in the case of a change of name, address of legal residence, polling place address, or party affiliation.<sup>21</sup>

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

The bill adds to the information that must be included on voter information cards:

- A link to the supervisor's website to provide the most current polling place locations; and
- A specified statement that the card is proof of registration but is not legal verification of eligibility to vote.

The bill also clarifies that a supervisor does not have to issue a new card if a temporary change is made to a polling location due to a state of emergency.

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<sup>20</sup> Section 97.071(1), F.S.

<sup>21</sup> Section 97.071(3), F.S.

## **Voter Address List Maintenance (Sections 7 and 8)**

### ***Present Situation***

Current law requires each supervisor to conduct an address registration list maintenance program (program) to ensure accurate and current voter registration records.<sup>22</sup> Each program must be conducted, at a minimum, once each year and must be completed no later than 90 days prior to the date of any federal election,<sup>23</sup> as required by the National Voter Registration Act.

Specifically, a supervisor must incorporate one or more of the following procedures in an annual list maintenance program:

- Use change-of-address information supplied by the United States Postal Service (U.S.P.S.) through its licensees to identify registered voters whose addresses might have changed. Additionally, in odd-numbered years (unless using the second option below), the supervisor must identify change-of-address information from returned nonforwardable return-if-undeliverable address confirmation requests mailed to all voters who have not voted in the preceding two election cycles and who have not requested a registration update during that time.
- Identify change-of-address information from returned nonforwardable return-if-undeliverable mail sent to all registered voters in the county.

Address confirmation requests sent pursuant to the first list maintenance option must be addressed to the voter's address of legal residence. If a request is returned as undeliverable, any other notification must be sent to the voter's mailing address on file.

If a supervisor fails to conduct required list maintenance activities, the department must conduct the activities.

Current law also requires the department to promulgate forms for:

- Address confirmation requests.
- Address change notices.
- Address confirmation final notices.

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

The bill requires each supervisor to do the following during each annual program;

- Use change-of-address information supplied by the U.S.P.S. through its licensees or as may be provided through the department, and change of address information from any official election mailing, to identify registered voters whose addresses might have changed.
- In an odd-numbered year, identify change-of-address information from returned nonforwardable return-if-undeliverable mail sent to all registered voters in the county or identify change-of-address information from returned nonforwardable return-if-undeliverable address confirmation final notices mailed to all registered voters who have not voted in the two preceding general election cycles and who have not requested that their registration records be updated or confirmed either through direct request or through voter activities.

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<sup>22</sup> Section 98.065(1), F.S.

<sup>23</sup> Section 98.065(4), F.S.

The bill also:

- Adds the Department of Highway Safety and Motor Vehicles to the sources of information from which a supervisor may receive change-of-address information.
- Provides that if out-of-state address information is received from a returned address confirmation final notice, no further notice is required and the voter's name must be placed on inactive status.
- Requires each supervisor to conduct at least an annual review of voter registration records to identify records in which a voter may be registered at an address that may not be an address of legal residence, and initiate list maintenance for any records the supervisor has reasonable belief are not registered to a legal residential address.
- Provides that if a supervisor does not conduct required list maintenance activities, the department must coordinate with the supervisor instead of taking over.
- Revises requirements for forms used in address list maintenance.

### **Registration Records Maintenance Activities; Ineligibility Determinations (Section 9)**

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

In addition to address list maintenance procedures conducted by the supervisors, current law requires the department to engage in list maintenance activities to ensure the maintenance of accurate and current voter registration records.<sup>24</sup> The specified list maintenance activities address duplicate registrations, deceased persons, persons adjudicated mentally incapacitated, persons convicted of a felony, persons who do not meet the age requirement for voting, persons who are not U.S. citizens, and persons who have listed a residence that is not their legal residence. Current law also prescribes procedures for removing such persons from the voter rolls.

