

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB SAC 15-03 Online Voter Registration

**SPONSOR(S):** State Affairs Committee

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 228

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: State Affairs Committee		Williamson	Camechis

### SUMMARY ANALYSIS

The Florida Voter Registration Act provides the qualifications and requirements necessary for a person to register to vote in Florida. The Department of State has prescribed by rule a uniform statewide voter registration application designed to elicit certain information from the applicant. An applicant must mail or hand deliver a voter registration application to the office of the supervisor of elections, the Division of Elections, a driver license office, a voter registration agency, or an armed forces recruitment office.

As of December 2014, the National Conference on State Legislatures found that 20 states offer online voter registration; four states passed legislation to create an online registration system, but had not yet implemented it; and three states offer some form of limited online voter registration. However, Florida does not provide an online voter registration system.

Beginning October 1, 2017, the bill creates an online voter registration system for registering first-time voters and updating existing voter registrations. It requires the Division of Elections to establish a secure Internet website and develop security measures to prevent unauthorized tampering with a voter's registration information, including the use of a unique identifier for each applicant. The system must comply with certain federal laws to ensure equal access to voters with disabilities.

Upon submission of a completed online voter registration application, the website must generate an immediate electronic confirmation that the supervisor of elections has received it, and provide instructions with respect to checking the status of the application.

The Division of Elections must submit a report to the President of the Senate and the Speaker of the House of Representatives regarding implementation of online voter registration applications no later than January 1, 2016.

The bill appears to have an indeterminate fiscal impact on state expenditures; however, it does not appear to have a fiscal impact on local governments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### Voter Registration

The Florida Voter Registration Act provides the qualifications and requirements necessary for a person to register to vote in Florida.<sup>1</sup> In order for a person to be eligible to vote in a Florida election, the person must be:<sup>2</sup>

- At least 18 years of age;
- A citizen of the United States;
- A legal resident of the State of Florida;
- A legal resident of the county in which that person seeks to be registered; and
- Registered to vote pursuant to the Florida Election Code.

A person who has been adjudicated mentally incompetent or a person who has been convicted of a felony may not vote until his or her right to vote has been legally restored.<sup>3</sup>

The Department of State has prescribed by rule a uniform statewide voter registration application<sup>4</sup> designed to elicit certain information from the applicant.<sup>5</sup> A voter registration application is considered complete if it contains the following information necessary to establish the applicant's eligibility:<sup>6</sup>

- The applicant's name, legal residence address, and date of birth.
- A mark in the checkbox affirming the applicant is a citizen of the United States.
- The applicant's current and valid Florida driver license number or identification number, or if the applicant does not have a Florida driver license or identification card, then the last four numbers of his or her social security number.<sup>7</sup>
- A mark in the checkbox affirming that the applicant has not been convicted of a felony or that, if convicted, has had his or her civil rights restored.
- A mark in the checkbox affirming that the applicant has not been adjudicated mentally incapacitated with respect to voting or that, if so adjudicated, has had his or her right to vote restored.
- The applicant's signature or a digital signature transmitted by the Department of Highway Safety and Motor Vehicles.

An applicant must mail or hand deliver a voter registration application to the office of the supervisor of elections, the Division of Elections, a driver license office, a voter registration agency,<sup>8</sup> or an armed forces recruitment office.<sup>9</sup> In addition, third-party registration organizations may collect and deliver voter registration applications.<sup>10</sup>

In order to be eligible to vote, an applicant's completed voter registration application must be received or postmarked before the registration book closing for an election, which occurs 29 days before that

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<sup>1</sup> Part II, chapter 97, F.S.

<sup>2</sup> Section 97.041(1)(a), F.S.

<sup>3</sup> Section 97.041(2), F.S.

<sup>4</sup> Section 97.052(1), F.S., requires the Department of State to prescribe by rule a uniform statewide voter registration application for use in Florida. See Fla. Admin. Code R. 1S-2.040 incorporating form DS-DE 39.

<sup>5</sup> Section 97.052(2), F.S., outlines specific information the uniform statewide voter registration application must elicit.

<sup>6</sup> Section 97.053(5)(a), F.S.

<sup>7</sup> If an applicant has not been issued a current and valid Florida driver license, identification card, or social security number, the applicant must affirm this fact in the manner prescribed in the uniform statewide voter registration application.

<sup>8</sup> Section 97.021(41), F.S., defines the term "voter registration agency" to mean any office that provides public assistance or serves persons with disabilities, a center for independent living, or a public library.

<sup>9</sup> Section 97.053(1), F.S.

<sup>10</sup> See s. 97.0575, F.S.

election.<sup>11</sup> However, an individual or accompanying family member who has been discharged or separated from the uniformed services, Merchant Marine, or employment outside the territorial limits of the United States may register at the local supervisor of elections office until 5:00 p.m. on the Friday before the election.<sup>12</sup>

#### Department of Highway Safety – Voter Registration

The Department of Highway Safety and Motor Vehicles (DHSMV) must provide the opportunity to register to vote to individuals who come to a DHSMV office for the purpose of applying for or renewing a driver license or identification card, or changing an address on their driver license or identification card.<sup>13</sup> Within 24 hours after receipt, the DHSMV must transmit electronically completed voter registration applications to the statewide voter registration system. The DHSMV must forward completed paper voter registration forms within five days after receipt.<sup>14</sup>

According to the DHSMV:<sup>15</sup>

Currently, driver license examiners ask driver license or identification card applicants if the applicant would like to apply to register to vote or update his or her current voter registration information during the credential process. If so, an electronic voter registration application is completed, with a digital signature, and the voter oath is administered. The voter registration application includes data specific to the voter registration process, such as whether the person is a convicted felon, party affiliation, military status, whether the person needs voting assistance and previous voter registration data. The voter application also requires the examiner to re-key the customer's address in order to verify it against a Department of State database, as required by law. The customer receives a printed application for his or her review. At the close of business, the day's voter registration applications, changes, and declinations are submitted electronically to the Department of State.

