1988

**Session Law 88-085**

Florida Senate & House of Representatives

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A bill to be entitled
An act relating to elections; amending s.
100.041, F.S.; changing the date for
commencement of the term of office for the
clerk of the circuit court and for the county
comptroller; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) of section 100.041, Florida
Statutes, is amended to read:

100.041 Officers chosen at general election.--
(4) The term of office of each county and each
district officer not otherwise provided by law shall commence
on the second Tuesday following his election, except that the
term of office for tax collector, for clerk of the circuit
court, and for county comptroller shall commence on the first
Tuesday after the first Monday in January following his
election.

Section 2. This act shall take effect October 1, 1988.

SENATE SUMMARY

Provides that the term of office for clerk of the circuit
court and for county comptroller shall begin on the first
Tuesday after the first Monday in January following his
election.

CODING: Words struck are deletions; words underlined are additions
A bill to be entitled
An act relating to elections; amending s. 100.041, F.S.; changing the date for
commencement of the term of office for the clerk of the circuit court, county comptroller,
and property appraiser; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) of section 100.041, Florida Statutes, is amended to read:

100.041 Officers chosen at general election.--
(4) The term of office of each county and each
district officer not otherwise provided by law shall commence
on the second Tuesday following his election, except that the
term of office for tax collector, for clerk of the circuit
court, for county comptroller, and for property appraiser
shall commence on the first Tuesday after the first Monday in
January following his election.

Section 2. This act shall take effect October 1, 1988.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 400

Provides that not only clerks but also property appraisers shall continue to assume office in January, rather than November, following election.
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

I. SUMMARY:

A. Present Situation:

Under the Florida Election Code (s.100.041, Florida Statutes), terms of office are specified for certain county officers, including the Clerk of the Circuit Court (or County Clerk). That law, as amended by ch. 85-226, Laws of Florida, provides that, beginning with the 1988 elections, each county clerk is to assume office on the second Tuesday following his/her election. Prior to the passage of ch. 85-226, newly elected county clerks took office on the first Tuesday following the first Monday in January, together with most other county officers--approximately 2 months, rather than 2 weeks following their election.

B. Effect of Proposed Changes:

This bill amends s.100.041(4), F.S., to provide that County Clerks (and County Comptrollers in the case of those counties having divided the duties of the office of Clerk of the Circuit Court into two separate offices) shall continue to assume office in January, rather than November, following election.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

None. (Note that, while this bill has no direct monetary impact on government, it does affect the county fiscal process. See discussion under section III., headed COMMENTS.)

III. COMMENTS:

Under Article V, Section 16, of the State Constitution, the office of Clerk of the Circuit Court is created. In most counties, the clerk also functions as "ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds." (In some counties, the clerk's county-related duties are performed by a comptroller, as authorized by the Constitution.) Under Article V, Section 20, the clerk collects and accounts for all fines and forfeitures. Under general law, the clerk is also the primary recordkeeper and budget officer for each county and the custodian of all property held as physical evidence in any criminal proceeding. In practice, whenever a new clerk takes office, all
such funds, property, and records are inventoried and formally transferred to the new clerk by the outgoing clerk.

Unless SB 400 is enacted, beginning with the 1988 elections, this transfer must be accomplished within the 2 weeks following election of a new clerk.

Under the Uniform Local Government Financial Management and Reporting Act (s.218.32, F.S.), by December 29 of each year (90 days after the close of the fiscal year), county officers must complete financial statements for the preceding fiscal year. These statements are then compiled in annual reports detailing county operations which must be submitted by March 31 of each year to the Department of Banking and Finance. The clerk (or county comptroller) is responsible for preparing the financial statements for his/her office and for the board of county commissioners. Then, as the board's chief fiscal officer, the clerk/comptroller is largely responsible for putting together the final annual report.

Unless SB 400 is enacted, beginning with the 1988 elections, one of two things must happen:

1. Either the outgoing clerk/comptroller must complete these financial statements 5-6 weeks early (by mid-November); or

2. The incoming clerk/comptroller must take over the reporting process in midstream and complete the financial statements during his/her first 6-7 weeks of office.

The Florida Association of Court Clerks (county clerks) has indicated that such a change would facilitate the clerk's recordkeeping and reporting processes.

IV. AMENDMENTS:

None.
I. SUMMARY:

A. Present Situation:

Under the Florida Election Code (s.100.041, Florida Statutes), terms of office are specified for certain county officers, including the Clerk of the Circuit Court (or County Clerk). That law, as amended by ch. 85-226, Laws of Florida, provides that, beginning with the 1988 elections, each county clerk is to assume office on the second Tuesday following his/her election.

Prior to the passage of ch. 85-226, newly elected county clerks took office on the first Tuesday following the first Monday in January, together with most other county officers—approximately 2 months, rather than 2 weeks following their election.

B. Effect of Proposed Changes:

This bill amends s.100.041(4), F.S., to provide that County Clerks (and County Comptrollers in the case of those counties having divided the duties of the office of Clerk of the Circuit Court into two separate offices) and property appraisers shall continue to assume office in January, rather than November, following election.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

None. (Note that, while this bill has no direct monetary impact on government, it does affect the county fiscal process. See discussion under section III., headed COMMENTS.)