Supervisors must certify to the department the list of maintenance and ineligibility activities conducted every six months. If the department determines a supervisor has not satisfied statutory requirements, the department must satisfy the requirements for that county.<sup>25</sup>

Current law also provides a public records exemption for confidential voter registration information from another state or the District of Columbia that is received by the department pursuant to its participation in a multi-state program to exchange information for the purpose of verifying voter registration information.<sup>26</sup> The exemption is scheduled to repeal on October 2, 2023, pursuant to the Open Government Sunset Review Act, unless reenacted by the Legislature.

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

The bill:

- Creates a deadline of 7 days for a supervisor to remove the name of a deceased voter from the voter registration system, and adds access to Department of Highway Safety and Motor Vehicles information to the information upon which removal can be based.
- Requires supervisors to coordinate with clerks of court to identify voters convicted of a felony during the preceding month.

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<sup>24</sup> Section 98.075(1), F.S.

<sup>25</sup> Section 98.075(8)(a), F.S.

<sup>26</sup> Section 98.075(2)(c), F.S.

- Creates a deadline of 7 days for a supervisor to publish public notice after receiving a returned mailed notice, and adds publication of notice on the county's or the supervisor's website as an alternative to publication in a newspaper.
- Specifies additional information to be included in required notices.
- Revises the process and deadlines for removal of a voter determined to be ineligible and provides a removed voter a right to appeal after being removed from the voter registration system.
- Removes the requirement for the department to take over list maintenance requirements if a supervisor does not complete them and instead requires the department to coordinate with the supervisor to ensure completion of the activities.
- Deletes the repeal date of the public records exemption for certain voter registration information received from other states or the District of Columbia, thereby reenacting the exemption.

### **Update of Voter Signature (Section 10)**

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

Current law prescribes the following requirements for information that must be provided to voters on how to update a signature:

- The department and supervisors must include signature update information in specified correspondence sent to voters.
- At least once during each general election year, a supervisor must publish in a local newspaper specified signature update information.<sup>27</sup>

Current law also specifies the following provisions regarding use of voter signature for verification:

- All signature updates for use in verifying VBM and provisional ballots must be received by the supervisor before the VBM ballot is received or the provisional ballot is cast.
- The signature on file at the time the VBM ballot is received or the provisional ballot is cast is the signature that must be used for verification.

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

The bill revises requirement for provision of signature update information by:

- Removing the department from the requirement to include specified information in certain correspondence sent to voters.
- Specifying that the notice a supervisor must publish each general election year must occur before the presidential preference primary or the primary election, whichever occurs first.
- Authorizing a supervisor to publish signature update information on the county's website or the supervisor's website instead of in a local newspaper.

The bill revises requirements for use of voter signature for verification by:

- Specifying that they apply to voter signatures on petitions in addition to those on VBM or provisional ballot voter certificates.

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<sup>27</sup> Section 98.077(2)-(3), F.S.

- Authorizing older signatures from previous registration updates to be used for voter signatures requiring secondary or tertiary review.

### **Duty of Governmental Entities to Provide Information to Department and Supervisors (Section 11)**

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

Current law requires specified governmental entities to provide information to the department on persons who may not be included in the voter rolls due to death, adjudication of mental incapacity, felony conviction, or lack of U.S. citizenship.<sup>28</sup> Specifically, the law requires, in part:

- The Department of Health to furnish monthly to the department a list containing the name, address, date of birth, date of death, social security number, race, and sex of each deceased person 17 years of age or older.
- Each clerk of court to furnish monthly to the department specified information on persons adjudicated mentally incapacitated with respect to voting, persons whose mental capacity with respect to voting has been restored, persons who have returned signed jury notices indicating a change of address, and terms of sentence and personal information of persons convicted of a felony.
- The Department of Law Enforcement to identify persons who have been convicted of a felony who appear in the voter registration records supplied by the statewide voter registration system, in a time and manner that enables the department to meet its obligations under state and federal law.
- The Florida Commission on Offender Review to furnish at least bimonthly to the department specified data on persons granted clemency or any updates to prior records.
- The Department of Corrections to identify persons convicted of a felony and committed to its custody or placed on community supervision and provide the information to the department in a time and manner that enables the department to meet its obligations under state and federal law.
- The Department of Highway Safety to furnish monthly to the department a list of persons who have been licensed in another state and a list of and specified information related to persons who presented evidence of non-U.S. citizenship upon being issued a new or renewed Florida driver license or identification card.

