HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #:   PCB SAC 16-04   Municipal Election Dates
SPONSOR(S): State Affairs Committee
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

Under current law, elections for members of a municipality's governing body are conducted during the general election in November of even-numbered years unless the governing body of the municipality adopts an ordinance to change the date. A municipality that changes its election date is authorized to provide for the orderly transition of office resulting from the date change.

The PCB expressly preempts to the state the authority to establish the dates of municipal elections and provides the exclusive method for establishing those dates. Any state law, municipal charter, or municipal ordinance that conflicts with the PCB is superseded to the extent of the conflict. As a result, a municipality will no longer have authority to unilaterally establish the date of its municipal elections.

The PCB requires the date of municipal elections to be established in accordance with one of the following options:

> Option 1: All municipal elections in a county may be held on the same date as the general election in November of each even-numbered year or on the first Tuesday after the first Monday in November of each odd-numbered year, or both, as determined by the supervisor of elections (SOE);

> or

> Option 2:   All municipal elections in a county may be held on one alternative fixed date each year if the SOE and all municipalities within the county agree to the date and each municipality within the county adopts the date by ordinance. Each ordinance must also provide the dates for qualifying for the election and the date on which the elected officers' terms of office commence.

The dates for municipal elections may be selected under either Option 1 or Option 2, but not both.

The provisions of the PCB that establish the method of selecting municipal election dates do not affect the manner in which vacancies in municipal office are filled or the manner in which recall elections for municipal officers are conducted. However, the PCB allows municipal recall elections to be held concurrently with municipal elections provided the municipal election occurs during a specific time period.

In order to provide for an orderly transition of office, the PCB provides that the terms of incumbent elected municipal officers affected by the change in election dates will be extended to the next municipal election.

Lastly, the PCB repeals s. 101.75, F.S., which allows a municipality to change its municipal election dates in order to hold its elections concurrently with a statewide or countywide election or, if the voting devices for a statewide or countywide election are not available, to hold its elections 30 days before or after the statewide or countywide election.

The PCB does not appear to have a fiscal impact on the state, but it may reduce or increase elections costs for certain municipalities and result in municipalities paying the costs of conforming municipal charters or ordinances. While the PCB may require some municipalities to expend funds, article VII, section 18, of the Florida Constitution explicitly exempts election laws from the county/municipality "mandates" provision within that section.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Article VI, section 5(a) of the Florida Constitution requires a general election to be held in each county on the first Tuesday after the first Monday in November of each even-numbered year to choose a successor to each elective state and county officer whose term will expire before the next general election. Section 100.031, F.S., incorporates that constitutional provision into statute, but also requires a general election to be held in each county on the first Tuesday after the first Monday in November of each even-numbered year to choose a successor to each elective federal and district officer whose term will expire before the next general election.

Article VI, section 6 of the Florida Constitution provides that registration and elections in municipalities must, and in other governmental entities created by statute may, be provided by general law. The Florida Election Code,[1] which is a collection of general laws, provides that it governs the conduct of municipal elections in the absence of an applicable special act, charter, or ordinance.[2] However, no act, charter, or ordinance may be adopted which conflicts with or exempts a municipality from any provision in The Florida Election Code that expressly applies to municipalities.[3]

Elections for municipal officers are conducted during the general election in November of even-numbered years unless the governing body of a municipality has adopted an ordinance to change the dates for qualifying and for the election of members of the governing body of the municipality.[4] The ordinance may also provide for the orderly transition of office resulting from the date changes.

Section 101.75, F.S., allows the governing body of a municipality to move the date of any municipal election to a date concurrent with any statewide or countywide election provided the election date and dates for qualifying for the election are specifically provided for in the ordinance.[5] However, if the voting devices used in the county are not available to the municipality during the statewide or countywide election, the municipality may provide that its election will be held 30 days before or after the statewide or countywide election.[6]

Any member of the governing body of a municipality may be removed from office by the electors of the municipality provided certain requirements are met.[7] If the requirements are met but the municipal officer does not resign his or her office, a municipal recall election is held for the removal of that officer.[8] A municipal recall election is held in conjunction with a general or special election if such an election is held during the defined timeframe for conducting a recall election.[9]

A municipality pays for the printing and delivery of ballots and instruction cards for a municipal election.[10]

Effect of the Bill

The PCB expressly preempts to the state the authority to establish the dates of municipal elections and provides the exclusive method for establishing those dates. Any general law, special law, local law, municipal charter, or municipal ordinance that conflicts with the municipal election date provisions in the PCB is superseded to the extent of the conflict. As a result, a municipality will no longer have authority to unilaterally establish the date of its elections.