III. COMMENTS:

Under Article V, Section 16, of the State Constitution, the office of Clerk of the Circuit Court is created. In most counties, the clerk also functions as "ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds." (In some counties, the clerk's county-related duties are performed by a comptroller, as authorized by the Constitution.) Under Article V, Section 20, the clerk collects and accounts for all fines and forfeitures. Under general law, the clerk is also the primary recordkeeper and budget officer for each county and the custodian of all property held as physical evidence in any criminal proceeding. In practice, whenever a new clerk takes office, all
such funds, property, and records are inventoried and formally
transferred to the new clerk by the outgoing clerk.

Unless SB 400 is enacted, beginning with the 1988 elections, this
transfer must be accomplished within the 2 weeks following election
of a new clerk.

Under the Uniform Local Government Financial Management and
Reporting Act (s.218.32, F.S.), by December 29 of each year (90
days after the close of the fiscal year), county officers must
complete financial statements for the preceding fiscal year. These
statements are then compiled in annual reports detailing county
operations which must be submitted by March 31 of each year to the
Department of Banking and Finance. The clerk (or county
comptroller) is responsible for preparing the financial statements
for his/her office and for the board of county commissioners.
Then, as the board's chief fiscal officer, the clerk/comptroller is
largely responsible for putting together the final annual report.

Unless SB 400 is enacted, beginning with the 1988 elections, one of
two things must happen:

1. Either the outgoing clerk/comptroller must complete these
   financial statements 5-6 weeks early (by mid-November); or

2. The incoming clerk/comptroller must take over the reporting
   process in midstream and complete the financial statements
during his/her first 6-7 weeks of office.

The Florida Association of Court Clerks (county clerks) has
indicated that such a change would facilitate the clerk's
recordkeeping and reporting processes.

IV. AMENDMENTS:

None.
Final Bill Summary for CS/SB 400

The bill passed the Legislature and became law after approval by the Governor, ch. 88-85, L.O.F.

The bill amends s. 100.041, F.S., to provide that the term of office of each county and each district officer not otherwise provided by law shall commence on the first Tuesday after the first Monday in January following his election (instead of the second Tuesday following his election) to allow sufficient time for efficient transitions of public officials.

In addition, the bill amends s. 129.06, F.S., to provide that any county constitutional officer whose budget is approved by the board of county commissioners, who has not been reelected to office or is not seeking reelection, shall be prohibited from making any budget amendments, transferring funds between itemized appropriations, or expending in a single month more than one-twelfth of any itemized approved appropriation, following the date he is eliminated as a candidate or October 1, whichever comes later, without approval of the board of county commissioners.

Section 195.087, F.S., is also amended to provide the same with regard to property appraisers or tax collectors whose budget is approved by the Department of Revenue.
A bill to be entitled
An act relating to elections; amending s.
100.041, F.S., providing that the term of
office for the clerk of the circuit court or
the county comptroller shall commence on a
certain date; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) of section 100.041, Florida
Statutes, is amended to read:

100.041 Officers chosen at general election.--
(4) The term of office of each county and each
district officer not otherwise provided by law shall commence
on the second Tuesday following his election, except that the
term of office for tax collector and clerk of the circuit
court or county comptroller shall commence on the first
Tuesday after the first Monday in January following their
election.

Section 2. This act shall take effect October 1, 1988.

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HOUSE SUMMARY

Provides that the term of office for the clerk of the
circuit court or county comptroller shall commence on the
first Tuesday after the first Monday in January following
his election.
This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

CODING: Words stricken are deletions; words underlined are additions.
A bill to be entitled
An act relating to county officers; amending s. 100.041, F.S., providing that the term of
office for county officers shall commence on a
certain date; amending s. 129.06, F.S.,
limiting certain county officers from amending
their budget without approval; providing an
effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) of section 100.041, Florida
Statutes, is amended to read:

100.041 Officers chosen at general election.--
(4) The term of office of each county and each
district officer not otherwise provided by law shall commence
on the second-Tuesday-following-its-election-except-that-the
term-of-office-for-tax-collector--shall-commence-on-the-first
Tuesday after the first Monday in January following his
election.

Section 2. Paragraphs (b), (c), (d), and (e) of
subsection (2) of section 129.06, Florida Statutes, are
redesignated as paragraphs (c), (d), (e), and (f),
respectively, and a new paragraph (b) is added to said
subsection to read:

129.06 Execution and amendment of budget.--
(2) The board at any time within a fiscal year may
amend a budget for that year as follows;
(b) Any county constitutional officer who is not a fee
officer, who has not been reelected to office or is not
seeking reelection, shall be prohibited from making any budget

CODING: Words stricken are deletions; words underlined are additions.
amendments or transferring funds between itemized appropriations, following the date he is eliminated as a candidate or October 1 whichever comes later, without approval of the board of county commissioners. In addition, such officer shall be prohibited from expending in a single month more than one-twelfth of any itemized approved appropriation without approval of the board of county commissioners.

Section 3. This act shall take effect October 1, 1988.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

CODING: Words stricken are deletions; words underlined are additions.
BILL #: House Bill 233

RELATING TO: Elections/County Officers' Assumption of Terms

SPONSOR(S): Gardner

EFFECTIVE DATE: October 1, 1988

COMPANION BILLS:

OTHER COMMITTEES OF REFERENCE: (1) Appropriations
(2)

************************************************************

I. SUMMARY:

Under the Florida Election Code (s. 100.041, F.S.), terms of office are specified for certain county officers, including the Clerk of the Circuit Court (or County Clerk). That law, as amended by chapter 85-226, Laws of Florida, provides that, beginning with the 1988 elections, each county clerk is to assume office on the second Tuesday following his/her election.