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

The bill makes the following changes to information reporting requirements for specified governmental entities:

- Standardizes frequency of reporting to weekly for the Department of Health, clerks of court, Department of Law Enforcement, Florida Commission on Offender Review, Department of Corrections, and Department of Highway Safety and Motor Vehicles.
- Where current law requires provision of a person's social security number, clarifies that only the last four digits of the number are required.
- Requires clerks to report information to the supervisors instead of the department.
- Specifies the required information clerks must report for each person adjudicated mentally incapacitated.

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<sup>28</sup> Section 98.093, F.S.

- Requires the Department of Highway Safety and Motor Vehicles to provide additional information for persons who have been licensed in another state and creates a new requirement that the Department of Highway Safety and Motor Vehicles provide specified information about persons it has received indication are deceased.

## **Election Reports (Section 12)**

### ***Present Situation***

Current law requires the department and supervisors to submit specified post-election reports, which include, but are not limited to:

- Voting history and statewide voter registration information – Within 30 days after certification of election results, supervisors must submit to the department updated voting history information for each qualified voter who voted. The department must then compile and submit required information to the Legislature no later than 45 days after certification of the election results.
- Precinct-level election results – Within 30 days after certification of election results, supervisors must submit to the department precinct-level election results. The department must make the reported information available on a searchable database.
- Precinct-level book closing statistics – for specified elections, after the date of book closing but before the date of the election, the department must compile specified precinct-level statistical data for each county.<sup>29</sup>

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

The bill revises reporting requirements for voting history and statewide voter registration information by:

- Creating a new report for reconciliation of total ballots cast in each precinct to the total number of voters with voter history and the precinct-level election results.
- Requiring voter history to include the unique identifier assigned to each qualified voter in the statewide voter registration system, each qualified voter's unique precinct identifier at the time of voting, and specifics of voting history.
- Creating a new report for the geographical information system map of precinct boundaries.
- Requiring each supervisor to submit the above-specified reports to the department no later than 20 days after certification of election results.

The bill revises information the department must report to the Legislature by:

- Requiring inclusion of both voting history and the precinct boundaries the bill requires the supervisors to report.
- Specifying additional elected office districts that must be included for each voter.
- Extending the deadline by which the report must be submitted to 60 from 45 days after certification of election results.

The bill revises reporting requirements for precinct-level election results by:

- Reducing to 10 from 30 the number of days after certification of election results within which supervisors must report required information to the department.

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<sup>29</sup> Section 98.0981, F.S.

- Requiring a supervisor to research and address any questions or issues identified by the department pertaining to the results. If the originally changed information is changed or correct, the supervisor must provide an amended report no later than 10 business days after the request from the department.
- Creating a deadline of 60 days after certification of election results for the department to make the information publicly available in a website specifically rather than in a “database.”

The bill revises the precinct-level book closing statistics report by:

- Revising the deadline to no later than 10 days after book closing.
- Defining “unique precinct identifier number.”

### **Candidate Oaths/Disclosures (Section 13)**

#### *Present Situation*

Each candidate for office must take and subscribe to in writing a specified oath or affirmation regarding his or her eligibility to run for the office.<sup>30</sup>

In addition, each candidate for an office other than judicial or school board office must, at the time of subscribing to the oath or affirmation, also state in writing certain information about his or her party or no-party affiliation.<sup>31</sup>

#### *Effect of Proposed Changes*

The bill additionally requires each candidate to, at the time of subscribing to the oath or affirmation, state in writing:

- Whether he or she owes any outstanding fines, fees, or penalties that cumulatively exceed \$250 for any violations of state or local ethics laws or of state campaign financing laws, and, if so;
- The amount owed and each entity that levied such fine, fee, or penalty.

