

**TESTIMONY PRESENTED TO: UNITED STATES SENATE JUDICIARY SUB-COMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND HUMAN RIGHTS**

**FROM: Ann McFall**

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I have been a lifelong resident of Volusia County, Florida graduating from Seabreeze High School in Daytona Beach and Stetson University in Deland. I am the former owner of McFall & Associates Accounting and Tax Service. I have served as an elected official for 22 years; as a school board member, a county council member and, currently, as Supervisor of Elections. I am a member of the Florida State Association of Supervisors of Elections, having served on the Board of Directors and the legislative committee. In my 22 years of public service I feel uncomfortable calling attention to my personal beliefs and ideals. But, in 2011 the Florida Legislature passed sweeping legislation and the Governor signed off on the legislation to the Florida Election Laws causing me to reassess any hesitancy in expressing my opinion. Most of the 63 Sections of HB 1355 were scrivener corrections. But, other changes are considered by a lot of professional elections officials and community groups to be so onerous that it is bound to cause confusion, lack of interest in elections, and lower turnout than Florida has ever experienced. I am one of those officials. There are 4 areas of concern that stand out. Those are: changes to early voting; changes to 3<sup>rd</sup> party voter registration; address changes at the polls; and selection of the date of the primary in 2012.

**Early voting**

HB 1355 made several changes to early voting. Some of the highlights are:

- All early voting sites in a county are no longer required to open on the same days for the same amount of time.
- Early voting shall begin on the 10<sup>th</sup> day (changed from the 15<sup>th</sup> day) before an election that contains state or federal races and end on the 3<sup>rd</sup> day (changed from the 2<sup>nd</sup> day) before the election, and
- Shall be provided for no less than 6 hours and no more than 12 hours per day.
- The Supervisor may provide early voting for elections that are not held in conjunction with a state or federal election.

Effects of these changes are significant. Although there was no consultation with Supervisors of Elections or any cost benefit analysis done, the legislature seemed to believe that it will save local Departments of Elections money in having early voting for fewer days. In reality it will cost my Department more money. My data base of competent well trained workers for early voting includes only so many workers. If 12 hour days is the hours decided, some workers will have to arrive at my office 1 ½ hours from the opening of the early voting site, stay until the last voter has voted, and come back to my office after closing and balancing therefore causing a 15 hour

day for 8 days. With a regular 40 hour work week as the norm, some of the workers will put in 100 hour work week, causing more overtime than regular time.

In my personal opinion a change to F.S. 101.657 that should have been made and was not was flexibility should have been given to the Supervisor of Elections to choose early voting sites from a broader choice. Currently early voting can be held only at the Department of Elections main office, a satellite office that has been open at least 1 year prior to the election, a public library, or a city hall. What is missing are community centers, college campuses, county buildings, parks, YMCA's, storefronts, malls, churches, etc. Volusia County has close to 30 potential sites if the law became more flexible. The questions that beg to be asked: If the Supervisor of Elections is permitted by law to choose where polling sites may be on Election Day, why does she not have the authority to choose early voting sites? Who better to know her county and constituents?

### **3<sup>rd</sup> party voter registration**

- A third-party voter registration organization means any person, entity, or organization that solicits for collection) or collects any voter registration.
- A 3PVRO must designate a registered agent on Form DS-DE 119. The person must be authorized to transact business in the state, be authorized to accept legal service of process on behalf of 3PVRO and sign form DS-DE 119.
- The Division must approve the registration and assign an ID # before a 3PVRO can conduct voter registration activities
- The 3PVRO must file DS-DE 120 with the State Division of Elections within 10 days.
- Responsibilities of a 3PVRO include:
  - Within 48 hours or before book closing, whichever occurs first submit all applications to DOE/SOE, including those that are incomplete.
  - Serve as a fiduciary for the applications.
  - Shall print the date and time that the applicant completed the application on a conspicuous space on the bottom portion on the reverse side of the application.
  - Keep its registration and agents' information updated within 10 days of any change.
  - File monthly reports on Form DS-DE 123 which must be submitted by the 10<sup>th</sup> of each month even if no activity during the period.
- Processing of Voter Registration Application from an organization by the Division and Supervisor of Elections:
  - For each non-blank registration application that an organization delivers, a voter registration official shall record the date and time of delivery on the bottom portion of the reverse side of the application.
  - The division or the supervisor of elections shall make voter registration forms available.
  - Each supervisor of elections shall provide to the division information on voter registration forms assigned to and received from 3PVRO. Each supervisor shall

report to the Division on Form DS-DE 124 by noon of the following business day the number of registration applications provided to and received from each organization the previous day.

Form DS-DE 124 must be submitted as an attachment in pdf format in an email or by facsimile.

Supervisors of elections or their staff shall report any untimely filed voter registration application submitted by an organization by sending the Division an explanatory statement in an e mail and attaching documents which reflect the untimely submission.