Prior to the passage of chapter 85-226, newly elected county clerks took office on the first Tuesday following the first Monday in January, together with most other county officers -- approximately 2 months, rather than 2 weeks following their election.

This bill amends s. 100.041(4), F.S., to provide that County Clerks (and County Comptrollers in the case of those counties having divided the duties of the office of Clerk of the Circuit Court into two separate offices) shall continue to assume office in January, rather than November, following election.

II. ECONOMIC IMPACT:

A. Public:

None.

B. Government:

None. (Note that, while this bill has no direct monetary impact on government, it does affect the county fiscal process. See discussion under section IV., headed COMMENTS.)

STANDARD FORM 10-30-87
III. STATE COMPREHENSIVE PLAN IMPACT:

This bill advances the Governmental Efficiency Goal of the State Comprehensive Plan as found in s. 187.201(21)(a), F.S., and the following associated policy:

187.201 State Comprehensive Plan adopted.--The Legislature hereby adopts as the State Comprehensive Plan the following goals and policies:
(21) GOVERNMENTAL EFFICIENCY.--
(a) Goal.--Florida governments shall economically and efficiently provide the amount and quality of services required by the public.
(b) Policies.--
9. Encourage greater efficiency and economy at all levels of government through adoption and implementation of effective records-management, information-management, and evaluation procedures.

IV. COMMENTS:

Under Article V, Section 16, of the State Constitution, the office of Clerk of the Circuit Court is created. In most counties, the clerk also functions as "ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds." (In some counties, the clerk's county-related duties are performed by a comptroller, as authorized by the Constitution.) Under Article V, Section 20, the clerk collects and accounts for all fines and forfeitures. Under general law, the clerk is also the primary recordkeeper and budget officer for each county and the custodian of all property held as physical evidence in any criminal proceeding. In practice, whenever a new clerk takes office, all such funds, property, and records are inventoried and formally transferred to the new clerk by the outgoing clerk.

Unless HB 233 is enacted, beginning with the 1988 elections, this transfer must be accomplished within the 2 weeks following election of a new clerk.

Under the Uniform Local Government Financial Management and Reporting Act (s. 218.32, F.S.), by December 29th of each year (90 days after the close of the fiscal year), county officers must complete financial statements for the preceding fiscal year. These statements are then compiled in annual reports detailing county operations which must be submitted by March 31st of each year to the Department of Banking and Finance. The clerk (or county comptroller) is responsible for preparing the financial statements for his/her office and for the board of county commissioners. Then, as the board's chief fiscal officer, The clerk/comptroller is largely responsible for putting together the final annual report.

Unless HB 233 is enacted, beginning with the 1988 elections, one of two things must happen:

1. Either the outgoing clerk/comptroller must complete these financial statements 5-6 weeks early (by mid-November); or
2. The incoming clerk/comptroller must take over the reporting process in midstream and complete the financial statements during his/her first 6-7 weeks of office.

Representatives of the Florida Association of Court Clerks (county clerks) support the proposed legislation, indicating that such a change would facilitate the clerks' recordkeeping and reporting processes.

V. AMENDMENTS:

None.

VI. PREPARED BY: Sharon K. Lowe
Legislative Analyst

VII. STAFF DIRECTOR: Mario L. Taylor
BILL #: House Bill 233

RELATING TO: Elections/County Officers' Assumption of Terms

SPONSOR(S): Representative Gardner

EFFECTIVE DATE: October 1, 1988

COMPANION BILLS: CS/SB 400

OTHER COMMITTEES OF REFERENCE: (1) Appropriations

II. ECONOMIC IMPACT:

A. Public:

   None.
III. **STATE COMPREHENSIVE PLAN IMPACT:**

This bill advances the Governmental Efficiency Goal of the State Comprehensive Plan as found in s. 187.201(21)(a), F.S., and the following associated policy:

187.201 State Comprehensive Plan adopted.--The Legislature hereby adopts as the State Comprehensive Plan the following goals and policies:

(21) GOVERNMENTAL EFFICIENCY.--

(a) Goal.--Florida governments shall economically and efficiently provide the amount and quality of services required by the public.

(b) Policies.--

9. Encourage greater efficiency and economy at all levels of government through adoption and implementation of effective records-management, information-management, and evaluation procedures.

IV. **COMMENTS:**

The office of Clerk of the Circuit Court is created under Article V, Section 16, of the State Constitution. In most counties, the clerk also functions as "ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds." (In some counties, the clerk's county-related duties are performed by a comptroller, as authorized by the Constitution.) Under Article V, Section 20, the clerk collects and accounts for all fines and forfeitures. Under general law, the clerk is also the primary recordkeeper and budget officer for each county and the custodian of all property held as physical evidence in any criminal proceeding. In practice, whenever a new clerk takes office, all such funds, property, and records are inventoried and formally transferred to the new clerk by the outgoing clerk.

Unless HB 233 is enacted, beginning with the 1988 elections, this transfer must be accomplished within the 2 weeks following election of a new clerk.