The new requirement applies to candidates for all offices.

### **Candidate Names on Ballot (Sections 14 and 19)**

#### *Present Situation*

Current law requires each candidate to print in the written oath or affirmation his or her name as he or she wishes it to appear on the ballot.<sup>32</sup> It does not prescribe a framework for use of a candidate nickname.

Current law provides that when two or more candidates running for the same office on a primary election ballot have the same or a similar surname, the word “incumbent” shall appear next to the incumbent’s name.

<sup>30</sup> Sections 99.021(1)(a) and 105.031(4), F.S.

<sup>31</sup> Section 99.021(1)(b) and (c), F.S.

<sup>32</sup> Sections 99.021(1)(a) and 105.031(4)(b), F.S.

***Effect of Proposed Changes***

The bill creates requirements for use of a candidate nickname on a ballot.

The bill also specifies that “incumbent” shall appear next to the incumbent’s name in *any* election in which two or more candidates running for the same office have the same or a similar surname.

**Cost for Verification of Signatures on Petitions (Section 15)*****Present Situation***

Current law requires voter signatures on petitions to be verified by supervisors and specifies the cost per signature that the supervisor shall be paid.<sup>33</sup>

***Effect of Proposed Changes***

The bill clarifies that supervisors are entitled to 10 cents or the actual cost, whichever is less, for each signature checked for a local issue, and that for statewide issues each supervisor may charge the actual cost.

**Notice of Special Election or Referendum (Section 16)*****Present Situation***

Current law requires 30 days’ notice of a special election or referendum to be published in a local newspaper.<sup>34</sup>

***Effect of Proposed Changes***

The bill authorizes publication to instead be made on the county’s website, the municipality’s website, or the supervisor’s website.

**Precinct Boundary Data (Section 17)*****Present Situation***

Current law requires supervisors to maintain specified data related to precincts and districts. In part, supervisors must maintain a map showing major features and district boundaries in the county and must report to the department data on all precincts in the county associated with the most recent decennial census blocks within each precinct.<sup>35</sup>

Within 10 days after any change in the division, number, or boundaries of precincts, or the location of polling places, a supervisor must write an accurate description of any new or altered precincts and identify the location of each new or altered polling place.<sup>36</sup>

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<sup>33</sup> Sections 99.067 and 100.371, F.S.

<sup>34</sup> Section 100.342, F.S.

<sup>35</sup> Section 101.001(3), F.S.

<sup>36</sup> Section 101.001(4)(a), F.S.

Data maintained by supervisors is used in each redistricting cycle.

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

The bill specifies the maps supervisors are required to maintain must be geographical information system maps. The bill also adds a change in the name of the precincts to the types of changes which require a supervisor to write a description of the precincts.

### **Provisional Ballots (Section 18)**

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

Current law entitles the following persons to vote a provisional ballot:

- A voter claiming to be properly registered in the state and eligible to vote at the precinct in the election but whose eligibility cannot be determined.
- A person whom an election official asserts is not eligible.
- Other persons as specified in the Election Code.<sup>37</sup>

#### ***Effect of Proposed Change***

The bill specifies that the category of “a person whom an election official asserts is not eligible” includes a person for whom an appeal of a determination of ineligibility is pending but for whom a final determination has not yet been made.

### **Requests for and Delivery of Vote-by-Mail Ballots (Section 21)**

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

Florida law allows an elector to request a 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.

An elector can request a VBM ballot in person, in writing, or by telephone.<sup>38</sup> In addition, if directly instructed by the elector, a request for a VBM ballot can be made by a member of the elector’s immediate family<sup>39</sup> or the elector’s legal guardian. The person making the request must disclose:

- The name of the elector for whom the ballot is requested.
- The elector’s address.
- The elector’s date of birth.
- The elector’s Florida driver license number, Florida identification card number, or last four digits of the elector’s social security number, whichever may be verified in the supervisor’s records.
- The requester’s name.
- The requester’s address.

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<sup>37</sup> Section 101.048, F.S.