- Possible penalties include:
  - \$50 per application received more than 48 hours after applicant turned in the form (Increase to \$250 if act is willful).
  - \$100 per application collected by 3PVRO before book closing and received by DOE/SOE after book closing (Increase to \$500 if act is willful).
  - \$500 per application collected by 3PVRO which is not submitted to the DOE/SOE (Increases to \$1000 if act is willful).Violations may be referred to the Attorney General's office.

Changes in the voter registration process are considered by many to be frustrating and unenforceable. It creates a bureaucracy that forces elections officials to attempt to legally circumvent the law by deputizing school officials or increasing staff in order to hold more voter registration drives as opposed to making it easier for community groups to hold those drives. This became apparent to me when my office received an envelope with approximately 50 completed applications from a New Smyrna Beach High School teacher who oversaw a voter registration drive of high school seniors at the beginning of the year. She waited a couple of weeks (unknowingly breaking the law) in order to make sure all applications had been completed. Because of this, I was forced to submit her name as being out of compliance with the new law. Two months later, I was forced to report a well known community activist as being out of compliance due to handing in 4 applications late. She was at a church function on a Friday evening, assisted 4 people in filling out the applications, and delivered them to my office on the Tuesday immediately following the function. She assumed that the 48 hour restriction began on the Monday that the Department was open when it actually began on Friday evening. The fraud that is repeatedly used as a reason for this part of HB 1355 is a misnomer. January 1, 2006 the State went live with the Florida Voter Registration Database. This was a major undertaking in the name of preventing voter fraud, duplication of applications, etc. It works. On the other hand, nothing in the 3<sup>rd</sup> party registration organization restrictions in HB 1355 will help prevent fraud. I am convinced of that.

### **Address changes at the polls**

Previous to 2011 address changes from one county to another were permitted to be completed at any early voting site or at the correct precinct on Election Day. Changes to Florida Statute 101.045 now state: "Except for an active uniformed services voter or a member of his

or her family, an elector whose change of address is from outside the county may not change his or her legal residence at the polling place and vote a regular ballot; however, such elector is entitled to vote a provisional ballot.

As a follow up to this law change, the Secretary of State sent out Directive 2012-01 which states: "In the context of a voter who votes a provisional ballot due to an out-of-county address change, section 101.048(2) (a), Florida Statutes, would require the canvassing board to contact the supervisor of elections' office in the voter's prior county of residence to determine whether the person had already cast a ballot in the election. Therefore, supervisors of elections must be prepared to contact other supervisors of elections' offices immediately following an election and throughout the period for canvassing provisional ballots. Upon being contacted by other supervisors of elections inquiring whether the person casting a provisional ballot had already voted in the former county, supervisors of elections also must be prepared to check the precinct registers within their counties. I hereby direct that supervisors of elections cooperate with each other in this provisional ballot verification process and timely respond with accurate information concerning a voter who is the subject of another supervisor of elections' provisional ballot verification request."

In another area of the election law, F.S. 97.072 the law has changed to allow an out of county address change to be made over the phone. Specifically, the law now states: "If the address change is within the state and notice is provided to the supervisor of elections of the county where the elector has moved, the elector may do so by contacting the supervisor of elections via telephone or electronic means.

In summary, a person who is moving from one county to another in Florida can stand outside of an early voting site or their correct polling place, make an address change over the phone, and go in and vote a regular ballot. But, if the same voter chooses to enter the polling place, complete an address change, he must vote a provisional ballot.

Volusia County has 5 colleges/universities located in the county; Stetson, Bethune Cookman University, Embry Riddle, Daytona State College, and a UCF satellite campus. A majority of address changes in previous elections were from students who live somewhere else in the State but attend post secondary schools in Volusia County and choose to vote in Volusia County. In fact, the most active college campus in Volusia County is Bethune Cookman University. The university has a march from the campus to the Daytona Beach early voting site for every major election. Unfortunately, there are address change issues with the majority of the 2000 students who march due to dormitory changes, apartment changes, freshmen changing addresses from their home to the college campus, etc. The Department of Elections is prepared to process double the provisional ballots that are usually received, and by law, must be complete by the Friday immediately following the election.

## **Primary election date**

F.S. 100.061 has changed the primary election date for 2012 to 12 weeks prior to the general election as opposed to 10 weeks prior to the general election. The August 14, 2012 election is a week before most universities open for the fall semester and two weeks before Labor Day. This will undoubtedly lock out students as well as senior citizens who come to Florida in the fall. In addition, in a year of apportionment there is a good possibility that reapportionment will not be complete before candidate qualifying begins on June 4, 2012.

I believe I have a positive relationship with the Volusia delegation. But, there were no calls asking how this legislation would affect Volusia County from the delegation. It was almost as if the deal was done. If the State Legislature truly wanted feedback on how these changes would affect Departments of Elections state wide, dialog would have been asked for and welcomed. There would have been a cost benefit analysis done or surveys of Supervisors of Elections to see what impact it would have on day to day operations. The silence was deafening.

I can assure everyone that I am committed to getting the message across that the new laws are not needed, certainly under the premise that it will prevent fraud from occurring. I thank the committee for coming to Florida to hold this public meeting.