Under the Uniform Local Government Financial Management and Reporting Act (s. 218.32, F.S.), by December 29th of each year (90 days after the close of the fiscal year), county officers must complete financial statements for the preceding fiscal year. These statements are then compiled in annual reports detailing county operations and must be submitted by March 31st of each year to the Department of Banking and Finance. The clerk (or county comptroller) is responsible for preparing the financial statements for his/her office and for the board of county commissioners.
Also, as the board's chief fiscal officer, the clerk/comptroller is largely responsible for putting together the final annual report.

Unless HB 233 is enacted, beginning with the 1988 elections, one of two things must happen:

1. Either the outgoing clerk/comptroller must complete these financial statements 5-6 weeks early (by mid-November); or

2. The incoming clerk/comptroller must take over the reporting process in midstream and complete the financial statements during his/her first 6-7 weeks of office. In this case the incoming person will be attesting to accuracy and completeness of records and transactions previously carried out under the control of another.

Representatives of the Florida Association of Court Clerks (county clerks) support the proposed legislation, indicating that such a change would facilitate the clerks' recordkeeping and reporting processes.

HB 233 was originally referred to the Committee on Community Affairs where it was heard by the Subcommittee on Intergovernmental Relations, amended to include property appraisers, and reported favorably by a vote of 5-0. The bill was subsequently withdrawn from the Committee on Community Affairs and referred to the Committee on Ethics and Elections.

V. AMENDMENTS:

None.

VI. PREPARED BY: Sarah Jane Bradshaw
Legislative Analyst

VII. STAFF DIRECTOR: Wayne R. Malaney

STANDARD FORM 10-30-87
BILL #: House Bill 233

RELATING TO: Elections/County Officers' Assumption of Terms

SPONSOR(S): Representative Gardner

EFFECTIVE DATE: October 1, 1988

COMPANION BILLS: CS/SB 400

OTHER COMMITTEES OF REFERENCE: (1) Appropriations

II. SUMMARY:

Under the Florida Election Code, terms of office are specified for certain county and district officers. Chapter 85-226, Laws of Florida, changed the date on which clerks of the circuit court, sheriffs, property appraisers, and any other county or district officer whose term is not otherwise provided by law, assume office. Beginning with the 1988 elections, these officers will assume office on the second Tuesday following their election.

Chapter 85-226, Laws of Florida, contained a grandfather clause providing that no county or district officer serving as of January 1, 1986, would have his terms shortened as a result of this act.

Prior to the passage of chapter 85-226, newly elected clerks, sheriffs and property appraisers took office on the first Tuesday following the first Monday in January, together with most other county officers -- approximately 2 months, rather than 2 weeks following their election.

This bill amends s. 100.041(4), F.S., to provide that the Clerk of the Circuit Court, or County Comptroller in those counties having divided the duties of the office of Clerk of the Circuit Court into two separate offices, shall continue to assume office in January, rather than November, following election.

II. ECONOMIC IMPACT:

A. Public:
   
   None.
B. Government:

None. (Note that, while this bill has no direct monetary impact on government, it does affect the county fiscal process. See discussion under section IV., headed COMMENTS.)

III. STATE COMPREHENSIVE PLAN IMPACT:

This bill advances the Governmental Efficiency Goal of the State Comprehensive Plan as found in s. 187.201(21)(a), F.S., and the following associated policy:

187.201 State Comprehensive Plan adopted.--The Legislature hereby adopts as the State Comprehensive Plan the following goals and policies:

(21) GOVERNMENTAL EFFICIENCY.--

(a) Goal.--Florida governments shall economically and efficiently provide the amount and quality of services required by the public.

(b) Policies.--

9. Encourage greater efficiency and economy at all levels of government through adoption and implementation of effective records-management, information-management, and evaluation procedures.

IV. COMMENTS:

The office of Clerk of the Circuit Court is created under Article V, Section 16, of the State Constitution. In most counties, the clerk also functions as "ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds." (In some counties, the clerk's county-related duties are performed by a comptroller, as authorized by the Constitution.) Under Article V, Section 20, the clerk collects and accounts for all fines and forfeitures. Under general law, the clerk is also the primary recordkeeper and budget officer for each county and the custodian of all property held as physical evidence in any criminal proceeding. In practice, whenever a new clerk takes office, all such funds, property, and records are inventoried and formally transferred to the new clerk by the outgoing clerk.

Unless HB 233 is enacted, beginning with the 1988 elections, this transfer must be accomplished within the 2 weeks following election of a new clerk.

Under the Uniform Local Government Financial Management and Reporting Act (s. 218.32, F.S.), by December 29th of each year (90 days after the close of the fiscal year), county officers must complete financial statements for the preceding fiscal year. These statements are then compiled in annual reports detailing county operations and must be submitted by March 31st of each year to the Department of Banking and Finance. The clerk (or county comptroller) is responsible for preparing the financial statements for his/her office and for the board of county commissioners.
Also, as the board's chief fiscal officer, the clerk/comptroller is largely responsible for putting together the final annual report.

Unless HB 233 is enacted, beginning with the 1988 elections, one of two things must happen:

1. Either the outgoing clerk/comptroller must complete these financial statements 5-6 weeks early (by mid-November); or

2. The incoming clerk/comptroller must take over the reporting process in midstream and complete the financial statements during his/her first 6-7 weeks of office. In this case the incoming person will be attesting to accuracy and completeness of records and transactions previously carried out under the control of another.

Representatives of the Florida Association of Court Clerks (county clerks) support the proposed legislation, indicating that such a change would facilitate the clerks' recordkeeping and reporting processes.