<sup>38</sup> Sections 101.62(1)(a)-(b), F.S.

<sup>39</sup> “Immediate family” is defined to mean a spouse, parent, child, grandparent, or sibling (s. 101.62(4)(c)4., F.S.).

- The requester's driver license number, identification number, or last four digits of the requester's social security number, if available.
- The requester's relationship to the elector.
- The requester's signature, if the request is made in writing.<sup>40</sup>

If an elector requests a VBM ballot to be sent to an address not on file in the Florida Voter Registration System, the request must be made in writing and signed by the elector, unless the elector is an absent uniformed service voter or overseas voter.<sup>41</sup>

A request for a VBM ballot may be considered canceled when any first-class mail sent by the supervisor to the elector is returned as undeliverable.

A request for a VBM ballot to be mailed to a voter must be received by the supervisor no later than 5 p.m. on the 10th day before the election. The supervisor shall mail VBM ballots to voters requesting ballots by such deadline no later than 8 days before the election.

Generally, VBM ballots must be mailed via nonforwardable, return-if-undeliverable mail. Overseas and military voters are allowed to get VBM ballots via forwardable mail.<sup>42</sup>

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

The bill:

- Requires the division to prescribe a statewide uniform application form to request a VBM ballot.
- Clarifies that supervisors must verify the personal identifying number in a VBM ballot request against their records and/or the Department of Highway Safety and Motor Vehicles, and must add the number to the voter's registration record if not already included.
- Requires, instead of authorizes, a VBM ballot request to be canceled when any first-class mail is returned as undeliverable, and requires the voter to provide or confirm his or her current residential address if he or she requests a VBM ballot in the future.
- Moves back by one day each the deadlines for mailing of a VBM ballot (to no later than 9 days before the election and for submitting a VBM ballot request (to 5 p.m. on the 11th day before the election).
- Requires VBM ballot mailing envelopes to be clearly marked "Do Not Forward."

### **Picking Up a VBM Ballot in Person (Section 21)**

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

Current law authorizes in-person provision of a VBM ballot:

- To the requesting voter, upon presentation of identification, up to 7 p.m. on Election Day.
- To the designee of the requesting voter, if specified requirements are met, on Election Day or up to 9 days before the day of the election.

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<sup>40</sup> Section 101.62(1)(b), F.S.

<sup>41</sup> Section 101.62(1)(b), F.S.

<sup>42</sup> Section 101.62(4)(c), F.S.

However, a VBM ballot may be provided in person on Election Day only if there is an emergency to the extent that the voter will be unable to go to his or her assigned polling place, in which case the voter or his or her designee must execute an affidavit affirming to the facts which allow for provision of the VBM ballot.<sup>43</sup>

### *Effect of Proposed Changes*

The bill allows in-person provision of a VBM only during the mandatory early voting days or on Election Day. In-person provision of a VBM is authorized only if the voter is unable to go to an early voting location or to his or her assigned polling place on Election Day.

### **Early Voting (Section 22)**

#### *Present Situation*

Current law requires supervisors to provide early voting in elections containing state or federal races, beginning on the 10th day before and ending on the 3rd day before the election. In addition, early voting may be offered at the discretion of the supervisor on the 15th, 14th, 13th, 12th, 11th, or 2nd day before the election.<sup>44</sup>

#### *Effect of Proposed Changes*

The bill creates an additional option for discretionary early voting days to allow use of the 16th day before an election if the supervisor does not use the 2nd day before an election.

### **Canvassing of VBM Ballots (Section 23)**

#### *Present Situation*

Generally, the county canvassing board decides how to handle outlier situations in which, for example, VBM ballots are returned in the wrong envelope or multiple ballots are returned in one envelope.

#### *Effect of Proposed Changes*

The bill specifies that if two or more VBM ballots are returned in one mailing envelope for the same election, neither ballot shall be counted.

