

**From:** Stowers, Austin N.

**Sent:** Thursday, August 9, 2018 11:28 AM

**To:** Faulkner, Rita <FAULKNER.RITA@flsenate.gov>; Steube, Greg <Steube.Greg@flsenate.gov>

**Cc:** Bolles, Elizabeth <Bolles.Elizabeth@flsenate.gov>

**Subject:** RE: Instant Runoff Voting (Ranked Choice Voting) in Sarasota

Good morning Rita,

Please see the information **below** that the Department has previously provided to the City of Sarasota regarding Ranked Choice Voting. The Department remains focused on the 2018 mid-term election and will continue to maintain uniformity in the interpretation and implementation of the election laws.

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As you requested, please find the following laws that we believe are implicated and would need to be considered and in some cases changed before a system could be certified to do Ranked Choice Voting or Instant Run-off:

- ***Preemption***

1. Art VI, s. 6, Fla. Const., provides that elections in municipalities shall be provided by law.
2. Section 100.3605 (1), F.S. "The Florida Election Code, chapters 97-106, shall govern the conduct of a municipality's election in the absence of an applicable special act, charter, or ordinance provision. No charter or ordinance provision shall be adopted which conflicts with or exempts a municipality from any provision in the Florida Election Code that expressly applies to municipalities."
3. The preemption statute came about as a result of a 2007 case involving the Sarasota City Charter, which was decided in 2010 by Fla. Sup. Ct - See case [here](#).

- ***Plurality of votes***

- S. 1, Art. VI., Fla. Const., requires general elections to be determined by a *plurality* of votes cast, not a majority.

- Sections. 100.061 and 100.181, FS – winner of primary and general election is one receiving the highest number of votes.
- Section 105.051, Fla. Stat. – determination of election or retention to office.
- ***Write-in Candidates***
  1. Section 99.061(4) – to qualify as write-in candidate
  2. Sections 101.151(1)(b) and 105.041, Fla. Stat. – one blank space on general election ballot for one or more qualified write-in candidates
- ***Certification of Equipment***
  1. Rule 1S-5.001 -- “No governing body in this state shall use an electronic or electromechanical voting system until the Division has issued it a certificate of certification.”
  2. Rule 1S-2.004(5) -- “No equipment or software may [be] used with a voting system unless listed within the voting system’s current certification ... or a configuration described within the voting system’s documentation.”
- ***Purchase of Equipment***
  1. Section 101.294 – no governing body can purchase or cause to be purchased voting equipment not certified for use in the state by DOS. “Governing body” means the board of county commissioners of a county or any other governing body empowered by general or special act or local ordinance to purchase or sell voting equipment.”” Section 101.292, Fla. Stat. (A city is not authorized to buy voting equipment under state law.)

Please let me know if you have any further questions.

Best,

Austin Stowers

Legislative Affairs Director

Florida Department of State