HB 233 was originally referred to the Committee on Community Affairs where it was heard by the Subcommittee on Intergovernmental Relations, amended to include property appraisers, and reported favorably by a vote of 5-0. The bill was subsequently withdrawn from the Committee on Community Affairs and referred to the Committee on Ethics and Elections.

V. AMENDMENTS:

Proposed Committee Substitute for HB 233 provides that all county and district officers whose term is not otherwise provided by law will assume office in January following their election. This proposed bill further amends s. 129.06, F.S., to prohibit certain county constitutional officers from making budget amendments or transferring funds between itemized appropriations, following the date on which he is eliminated as a candidate if running for reelection, or October 1, if he is not seeking reelection, unless approved by the board of county commissioners.

VI. PREPARED BY: Sarah Jane Bradshaw
Legislative Analyst

VII. STAFF DIRECTOR: Wayne R. Malaney
Representative of the Committee on

offered the following amendment.

On page ___, line ___, strike ___

and insert: ____________

adopted  failed of adoption

Amendment No. 1  Bill No. HB 233
Committee on Community Affairs
Offered by Rep Goode

Amendment
On page...1..., line..16..., insert: after the word "collector" property appraiser
Amendment No. 1

Bill No. PCS 233

If amendment is text of another bill insert:

Bill No. Draft No.

Committee on Ethics and Elections

Rep(s) ____________________________ offered the following amendment:

Amendment

On page . . . , line . . . ,

insert after the period: In addition, such officer shall be prohibited from expending in a single month more than one-twelfth of any itemized approved appropriation without approval of the board of county commissioners.
Proposed Committee Substitute HB 233

A bill to be entitled
An act relating to elections; amending s. 100.041, F.S., providing that the term of office for county officers shall commence on a certain date; amending s. 129.06, F.S., limiting certain county officers from amending their budget without approval; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) of section 100.041, Florida Statutes, is amended to read:

100.041 Officers chosen at general election.—
(4) The term of office of each county and each district officer not otherwise provided by law shall commence on the second-Tuesday-following-his-election, except that-the term-of-office-for-tax-collector—shall-commence-on-the first Tuesday after the first Monday in January following his election.

Section 2. Paragraph (b) is added to subsection (2) of section 129.06, F.S., and subsequent paragraphs are renumbered to read:

129.06 Execution and amendment of budget.—
(2) The board at any time within a fiscal year may amend a budget for that year as follows:

(b) Any county constitutional officer who is not a fee officer, who has not been reelected to office or is not seeking reelection, shall be prohibited from making any budget amendments or transferring funds between itemized appropriations, following the date he is eliminated as a

CODING: Words stricken are deletions; words underlined are additions.
Candidate or October 1 whichever comes later, without approval of the board of county commissioners.

Section 3. This act shall take effect October 1, 1988.
I. SUMMARY:

Under the Florida Election Code, terms of office are specified for certain county and district officers. Chapter 85-226, Laws of Florida, changed the date on which clerks of the circuit court, sheriffs, property appraisers, and any other county or district officers whose terms are not otherwise provided by law, assume office. Beginning with the 1988 elections, these officers will assume office on the second Tuesday following their election.

Prior to the passage of chapter 85-226, newly elected clerks, sheriffs and property appraisers took office on the first Tuesday following the first Monday in January, together with most other county officers -- approximately 2 months, rather than 2 weeks following their election.

This bill amends s. 100.041(4), F.S., to provide for the term of each county and district officer to begin on the first Tuesday after the first Monday in January, unless otherwise provided by law.

County officers' budgets run from October 1 through September 30 of each year. To prevent a county officer who is leaving office in January from making budget expenditures which may not have been approved, thereby causing a shortage in an itemized appropriation for the newly elected officer, s. 129.06, F.S. is amended. As amended this section would prohibit a county officer, excluding a fee officer, from making budget amendments or transferring funds between itemized appropriations, following the date he is eliminated as a candidate, or October 1 whichever comes later, without the approval of the board of county commissioners. This section would further prohibit such officer from expending more
than one-twelfth of any itemized appropriation during a single
month, without approval of the board of county commissioners.

II. ECONOMIC IMPACT:

A. Public:

None.

B. Government:

None.

III. STATE COMPREHENSIVE PLAN IMPACT:

This bill advances the Governmental Efficiency Goal of the State
Comprehensive Plan as found in s. 187.201(21)(a), F.S., and the
following associated policy:

187.201 State Comprehensive Plan adopted.--The
Legislature hereby adopts as the State Comprehensive
Plan the following goals and policies:

(21) GOVERNMENTAL EFFICIENCY.--

(a) Goal.--Florida governments shall economically
and efficiently provide the amount and quality of
services required by the public.

(b) Policies.--

9. Encourage greater efficiency and economy at all
levels of government through adoption and
implementation of effective records-management,
information-management, and evaluation procedures.

IV. COMMENTS:

Representatives from the Clerks of the Circuit Court, Property
Appraisers and Sheriffs have indicated that two weeks is not a
sufficient length of time for a smooth transition to occur when
there is a change in those offices because of the various end of
the fiscal year functions for which they are responsible.