### **Meeting Time of Elections Canvassing Commission (Section 28)**

#### *Present Situation*

Current law specifies that the Elections Canvassing Commission shall meet at 9 a.m. on the 9th day after a primary election and at 9 a.m. on the 14th day after a general election to certify the results of the election for each federal, state, and multicounty office.<sup>45</sup>

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<sup>43</sup> Section 101.62(4)(c)3.-5., F.S.

<sup>44</sup> Section 101.657(1)(d), F.S.

<sup>45</sup> Section 102.111(2), F.S.

***Effect of Proposed Changes***

The bill moves up the meeting time for both meetings of the commission to 8 a.m.

**County Canvassing Boards (Sections 29 and 30)*****Present Situation***

Current law provides that a county canvassing board is composed of the supervisor, a county court judge, and the chair of the board of county commissioners. Alternate canvassing board members may be appointed pursuant to statutory specifications.<sup>46</sup> The exact number of allowable alternates is not specified.

Current law also specifies deadlines for submission of county returns by county canvassing boards.<sup>47</sup> Further, at the same time that the official results of an election are certified to the department, the county canvassing board must file a report with the division on the conduct of the election that includes specified information.<sup>48</sup>

***Effect of Proposed Changes***

The bill:

- Clarifies that two alternate canvassing board members may be appointed.
- Extends the deadline for submission of county returns to the department by half a day.
- Provides that supervisors, instead of county canvassing boards, shall certify official results to the department; specifies a deadline; and revises a reporting requirement for ballot printing errors.

**Presidential Electors and Write-In Candidates for President (Sections 31 and 32)*****Present Situation***

Current law specifies timeframes for certification of presidential electors and requires each presidential elector to be a qualified elector of the party he or she represents.<sup>49</sup>

Current law also provides requirements for write-in candidates for President and Vice President.<sup>50</sup>

***Effect of Proposed Changes***

The bill:

- Moves up certification deadlines.
- Requires presidential electors to be registered Florida voters and requires political parties to provide voter registration numbers and contact information for their electors.

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<sup>46</sup> Section 102.141(1), F.S.

<sup>47</sup> Section 102.112(2), F.S.

<sup>48</sup> Section 102.141(10), F.S.

<sup>49</sup> Section 103.021, F.S.

<sup>50</sup> Section 103.022, F.S.

- Requires write-in candidates for President and Vice President to provide the Florida voter registration number and contact information for each presidential elector and requires each presidential elector to be a qualified registered voter of the state.

### **Prequalifying of State Committeemen and Committeewomen (Section 33)**

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

Current law provides that electors seeking to qualify for the office of state committeeman or state committeewoman must qualify with the department or supervisor between the 71st and 67nd days preceding the primary election.<sup>51</sup>

Candidates are subject to the same timeframe, but may submit their qualifying papers 14 days prior to the beginning of the qualifying period, to be processed and filed during the qualifying period.<sup>52</sup>

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

The bill allows state committeemen and state committeewomen to submit qualifying papers during the 14 days prior to the qualifying period.

### **Casting More Than One Ballot (Section 34)**

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

Current law provides that it is a third-degree felony to willfully vote more than one ballot at any election.<sup>53</sup>

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

The bill defines “willfully votes more than one ballot at any election” and authorizes prosecution of the violation to proceed in any county in which one of the ballots was willfully cast.

### **Reporting of Fraudulent Registrations and Illegal Voting (Section 35)**

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

Current law provides that supervisors are authorized to investigate fraudulent registrations and illegal voting and report findings to the local state attorney and the Florida Elections Commission.<sup>54</sup>

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

The bill substitutes the Office of Election Crimes and Security for the Florida Elections Commission.

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<sup>51</sup> Section 103.091(4), F.S.

<sup>52</sup> Section 99.061(8), F.S.

<sup>53</sup> Section 104.18, F.S.

<sup>54</sup> Section 104.42(1), F.S.

## **Harassment of Election Workers (Section 36)**

### *Present Situation*

Current law provides generally applicable criminal penalties for stalking,<sup>55</sup> harassing telephone calls,<sup>56</sup> and using personal identification information to harass a person.<sup>57</sup> There is no criminal penalty specifically for threatening or harassing election workers.

