

Committee on Ethics & Elections



**January 11, 2007
10:30 am-12:00 pm
306 HOB**

**Marco Rubio
Speaker**

**Pat Patterson
Chairman**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Marco Rubio

Committee on Ethics & Elections

Start Date and Time: Thursday, January 11, 2007 10:30 am

End Date and Time: Thursday, January 11, 2007 12:00 pm

Location: 306 HOB

Duration: 1.50 hrs

Introduction of Secretary of State, Kurt Browning

Brief Discussion of the 2006 Elections and Likely Election issues

Introduction of Honorable Terry Vaughan, Supervisor of Elections, Bradford County

President, Florida State Association of Supervisors of Elections

Brief Remarks on Supervisors' Perspective on the 2007 Legislative Session

Discussion on Presidential Preference Primary

NOTICE FINALIZED on 01/04/2007 16:03 by DXV

COMMITTEE STAFF

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Staff Bios

Dorian Vogt, Committee Administrative Assistant - Prior to becoming committee administrative assistant for the Ethics and Elections Committee in November 2006, Ms. Vogt worked at the Department of Community Affairs in the Public Affairs office as a Public Information Officer and with the Senate Ways and Means Committee as in an intern and executive secretary during the 2004-2006 sessions. She received her Bachelor of Science degree in Political Science and Sociology from Florida State University in May 2006.

Bob West, Legislative Analyst - Mr. West has worked as an analyst for the Committee on Ethics and Elections for the past 2 years. Prior to joining the Committee, Mr. West worked with the Speaker's office developing computer programs in connection with the Communications Department. Mr. West was also on the development team for the predecessor to the current LEAGIS system and was brought to the House by Speaker Tom Feeney to help develop the databases used by the House in the last redistricting, including technical support for the drawing of the House districts and for the legal team during the court challenges to the redistricting plans.

Richard Brown, Esq., Legislative Analyst - Prior to joining the staff of the Committee on Ethics & Elections, Mr. Brown was a Legislative Attorney for the House Governmental Operations Committee, with a particular focus addressing issues regarding state procurement. Before the 2005 legislative session, Mr. Brown spent four years with the Department of Management Services, first in the Office of the General Counsel and later with the Division of Purchasing, working on operational issues and legislative issues for the Division. Prior to his government service, he worked in Tampa in the General Counsel's office of a publicly-traded

staffing and recruitment firm specializing in the information technology, scientific, and financial fields. He attended the University of Florida and the Stetson University College of Law.

Bucky Mitchell, Esq., Staff Director - Mr. Mitchell received his Bachelor of Arts degree in 1985 from Auburn University. Following graduation, he worked in Washington, D.C. as a legislative aide for U.S. Senator Alfonse D'Amato. Mr. Mitchell then received his Juris Doctor degree in 1991 from the University of Georgia School of Law.

Prior to his service with the Florida House of Representatives, Mr. Mitchell worked as Assistant General Counsel for the Department of State (1994-1997), and then as Senior Attorney with the Division of Elections for almost four years (1997-2000). He served briefly with the Florida Department of Education in its Office of Student Financial Assistance, concentrating in federal student loans and collections. In 2001, Mr. Mitchell was asked to serve as the Chief Attorney for the House Committee on Rules, Ethics and Elections, and following the 2004 reorganization of the House and the designation of Rep. Allan Bense as Speaker, became the Staff Director for the House Committee on Ethics and Elections.

2007 Potential Ethics and Election Issues

Major election issues can develop rapidly, and therefore it may be difficult to accurately predict what the Committee will be addressing in the next legislative session. The following issues have been identified by Committee staff based upon current trends and events that occurred during the 2006 election cycle:

Regulation of Third Party Voter Registration Groups - In 2005, the Legislature enacted legislation that regulates groups who wish to conduct voter registration drives (s. 97.0575, F.S., as created in HB 1567; ch. 2005-277, Laws of Fla.). The law provides for fines for late submission of applications up to \$5,000 per application for those not submitted at all. There are no exceptions or mitigating circumstances for late submission of voter registration applications. When faced with such large potential fines and no mitigation, many groups decided not to conduct registration drives during the 2006 election cycle.