V. AMENDMENTS:

VI. PREPARED BY: Sarah Jane Bradshaw
Legislative Analyst

VII. STAFF DIRECTOR: Wayne R. Malaney

STANDARD FORM 10-30-87
I. SUMMARY:

On May 17, 1988, CS/HB 233 was taken up by the House of Representatives. At that time, CS/SB 400 (the Senate Companion) was substituted for CS/HB 233 and was passed, as amended, by a vote of 118 to 0. The Senate concurred in the House amendments on May 25, 1988. The bill was signed into law by the Governor on June 6, 1988, as chapter 88-85, Laws of Florida.

This act changes the date that certain elected county and district officers assume office and institute certain safeguards to prevent potential fiscal abuse by a "lame duck" officer.

A. PRESENT SITUATION:

Under the Florida Election Code (s. 100.041, F.S.), terms of office are specified for certain county and district officers. Chapter 85-226, Laws of Florida, amended this statute to provide that, beginning with the 1988 elections, clerks of the circuit court, sheriffs, property appraisers, and other county or district officers whose terms are not otherwise provided by law would assume office on the second Tuesday following election.

Prior to the passage of chapter 85-226, newly elected clerks, sheriffs, and property appraisers took office on the first Tuesday following the first Monday in January, together with most other county officers -- approximately 2 months, rather than 2 weeks following their election.
County officers' budgets run from October 1 through September 30. It is possible, therefore, for a county officer who is leaving office to make significant budget expenditures, without approval, during his last 2 months in office, thereby causing a shortage in an itemized appropriation for the newly elected county officer.

B. EFFECT OF PROPOSED CHANGES:

CS/SB 400 amends ss. 100.041(4), 129.06(2)(b), and 195.087(5), F.S., to:

- Provide that county and district officers having a term of office not otherwise provided by law shall continue to assume office in January, rather than November, following election.

- Restrict certain "lame duck" county officers from making budget amendments or transferring funds between itemized appropriations (effective upon elimination as a candidate or on October 1, whichever is later), or from spending more than one-twelfth of any appropriation in a single month, without approval of the county commission or the Department of Revenue, whichever approves the original budget.

C. SECTION-BY-SECTION ANALYSIS:

Section 1. Modifies the date certain county and district officers assume office.

Section 2. Provides safeguards against fiscal misuse of office by those not reelected to office.

Section 3. Provides an effective date of October 1, 1988.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

None.
B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None. (Note that, while this act has no direct monetary impact on government, it does affect the county fiscal process. See COMMENTS.)

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

III. LONG RANGE CONSEQUENCES:

This act advances the Governmental Efficiency Goal of the State Comprehensive Plan as found in s. 187.201(21)(a), F.S., and the associated policies to economically and efficiently provide the amount and quality of services required by the public and to encourage greater efficiency and economy at all levels of government through adoption and implementation of effective records-management, information-management, and evaluation procedures.

IV. COMMENTS:

Under Article V, Section 16, of the State Constitution, the office of Clerk of the Circuit Court is created. Under general law, the clerk functions as ex officio clerk of the board of county commissioners, is auditor, recorder, and custodian of all county funds, collects and accounts for all fines and forfeitures, and is also the primary recordkeeper and budget officer for each county and the custodian of all property held as physical evidence in any criminal proceeding.
In practice, whenever a new clerk takes office, all such funds, property, and records must be inventoried and transferred to the new clerk by the outgoing clerk. Other county and district officers have similar tasks which must be performed prior to leaving office.

If this legislation had not been enacted, beginning with the 1988 elections, outgoing/incoming officers would have been required to accomplish this transfer within the 2 weeks following election.

Similarly, under s. 218.32, F.S., county and district officers must complete financial statements for the preceding fiscal year by December 29th of each year. These statements are then compiled in annual reports detailing county operations which must be submitted by March 31st of each year to the Department of Banking and Finance.

If this legislation had not been enacted, beginning with the 1988 elections, one of two things would have happened:

1. Either outgoing officers would have been required to complete their year-end tasks 5-6 weeks early (by mid-November); or

2. Incoming officers would have been required to take over these tasks in midstream and complete them during their first 6-7 weeks of office.

Representatives of the clerks of the circuit court, property appraisers, and sheriffs have indicated that 2 weeks is not a sufficient length of time for a smooth transition to occur when there is a change in office, because of the various end-of-the-fiscal-year functions for which they are responsible.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by:

Sharon K. Lowe

FINANCE & TAXATION:
Prepared by:

Staff Director:

Henry C. Cain

APPROPRIATIONS:
Prepared by:

Staff Director:

James Zingale
TO: Chairman, Committee on Ethics & Elections

Subcommittee on Elections
Date of Meeting April 25, 1988
Time 1:15 p.m.
Place 212 HOB

FINAL ACTION:

VOTE:

<table>
<thead>
<tr>
<th>VOTE</th>
<th>MEMBER</th>
<th>NAY</th>
</tr>
</thead>
<tbody>
<tr>
<td>YEA</td>
<td>Rep. Canady</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Rep. Gutman</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Rep. Simone</td>
<td>x</td>
</tr>
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<td></td>
<td>Rep. Smith</td>
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<tr>
<td></td>
<td>Rep. Thomas</td>
<td>x</td>
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<td></td>
<td>Rep. Tobin</td>
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<tr>
<td></td>
<td>Rep. Wetherell</td>
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<tr>
<td></td>
<td>Rep. B.L. Johnson, Chrm.</td>
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</tbody>
</table>

Total Yeas 4
Total Nays 2

Subcommittee Chairman

APPEARANCE RECORD

The following persons (other than legislators) appeared before the subcommittee during the consideration of this bill:

<table>
<thead>
<tr>
<th>Name</th>
<th>Representing</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fred Baggett</td>
<td>Fl Assoc of Court Clerks</td>
<td>101 E. College, Tallahassee</td>
</tr>
<tr>
<td>Virlandia Sample</td>
<td>Fl Sheriffs Assoc</td>
<td>2617 Mahan Dr., Tallahassee</td>
</tr>
<tr>
<td>Larry Levy</td>
<td>Property Appraisers Assoc.</td>
<td>Suite 804, First Fl Bank Bldg</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tallahassee, Fl</td>
</tr>
</tbody>
</table>

Note: Please indicate by an "X" any State employee appearing at the request of the Chairman.