### *Effect of Proposed Changes*

The bill makes it a third-degree felony to intimidate, threaten, coerce, harass, or attempt to do any of those things to an election worker with the intent to impede or interfere with the election worker's official duties or with the intent to retaliate against the election worker for the performance of official duties.

## **Campaign Finance Reports (Sections 37 and 39)**

### *Present Situation*

Current law requires submission of the following reports by statewide candidates and political committees that file campaign finance reports with the division:

- Monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends).
- Weekly contribution and expenditure reports beginning on the 60th day before the primary, with the last weekly report due on the 4th day before the general election.
- Daily contribution reports beginning on the 10th day before the general election, with the last report due on the 5th day before the general election.<sup>58</sup>

Current law requires submission of the following reports by electioneering communications organizations that filed campaign finance reports with the division:

- Monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends).
- Weekly contribution and expenditure reports beginning on the 60th day before the primary, with the last weekly report due on the 4th day before the general election.
- Daily contribution reports beginning on the 10th day before the general election through the 5th day before the general election, and the 3rd day of the general election with the last report due on the day before the general election.<sup>59</sup>

All daily reports required above must contain contributions received, but not expenditures made.

Current law requires submission of the following reports by all non-statewide candidates, regardless of the candidate's filing officer, and political committees or electioneering communications organizations that file reports with a supervisor or a municipal clerk:

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<sup>55</sup> Section 784.048, F.S.

<sup>56</sup> Section 365.16, F.S.

<sup>57</sup> Section 817.568, F.S.

<sup>58</sup> Section 106.07(1)(a), F.S.

<sup>59</sup> Section 106.0703(1)(a)-(b), F.S.

- Monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends).
- Biweekly contribution and expenditure reports during the 60th-32nd days before the primary, and the 74th-32nd days before the general election.
- Weekly contribution and expenditure reports beginning on the 32nd day before the primary and general elections, with the last weekly report due on the 4th day before the primary and general elections.<sup>60</sup>

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

The bill:

- Reduces required reporting frequency from monthly to quarterly until qualifying, at which time the current reporting requirements resume.
- Preempts local governments from enacting a reporting schedule that differs from that provided in statute.

### **Campaign Contributions/Text Messages (Section 40)**

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

Current law provides that a candidate may not accept contributions from a county executive committee of a political party whose contributions in the aggregate exceed \$50,000, or from the national or state executive committees of a political party, including any subordinate committee of such political party or affiliated party committees, whose contributions in the aggregate exceed \$50,000.<sup>61</sup> A candidate for statewide office may not accept contributions from national, state, or county executive committees of a political party, including any subordinate committee of the political party, or affiliated party committees, which contributions in the aggregate exceed \$250,000.<sup>62</sup>

Polling services, research services, costs for campaign staff, professional consulting services, and telephone calls are not contributions to be counted toward the above contribution limits.

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

The bill adds text messages to the list of services and costs that do not constitute contributions that count toward the specified contribution limits.

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<sup>60</sup> Sections 106.07(1)(b) and 106.0703(1)(c), F.S.

<sup>61</sup> Section 106.08(2)(a), F.S.

<sup>62</sup> Section 106.08(2)(b), F.S.

## **Voter Guides (Section 41)**

### ***Present Situation***

Current law defines and provides requirements, including disclaimers, for political advertisements<sup>63</sup> and electioneering communications<sup>64, 65</sup>. It does not address voter guides.

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

The bill creates new requirements for voter guides, defined to mean direct mail that is either an electioneering communication or a political advertisement sent for the purpose of advocating for or endorsing particular issues or candidates by recommending specific electoral choices to the voter or by indicating issue or candidate selections on an unofficial ballot.

The bill specifies a required disclaimer for voter guides and prohibits a person from representing that a voter guide is an official publication of a political party unless such person is given specified written permission.