The law was the subject of a lawsuit filed by the Florida League of Women Voters against the Department of State. The Department filed an appeal of an order granting a preliminary injunction of enforcement of the law. Legislative action may be needed depending on the outcome of the lawsuit, which may include a review of the fines for certain violations or waiving fines under specified conditions such as a natural disaster or fire.

Verifiable Paper Audit Trail for Voting Machines - Several voting rights groups are advocating that there be an auditable paper trail for touch screen voting systems, specifically some form of paper receipt produced by the machines. The recent recount and audit of congressional election results in Sarasota County has focused increased attention on this issue.

All Florida counties must currently use touch screen systems for ADA compliance and fifteen counties in the state exclusively use touch screen voting systems. The three vendors of touch screen systems are Sequoia, Election Systems and Software, and Diebold.

With the increased use of touch screen voting systems, there has been considerable discussion regarding their reliability, accuracy, and security. Supervisors of elections maintain that these systems are a very secure and accurate method of voting while understanding the public's perception that a paper receipt is necessary to instill confidence in the system.

The supervisors' position has been that a paper receipt is not necessary, due to the multiple safeguards and redundancy built into these systems, and that any decision to provide a receipt should be made by the Legislature or Congress.

The incoming Speaker in the U.S. House of Representatives has publicly stated that a verifiable paper audit trail for voting machines is one of her highest priorities. H.R. 550 has been filed in the past by Representative Rush Holt and has considerable support. This bill, if passed, will require an add-on printer for all touch screen systems.

Printers for touch screen systems would cost up to \$1,500 per machine to install if the state approved the use of such printers. Legislation would be required to define what would constitute a ballot in the event of a discrepancy between a machine's results and the counts on paper receipts. Even if the state were to adopt some printer technology for its touch screen machines, there would still be no record created in the case of an undervote (when a voter does not cast a vote for any candidate in a race), as was the case in Sarasota County.

100-foot Set-back for Polling Places - The issue of voter harassment received a lot of attention during the 2004 elections, especially during the 15 day early voting period. There were several accounts of voters being harassed or intimidated outside the polls during the 15-day early voting period. Under CS/SB 2346 (2004), early voting was standardized and made *mandatory* in all counties.

In 2005, the Legislature increased the set-back from the polls from 50 to 100 feet, and included its application to early voting sites. During the 2006 election cycle, the major media companies successfully challenged the 100-foot set-back relative to conducting exit polling.

Third Party Proposals

Supervisors of Elections – The Florida State Association of Supervisors of Elections will be proposing a legislative package soon that may also contain some of the above ideas and some technical changes relating to election administration.

Department of State - The Department of State's Division of Elections may propose a legislative package that will likely contain minor "housekeeping" changes to the Election Code. Given that the new Secretary of State is a former supervisor, the Department's package may overlap with some of the supervisors' proposals.

2007 FSASE Legislative Proposals

Effects of Proposed Changes

- 98.055 Creates new section that specifies the three types of list maintenance notices
- 98.065 Repeals the current wording (2006) and inserts the 2004 language that provides for the change of address to be made to the voters record and notification of same to the voter for verification and correction, if necessary
- 98.075 Provides that a certified copy of the death certificate may be presented to the supervisor of elections for removal from the statewide voter registration system. Also provides that if the supervisor of elections has personal knowledge of a voter's death, the voter's name may be removed from the voter registration rolls
- 99.061 Provides that federal candidate qualifying remains the same but state, county and special district candidate qualifying is moved to begin on the 64th day prior to the primary and end on the 60th day prior to the primary
- 99.063 Provides that each candidate for Governor shall designate their choice for Lieutenant Governor no later than 5 p.m. on the 10th day following the primary, rather than the 9th day
- 100.061 Provides that the primary election shall be held on the Tuesday 10 weeks prior to the general election rather than the 9th week. This change provides relief from conducting the primary on the Tuesday after Labor Day
- 100.191 Conforms the canvassing of special elections to that of a general election
- 101.045 Provides that a change of legal residence may be accepted by the supervisor of election when a request for an absentee ballot is made
- 101.048 Provides that a voter that has cast a provisional ballot has until 5 p.m. on the second day after the election to submit evidence to the supervisor of elections.