Received by Parent Committee:
Date: ____________________________
Received by: ________________________
<table>
<thead>
<tr>
<th>Final vote on bill</th>
<th>Yeas</th>
<th>Nays</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rep. Canady</td>
<td>215</td>
<td>2</td>
</tr>
<tr>
<td>Rep. Gutman</td>
<td>215</td>
<td>2</td>
</tr>
<tr>
<td>Rep. Simone</td>
<td>215</td>
<td>2</td>
</tr>
<tr>
<td>Rep. Smith</td>
<td>215</td>
<td>2</td>
</tr>
<tr>
<td>Rep. Thomas</td>
<td>215</td>
<td>2</td>
</tr>
<tr>
<td>Rep. Tobin</td>
<td>215</td>
<td>2</td>
</tr>
<tr>
<td>Rep. Wetherell</td>
<td>215</td>
<td>2</td>
</tr>
<tr>
<td>Rep. Bo Johnson</td>
<td>215</td>
<td>2</td>
</tr>
</tbody>
</table>

**Committee Action:**
- Temporarily passed
- Reconsidered
- Favorable
- Favorable with amendments
- Favorable with committee substitute
- Unfavorable

**Other action:**

**Bill Action Record**
- Committee: Elections Sub
- Meeting Time: 1:15 P M
- Place: 2/2/108

**Date received:**

**Committee Action:**
- Temporarily passed
- Reconsidered
- Favorable
- Favorable with amendments
- Favorable with committee substitute
- Unfavorable

**Other action:**

**Bill Action Record**
- Committee: Elections Sub
- Meeting Time: 1:15 P M
- Place: 2/2/108

**Date received:**

**Committee Action:**
- Temporarily passed
- Reconsidered
- Favorable
- Favorable with amendments
- Favorable with committee substitute
- Unfavorable
**Bill Action Record**

Committee on **Ethics & Elections**

Meeting Time **10:00 a.m.**

Place **224 NOB**

Committee Action:
- Temporarily passed
- Reconsidered
- Favorable
- Favorable with ___ amendments
- Favorable with committee substitute
- Unfavorable

Subcommittee report:
- Favorable ___ favorable with ___ amendments
- Favorable with ___ amendments
- Unfavorable ___

**Other action:**

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**Final vote on bill**

| Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays |
|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| Bloom | Brown | Canady | Deutsch | Grindle | Gutman | Hargrett | Johnson, Bo | Press | Rehm | Sample | Simone | Smith | Thomas | Tobin | Wetherell | Crady, Chairman |
| Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays |
| Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays |
| Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays |
| Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays |
| Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays | Yeas | Nays |

**TOTALS**

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Committee on Ethics and Elections

Committee Information Record

House of Representatives

Date of Meeting: April 23, 1982
Time: 10:00 a.m.
Place: 212 HOB

Bill No.: HB 233

Final Action:
- Favorable
- Favorable with Amendments
- Favorable with Substitute
- Unfavorable

Vote:

Yea | Member | Nay
---|--------|---
X | Rep. Bloom | -
X | Rep. Brown | -
- | Rep. Canady | -
- | Rep. Deutsch | -
X | Rep. Grindle | -
- | Rep. Gutman | -
- | Rep. Hargrett | -
X | Rep. Bo Johnson | -
- | Rep. Press | -
X | Rep. Rehm | -
X | Rep. Sample | -
X | Rep. Simone | -
X | Rep. Smith | -
X | Rep. Thomas | -
X | Rep. Tobin | -
- | Rep. Wetherell | -
X | Rep. Crady, Chairman | -

Total Yeas: 11
Total Nays: 0

APPEARANCE RECORD

The following persons (other than legislators) appeared before the committee during the consideration of this bill:

Name | Representing | Address
---|-------------|---

Note: Please indicate by an "X" any State employee appearing at the request of the Chairman.

(File with the Clerk and Attach Subcommittee Report if applicable)
TO: Chairman, Committee on Community Affairs

Subcommittee on Intergovernmental Relations

Date of Meeting: 3/2/88
Time: 3:00-5:00 pm
Place: 223 C

FINAL ACTION:

Favorable
X Favorable with 1 Amendment
Favorable with Proposed Substitute
Unfavorable

VOTE:

YEA MEMBER NAY
x Rep. Goode
x Rep. Guber
x Rep. Holland
x Rep. Shelley
x Rep. Stone
x Rep. Tobiassen
x Rep. Ascherl, Chair

Total Yeas 5

Total Nays 0

APPEARANCE RECORD

The following persons (other than legislators) appeared before the subcommittee during the consideration of this bill:

Name: A. Curtis Powers
Representing: Florida Court Clerks
Address: Gainesville, FL

Note: Please indicate by an "X" any State employee appearing at the request of the Chairman.