## **Fines for Election Law Violations (Section 42)**

### ***Present Situation***

Current law provides for fines to be automatically assessed against political committees for late-filing of required reports.<sup>66</sup> Current law also provides for almost 100 additional, separate violations in ch. 106, F.S., as well as numerous violations in ch. 104, F.S.

The Florida Elections Commission or an administrative law judge may impose a fine or up to \$1,000 per count for a violation of ch. 104 or 106, F.S.

Current law does not authorize increased fines for repeat offenders.

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<sup>63</sup> “Political advertisement” means a paid expression in a prescribed communications medium, whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display by means other than the spoken word in direct conversation, which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue. However, the term does not include: (a) A statement by an organization, in existence before the time during which a candidate qualifies or an issue is placed on the ballot for that election, in support of or in opposition to a candidate or issue, in that organization’s newsletter, which newsletter is distributed only to the members of that organization; or (b) Editorial endorsements by a newspaper, a radio or television station, or any other recognized news medium. Section 106.011(15), F.S.

<sup>64</sup> “Electioneering communication” means a text message or communication that is publicly distributed by a television station, radio station, cable television system, satellite system, newspaper, magazine, direct mail, or telephone which: 1. Refers to or depicts a clearly identified candidate for office without expressly advocating the election or defeat of a candidate but that is susceptible of no reasonable interpretation other than an appeal to vote for or against a specific candidate; 2. Is made within 30 days before a primary or special primary election or 60 days before any other election for the office sought by the candidate; and 3. Is targeted to the relevant electorate in the geographic area the candidate would represent if elected. Section 106.011(8)(a), F.S. The statutory definition also excludes specified types of communications from the definition.

<sup>65</sup> Chapter 106, F.S.

<sup>66</sup> Section 106.07(8)(a), F.S.

***Effect of Proposed Changes***

The bill provides that a fine imposed against a political committee for a violation of ch. 106, F.S., jointly and severally attaches to the chair of the political committee, the treasurer of the political committee, and any other person with control over the political committee.

The bill also increases to \$2,500 the allowable fine per count that may be imposed by the Florida Elections Commission or an administrative law judge for violations of ch. 104 or 106, F.S. The bill provides for a 3x fine multiplier after a person commits three counts of the same category of offense.

**Conforming Cross-References (Sections 4, 20, 27, and 38)**

The bill conforms statutory cross-references to substantive changes made by the bill.

**Effective Date (Section 43)**

The bill takes effect July 1, 2023.

**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, 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.

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

None.

**B. Private Sector Impact:**

Increasing the amount of fines that may be assessed against a third-party voter registration organization will financially impact those organizations that fail to comply with statutory requirements.

Increasing fines for certain election law violations will financially impact persons who fail to comply with statutory requirements.

**C. Government Sector Impact:**

The following provisions of the bill may have a fiscal or workload impact on supervisors:

- The addition of new content on voter information cards.
- Revisions to list maintenance processes and requirements.
- Modernization of requirements for precinct boundary data collection and maintenance.
- The requirement that “Do Not Forward” be printed on VBM mailing envelopes.

Authorizing certain notices to be published on specified websites instead of in newspapers may reduce costs to supervisors.

The increased frequency and required information for reporting of information to the department or supervisors for use in list maintenance activities may increase workload and costs of reporting governmental entities.

Prohibiting the counting of two or more VBM ballots for the same election that are returned in one mailing envelope may reduce the workload of county canvassing boards by an insignificant amount.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 97.012, 97.022, 97.0535, 97.057, 97.0575, 97.071, 98.065, 98.0655, 98.075, 98.077, 98.093, 98.0981, 99.021, 99.097, 100.342, 101.001, 101.048, 101.151, 101.6103, 101.62, 101.657, 101.68, 101.6921, 101.6923, 101.694, 102.111, 102.112, 102.141, 103.021, 103.022, 103.091, 104.18, 104.42, 106.07, 106.0702, 106.0703, 106.08, 106.1436, and 106.265.

This bill creates the following sections of the Florida Statutes: 99.0215 and 104.47.

**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.

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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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