

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 Community Affairs

BILL: SB 782

INTRODUCER: Senator Yarborough

SUBJECT: Election Board Composition

DATE: January 26, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cleary</u>	<u>Roberts</u>	<u>EE</u>	Favorable
2.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Pre-meeting
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 782 revises membership requirements for precinct election boards to require each board to include at least one member from each of the two largest political parties in the state.

The proposed bill takes effect July 1, 2024.

II. Present Situation:

Precinct Election Boards

The supervisor of elections of each county must, at least 20 days prior to the holding of any election, appoint an election board composed of poll workers who serve as clerks¹ or inspectors for each precinct² in the county.³ Election boards have a number of statutory duties relating to the conduct of elections, including:⁴

- Attend the polling place by 6:00 a.m. of the day of the election.⁵

¹ The Florida Division of Elections Polling Place Procedure Manual, DS-DE 11 Eff. 04/2020, p. 5, <http://www.flrules.org/Gateway/reference.asp?No=Ref-11592>, defines the “Clerk” as the person in charge of a polling place during an election. The term also refers to the supervisor or site manager at early voting sites.

² *Id.* The Polling Place Procedures Manual defines “Precinct” as the geographic areas that local government had divided for election purposes. The voter’s residential address within a particular geographic area determines which issues and offices a voter can vote upon in an election.

³ Section 102.012(1)(a), Fla. Stat. *See also* s. 102.012(1)(b), Fla. Stat. (If two or more precincts share the same building and voting place, the supervisor of elections may appoint one election board for the collocated precincts. The supervisor must provide that a sufficient number of poll workers are appointed to adequately handle the processing of the voters in the collocated precincts).

⁴ *See also* Florida Division of Elections Polling Place Procedure Manual, DS-DE 11 Eff. 04/2020, <http://www.flrules.org/Gateway/reference.asp?No=Ref-11592> (Rule 1S-2.034, F.A.C. requires the Department of State, Division of Elections to create a polling place procedures manual to guide election officials and poll workers in the proper implementation of election procedures and laws).

⁵ Section 102.012(4), Fla. Stat.

- Arrange the furniture, stationery, and voting equipment.⁶
- Conduct the voting, beginning and closing at the time set forth in statute.⁷
- Counting ballots cast and securing the voting devices against further voting.⁸
- Counting the votes and proclaiming the results.⁹

Election boards are empowered to conduct elections in a proper manner and vested with the police power in this regard.¹⁰ Such boards have full authority to maintain order at the polls and to enforce obedience to their lawful commands during an election and during the canvass of the votes.¹¹ In all questions that may arise before the members of an election board, the decision of a majority will decide the question.¹²

The clerk is in charge of and responsible for seeing that the election board carries out its duties and responsibilities.¹³ The supervisor of elections must conduct training for inspectors, clerks, and deputy sheriffs prior to each primary, general, and special election for the purpose of instructing such persons in their duties and responsibilities as election officials.¹⁴ The supervisor of elections of each county is responsible for the attendance and diligent performance of his or her duties by each clerk and inspector.¹⁵

No election board shall be composed solely of members of one political party.¹⁶ A person whose name appears on the ballot as an opposed candidate is not eligible to serve on an election board.¹⁷ In any primary in which only one party has candidates appearing on the ballot, all clerks and inspectors may be of that party.¹⁸ Each member of the election board must be able to read and write the English language and be a registered qualified elector of the county in which the member is appointed or a person who has preregistered to vote, pursuant to s. 97.041(1)(b).¹⁹

Each inspector and each clerk must take and subscribe to an oath or affirmation, which must be written or printed, to the effect that such individual will perform the duties of inspector or clerk of election according to law and will endeavor to prevent all fraud, deceit, or abuse in conducting the election.²⁰

⁶ *Id.*

⁷ *Id.*, referring to s. 100.011, Fla. Stat.

⁸ Section 101.5614(1), Fla. Stat.

⁹ Section 102.071, Fla. Stat.

¹⁰ *See Joughin v. Parks*, 107 Fla. 833, 147 So. 273 (1933).

¹¹ Section 102.031(1), Fla. Stat.

¹² Section 102.012(1)(a), Fla. Stat.

¹³ *Id.*

¹⁴ Section 102.014, Fla. Stat.

¹⁵ Section 102.012(1)(a), Fla. Stat.

¹⁶ Section 102.012(2), Fla. Stat.

¹⁷ *Id.*; *See State ex rel. Thursby v. Gessner*, 124 Fla. 321, 168 So. 529 (1936 (Where more than one political party has become subject to primary election laws, this section requiring selection of inspectors of election from different political parties should be followed, where it is practicable to secure services of qualified persons belonging to more than one of participating parties.)).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Section 102.012(1)(a), Fla. Stat.

III. Effect of Proposed Changes:

The bill amends s. 102.012, to revise membership requirements for precinct election boards to require each board to include at least one member from each of the two largest political parties in the state.²¹

The proposed bill takes effect July 1, 2024.

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.

²¹ Currently in Florida there are two Major Political Parties registered with the state of Florida: The Republican Party of Florida and The Florida Democratic Party. There are several Minor Political Parties registered in Florida. (See Florida Department of State, Division of Election, *Political Parties* <https://dos.fl.gov/elections/candidates-committees/political-parties>. (Last visited January 24, 2024) A person registered to vote without a party affiliation, is designated to reflect no party affiliation or “NPA.” The NPA designation does not constitute a political party. The Florida Constitution provides that political party functions may be regulated by law. (See Art. VI, s. 1, Fla. Const.) Under the Florida Election Code, a minor political party is any group as specified by statute under section 103.095, which on January 1, preceding a primary election does not have registered as members 5% of the total registered electors of the state. (See s. 97.021(20), Fla. Stat.)

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 102.012 of the 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.