Received by Parent Committee:
Date: 4/12/88
Received by: Nancy R. Murphy

H-74(1988)
HB 12
  1. adopted
  2. wild
  3. adopted

HB 572 - THOMAS
  1. adopted
  2. adopted

HB 290 - JOHNSON

<AS> APRIL 27, 2003<br>ETHICS & ELECTIONS
February 22, 1988

Honorable Bolley L. "Bo" Johnson
Representative, State of Florida
Room 226, House Office Building
Tallahassee, Florida 32399

Re: Court Clerks' Term Commencement Date

Dear Bo:

Thank you for the opportunity to meet with you recently concerning the need to amend the date on which the clerks of the court take office.

During the 1985 Legislative Session you sponsored the House companion to SB 22, resulting in Chapter 85-226, that changed the date by which certain county officers would begin their respective terms of office. As that law applied to the clerks of the circuit court, the commencement of a term of office would be on the second Tuesday following the general election. Prior to the enactment of that law and for time immemorial, the clerk, as most of the elected officers in Florida, commenced a term of office on the first Tuesday after the first Monday in January following the general election. Prior to the enactment of that law and for time immemorial, the clerk, as most of the elected officers in Florida, commenced a term of office on the first Tuesday after the first Monday in January following the general election.

At the time of the enactment of Chapter 85-226, the clerks, quite frankly, did not perceive the difficulties that this change would create. Since then, it has become apparent that the new term commencement date will cause severe problems, particularly in the completion of the county's year end fiscal reports which are required by law and the preparation for which would be taking place during the period of transition of office to a newly elected clerk in November.

It has been considered not only a practical difficulty, but a severe problem in ascertaining responsibilities for counties financial operations as well. As you know, the clerk in most counties serves as the county auditor and custodian of funds. In that capacity, the clerk must make a full and complete accounting each year of all the financial resources and expenditures of the county.
We contemplate a major problem area with the impact of Chapter 85-226 in 1988 (the first year it is applicable) when some clerks will be leaving office prior to an opportunity to complete their constitutionally mandated duty of accounting for the county's financial business for the preceding year. Additional concerns of the clerks, should the law remain unchanged, include:

**Transfer of Inventory.** The clerk is responsible for all county property and evidence. Before a new clerk takes office, it is to his advantage to take inventory of all property and evidence for which he will be responsible prior to the old clerk leaving office. For the outgoing clerk to sign over this property to the incoming clerk without a prior and complete inventory would be at great risk to the new clerk.

**Bank Accounts.** Financial institutions require resolutions from the Board of County Commissioners before a check for the Board's funds is honored. To accomplish this within two weeks of the general election would be difficult.

**Preparation of Calendar Year End Payroll Reports.** In most counties, the clerk is responsible for the preparation of all W-2s for all county employees. The W-2s run through December 31 creating a significant problem with the clerk leaving office in mid-November and turning over this responsibility to a new clerk.

**Technical Changes within the Clerk's Office.** With the incoming clerk, administrative changes must be made within the clerk's office such as reprinting of forms and checks, computer reprogramming and the transfer of accounts including all special district accounts.

During our recent meeting, you raised the point that in a number of these matters, the clerk may not be the individual who personally prepares the documents or gathers the required information. However, I think we all recognize that even in those situations where the clerk delegates the physical activity involved in performing the functions required, the responsibility never shifts and the knowledge and understanding of the job necessary to accept that responsibility can only come from the experience gained through a reasonable tenure in office. Another issue which was raised during our meeting was the application of the law to those clerks and other elected county officials who were elected to office prior to the change in law. As you are aware, this may have substantial effect on the retirement benefits of a number of those individuals. You conveyed to me that it was your original intention for Chapter 85-226 to grandfather in such existing office holders. It is my understanding, and I believe it has been confirmed to you, that the change in law did not accomplish this but instead delayed the application
of the change to the end of the current term of office. As a result, unless the law is changed, the retirement benefits of many clerks throughout the state may very possibly be adversely affected.

You will note that Chapter 85-226 did not include all county officers and, in fact, returned the tax collector to the previous office commencement date schedule for very similar reasons as I have set forth here.

I have enclosed a draft of proposed legislation which would restore the clerk to an office commencement schedule consistent with that which existed prior to the enactment of Chapter 85-226. The Florida Association of Court Clerks has requested Representative Gardner to sponsor this proposal and would sincerely appreciate your support of it.

If you have any questions regarding this issue or wish to discuss it further, please do not hesitate to call me or any of the many clerks with whom you have over the years maintained a close and meaningful relationship. Thanking you in advance for your consideration of our request, I am

Cordially,

Fred W. Baggett
Counsel

FWB:AL:bcd/Johnson

cc: Bill Gorman
Curtis Powers
Ray C. Winstead, Jr.
A bill to be entitled
An act relating to general, primary and special
elections; amending subsection (4) of section
100.041, Florida Statutes, relating to term
of office; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) of section 100.041,
Florida Statutes, is amended to read:

100.041 Officers chosen at general election.--
(4) The term of office of each county and each
district officer not otherwise provided by law shall
commence on the second Tuesday following his election,
except that the term of office for tax collector and
clerk of the circuit court or county comptroller shall
commence on the first Tuesday after the first Monday
in January following his election.

Section 2. This act shall take effect October 1,