- 101.051 Provides for a limit of two times a person can assist an individual with voting
- 101.56062 Provides that voting systems be required to interface with the voter in multiple languages in jurisdictions that meet the language provisions of Section 203 of the Voting Rights Act
- 101.6103 Provides that the county canvassing boards may begin the canvassing of mail ballots on the sixth day before the election.
- 101.62 Deletes the requirement for absentee requests to only be accepted within the calendar year of the election cycle and provides that ballots must be mailed at least 45 days before the general election. Additionally, provides that personal delivery to electors may begin on the 5th day prior to the election
- 101.657 Provide for greater flexibility in designating early voting sites by providing a procedure for designating alternative sites with the approval of the Department of State. Also, provides that counties have the option of providing early voting for elections other than primaries, generals and those specified in 100.101
- 101.68 Provides that county canvassing boards may begin the canvassing and processing of absentee ballots on the sixth day prior to the election
- 102.014 Deletes the one hour requirement for poll worker disability training and provides that the training requirement must be completed once during the election cycle
- 102.112 Modifies the wording to require the county canvassing board to *compare* the number of persons who voted with the number of ballots counted rather than reconcile. Additionally, this section is modified to provide for the final results of the primary to be submitted no later than 5 p.m. on the 10th day following the primary and no later than the 12th day following the general election.

- 102.141 Provides the first set of unofficial returns for the primary and general elections shall be submitted to the Department of State no later than noon on the fourth day following the election. Additionally, this change provides for the second set of unofficial returns to be submitted to the Department of State no later than 3 p.m. on the 7th day following the primary and no later than 3 p.m. on the 9th day following the general election. Additionally, this section is amended to strike the language specifying that provisional ballots results are to be included in the final set of official returns and will require that these returns be included in the first set of unofficial returns filed with the Department of State.
- 104.029 Repeals section that relates to paper ballots being used at the polling place on election day.
- 106.143 Provides that "Political advertisement paid" may be abbreviated as "Pol. Adv. Pd."

PRESIDENTIAL PREFERENCE PRIMARY IN FLORIDA

Moving the date of the Presidential Preference Primary (PPP):

Presidential preference primaries are held around the country in each Presidential election year (2004, 2008, etc.). In Florida, the parties submit lists of the names of candidates (or the names of delegates for the selected candidates) to the Secretary of State for inclusion on the PPP ballot.

The current PPP date in Florida is governed by statute, and occurs in each presidential election year on the second Tuesday in March (s. 103.021, F.S.). This date has been in place since 1971.

Idea #37 proposes to move the primary date up to the first Tuesday in February in each presidential election year. In 2008, that date would be February 5, 2008. Moving the PPP to February 5 would not affect the appointment or selection of delegates for either of the major parties under national party rules.

If no change is made in Florida, the PPP would be held on March 11, 2008.

Using a mail ballot election for the PPP:

There has been preliminary discussion of using a mail ballot for the PPP. There are some current statutory limitations on the use of mail ballots (MB) (s. 101.6102, F.S.)

Generally, a MB may be used for referendum elections in local jurisdictions such as counties, cities, school districts covering no more than one county and special districts.

Under current law, MB elections cannot be used for elections at which any candidate is nominated, elected, retained, or recalled. This would include a PPP election.

MB elections are significantly less costly than traditional elections which require the set-up of precincts, additional voting equipment and staff. Recent cost estimates to conduct a statewide election in Florida such as a PPP exceed \$19 million. If a MB was used for the PPP, a large portion of this cost would be eliminated. The use of a MB election for the PPP would require a statutory change.

A MB would also allow ballots to be mailed out to voters as early as *January 16, 2008* (the 20th day before election day of Feb. 5, 2008).

January

2008

Mon	Tue	Wed	Thu	Fri	Sat	Sun
	1	2	3 Arizona start early voting - absentee	4	5	6
7	8	9	10	11	12	13
14 Iowa Caucus	15 N. Carolina start early voting - site	16	17	18	19 Nevada caucus N. Mexico start early voting - site	20
21	22 N. Hampshire Arkansas, Florida start early voting - site	23	24	25	26	27
28	29 S. Carolina Primary	30	31			

February

2008

Mon	Tue	Wed	Thu	Fri	Sat	Sun
				1	2	3
4	5 Florida proposed Alabama, Arizona, Arkansas, Delaware, N. Jersey, N. Mexico, N Carolina, Utah	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29		