---

[1] Chapters 97-106, F.S., are known as "The Florida Election Code."
[2] Section 100.3605(1), F.S.
[3] *Id.*
[4] Section 100.3605(2), F.S.; *see also* s. 166.021(4), F.S.
[5] Section 101.75(3), F.S.
[6] Section 101.75(1), F.S.
[7] Section 100.361, F.S.
[8] Section 100.361(4), F.S.
[9] *Id*.
[10] Section 101.21, F.S.

The PCB requires the date of municipal elections to be established in accordance with one of the following options:

> Option 1: All municipal elections in a county may be held on the same date as the general election in November of each even-numbered year or on the first Tuesday after the first Monday in November of each odd-numbered year, or both, as determined by the supervisor of elections (SOE);
>
> or
>
> Option 2: All municipal elections in a county may be held on one alternative fixed date each year if the SOE and all municipalities within the county agree to the date and each municipality within the county adopts the date by ordinance. Each ordinance must also provide the dates for qualifying for the election and the date on which the elected officers' terms of office commence.

Municipal elections may be scheduled pursuant to either Option 1 or Option 2, but not both. If municipal elections within a county are conducted under Option 1, an SOE may choose to conduct elections for some municipalities in the county at the general election and conduct elections for other municipalities on the first Tuesday after the first Monday in November of an odd-numbered year, or the SOE may choose to conduct all municipal elections in the county on one of those dates. For example, if there are 10 cities in a county, the SOE may conduct elections for three municipalities at the general election and conduct elections for the other seven municipalities at the November election in odd-numbered years. Or, the SOE may choose to conduct elections for all 10 municipalities at the general election. Under Option 2, all of the municipalities within a county may select any one date each year on which to conduct their elections, but all of the municipalities in the county must conduct their elections on the agreed upon date each year. In other words, Option 2 does not allow municipalities within a county to select multiple election dates each year.

The provisions of the PCB that establish the method of selecting municipal election dates does not affect the manner in which vacancies in municipal office are filled or the manner in which recall elections for municipal officers are conducted. However, the PCB allows municipal recall elections to be held concurrently with municipal elections provided the municipal election occurs during a specific time period.

In order to provide for an orderly transition of office, the PCB provides that the terms of incumbent elected municipal officers affected by the change in election dates will be extended to the next municipal election held in accordance with the provisions of the PCB.

Lastly, the PCB repeals s. 101.75, F.S., which allows a municipality to change its municipal election dates in order to hold its elections concurrently with a statewide or countywide election or, if the voting devices for a statewide or countywide election are not available, to hold its elections 30 days before or after the statewide or countywide election.

B. SECTION DIRECTORY:

Section 1 amends s.100.3605, F.S., to require election dates for municipal officers to be held on a certain date.

Section 2 amends s. 100.361, F.S., to allow municipal recall elections to be held concurrently with a municipal election.

Section 3 repeals s. 101.75, F.S., relating to changes in municipal election dates for cause.

Section 4 amends s. 166.021, F.S., to remove the authorization for a municipality to choose election dates for its candidates and to change terms of office as necessitated by a change in election dates.

Section 5 creates an unnumbered section of law to extend the term of an incumbent elected municipal officer as a result of changes made by this act.

Section 6 provides an effective date of January 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: The PCB may increase expenditures for municipalities that are required to amend their charters or adopt ordinances to modify existing election dates. In addition, the costs of conducting elections may decrease or increase for certain municipalities.

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 PCB may require some municipalities to spend funds or take action requiring the expenditure of funds in order to comply with the new election date requirements created by the PCB; however, Art. VII, section 18, of the Florida Constitution explicitly exempts election laws from the county/municipality "mandates" provision within that section.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.