#### Online Voter Registration

As of December 2014, the National Conference on State Legislatures found that:<sup>16</sup>

- Twenty states offer online voter registration;
- Four states passed legislation to create an online registration system, but had not yet implemented it; and
- Three states offer some form of limited online voter registration.

For online voter registration, an applicant completes a voter registration form via an Internet site and the paperless form is submitted electronically to election officials. In most states, the application is reviewed electronically and the new registration is added to the state's voter registration list.<sup>17</sup>

In order to validate the information, the information on the online voter registration form is compared against the information provided by the same individual when he or she received a driver license or other state-issued identification card. The signature on record for the driver license or state-issued identification card becomes the signature on record for voting. If the information does not match, the application is sent to election officials for further review or action.<sup>18</sup>

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<sup>11</sup> Section 97.055(1), F.S.

<sup>12</sup> Section 97.0555, F.S. This exception applies only to an individual or accompanying family member who has been "discharged or separated."

<sup>13</sup> Section 97.057(1), F.S.

<sup>14</sup> Section 97.057(4), F.S.

<sup>15</sup> DHSMV 2014 Agency Legislative Bill Analysis of SB 784, at p. 2 (January 31, 2014), on file with the State Affairs Committee.

<sup>16</sup> Overview of Online Voter Registration by the National Conference of State Legislatures (December 10, 2014), available at <http://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx> (last viewed March 26, 2015).

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

<sup>18</sup> *Id.*

Currently, online voter registration systems are not equipped to register voters who do not have state-issued driver licenses or identification cards. Those applicants must use a paper registration form.<sup>19</sup>

### **Effect of Proposed Changes**

Beginning October 1, 2017, the bill creates an online voter registration system for registering first-time voters and updating existing voter registrations. It requires the Division of Elections to establish a secure Internet website and develop security measures to prevent unauthorized tampering with a voter's registration information, including the use of a unique identifier for each applicant. The system must comply with certain federal laws to ensure equal access to voters with disabilities.<sup>20</sup>

Upon submission of a completed online voter registration application, the website must generate an immediate electronic confirmation that the supervisor of elections has received it, and provide instructions with respect to checking the status of the application.

The new online voter registration system must:

- Compare an applicant's driver license number or Florida identification number with DHSMV records to confirm the name and birth date of the applicant.
- If the applicant's name and birth date are consistent, electronically transmit the application to the appropriate supervisor of elections along with the applicant's digital signature (if he or she has one on file with the DHSMV), in which case the application process proceeds electronically.
- If an otherwise eligible applicant's name and birth date cannot be verified, or if the applicant has no driver license or Florida identification card, the system must populate the form and direct the applicant to print, sign, and date the application and deliver it to the appropriate supervisor of elections office for disposition pursuant to s. 97.073, F.S.

The bill provides that a legal distinction may not be made between online voter registration and voter registration in person, by mail, or by other methods provided by general law.

The Division of Elections must submit a report to the President of the Senate and the Speaker of the House of Representatives regarding implementation of online voter registration applications no later than January 1, 2016. The report must summarize progress to date in implementing online voter registration and expected implementation timeframes. In addition, it must propose any further legislation needed to facilitate online voter registration.

#### **B. SECTION DIRECTORY:**

Section 1 amends s. 97.0525, F.S., relating to online voter registration.

Section 2 creates an unnumbered section of law, requiring the Division of Elections to report to the Legislature regarding online voter registration implementation.

Section 3 provides an effective date of July 1, 2015.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

The bill does not appear to have a fiscal impact on state government revenues.

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<sup>19</sup> *Id.*

<sup>20</sup> The online voter registration system must conform to nationally accepted standards for accessibility for individuals with disabilities, including s. 508 of the Rehabilitation Act of 1973, s. 255 of the Telecommunications Act of 1996, and the Web Content Accessibility Guidelines of the World Wide Web Consortium.

2. Expenditures:

According to the Department of State, it is unable to determine the cost of implementing an online voter registration system; however, based on information from other states, the department estimates that the costs could range from \$250,000 up to \$1.8 million. The Department of State indicates that developing the online voter registration system as well as upgrading the Florida Voter Registration System to interface with the new system will require an increase in staff.<sup>21</sup>

According to a 2014 bill analysis of SB 784,<sup>22</sup> the DHSMV estimates that the bill will require 270 non-recurring programming hours at a cost of \$20,400 to implement the provisions.<sup>23</sup> The DHSMV has not provided an updated fiscal analysis associated with the impacts of the 2015 legislation.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Art. VII, s. 18 of the State Constitution because it is an election law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Section 97.012(2), F.S., provides that it is the responsibility of the Secretary of State to provide uniform standards for the "proper and equitable implementation of the registration laws by administrative rule." As such, additional rulemaking authority does not appear necessary.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

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<sup>21</sup> Department of State 2015 Agency Legislative Bill Analysis of CS/SB 228, at p. 4 (March 30, 2015), on file with the State Affairs Committee.

<sup>22</sup> SB 784 (2014) by Senator Clemens required the Department of State to develop an online voter registration system, and required the DHSMV to verify information submitted online.

<sup>23</sup> DHSMV 2014 Agency Legislative Bill Analysis of SB 784, at p. 4 (January 31, 2014), on file with the State Affairs Committee.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.