



**FLORIDA**  
**DEPARTMENT**  
*of* **STATE**

# Legislation 2021

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***Secretary of State Laurel M. Lee***

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June 2021

*Florida Supervisor of Elections' 2021 Summer Conference*

*Tampa, Florida*



*Updated 7/12/2021 -errata corrected (slide 7) and legislative updates to slides 44 and 45*

# Chapter Laws

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- **Chapter 2021-11, Laws of Florida (Elections)**
  - SB 90
  - Effective May 6, 2021
- **Chapter 2021-73, Laws of Florida (Public records exemption - network)**
  - CS/HB 163
  - Effective June 4, 2021
- **Chapter 2021-73, Laws of Florida (Public records exemption - address/personal information confidentiality for domestic violence advocates)**
  - Effective June 4, 2021
- **Chapter 2021-16, Laws of Florida (Campaign financing)**
  - CS/SB 1890
  - Effective July 1, 2021



# Campaigning

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RESIGN TO RUN

CANDIDATE OATH – PARTY CHANGE MORATORIUM

FILLING VACANCIES

CAMPAIGN FINANCING

# Resign to Run

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- Strikes portion of s. 99.012, F.S., relating to how certain vacancies created by resign to run
- Defaults to s. 100.111, F.S., or other applicable law for the office in question)

# Candidate Oath - 365

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- Revises ss. 99.021, 99.061, and 99.063, F.S.
- Party candidate
  - No political party change within 365 days before the beginning of the applicable qualifying period preceding the general election to run for party nomination
- No party affiliated candidate
  - No political party affiliation for 365 days before the beginning of the applicable qualifying period preceding the general election to run
- Applies to candidates for Governor and Lt. Governor

# Filling Vacancy in Nomination

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- Revises s. 100.111(3), F.S.
- **Old law**
  - State chair required to notify local executive committee chair when vacancy in nomination occurs for U.S. representative, state senator, state representative, state attorney, or public defender to call local executive committee
- **New law**
  - State chair calls meeting of state executive committee members residing in affected county or counties for such vacancy.

# Campaign Finance Limits

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*(errata corrected 07/06/2021)*

- Revises s. 106.08, F.S. (chapter 2021-16, Laws of Florida)
- Makes political committees sponsoring or in opposition to constitutional amendments proposed by initiative subject to a \$3,000 contribution limit from a person or political committee (once ballot position reached, limit no longer applies)
- Preempts local governments from imposing contribution limits different from state law limits and contribution and expenditures limits for electioneering and independent expenditures.
- Revises methods for disposing of surplus campaign funds to:
  - Prohibits a candidate from donating such funds to a charitable organization by which he or she is employed; and
  - Lifts restrictions on which candidates may donate to which government funds to allow all state and local candidates to deposit surplus funds in the general revenue fund of a political subdivision, the state General Revenue Fund, or the Election Campaign Financing Trust Fund

# Voting Systems

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EXAMINATION PERIOD





# Testing Period

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- Expands testing period from 90 days to 120 days for Division to test and recommend for certification voting systems

# Voter Registration

APPLICATION FORM

ONLINE VOTER REGISTRATION



# Voter Registration

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- Removes 3 felony check boxes requirement from application form (restores to previous single check box affirmation for felony)
- Requires comprehensive risk assessment to include load and stress test for high volume use and to enhance security posture of the online voter registration system

# Address Changes from DSHMV

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- Revises s. 97.057, F.S., relating to 'motor voter' law
- Requires State to forward to all supervisors of elections all changes in residential address from DHSMV
- Process in accordance with s. 98.065(4), Fla. Stat.

# Name and Party Change

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- Revises ss. 97.053(6), 97.1031, F.S.
- **Old law**
  - Could be submitted on voter application, in person, by phone, by email or other signed writing
  - No requirement for FL DL/ID or SSN
- **New law**
  - Can only be submitted on voter registration application (paper or online)
  - Must include FL DL/ID or SSN that has been or must be verified before update made

# Address Change

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- Revises ss. 97.053(6), 97.1031, F.S.
- **Old law:**
  - Could be submitted on voter application, in person, by phone, by email or other signed writing
  - No requirement for FL DL/ID or SSN
- **New law:**
  - Can be made still on voter registration application (paper/online), by phone or email BUT now requires FL DL/ID or SSN4 and either already verified or verified before update made
  - Can be submitted by other signed writing without FL DL/ID or SSN4 required (including at the polls)

# Third-party Voter Registration Organizations

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- Revises s. 97.0575, F.S.
- **New law**
  - Deadline to turn in collected voter apps - no later than 14 days or book closing (no holiday or weekend exceptions)
  - Requires collected application to be delivered to applicant's residential county Supervisor
  - Requires 3VPRO to inform applicant:
    - ✓ That they might deliver in time (in 14 days or by book closing)
    - ✓ That the applicant can deliver their own application in person or by mail
    - ✓ How to register online
    - ✓ How to find out if application was delivered



# Vote-by-Mail

REQUESTS

RETURN ENVELOPE

CANVASSING

DROP BOXES



# Vote-by-Mail Requests -1

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- Revises s. 101.62, F.S.
- States a request good for all elections through end of calendar year of next regularly scheduled general election. (Previously was second ensuing general election)
- Grandfathers existing vote-by-mail ballot requests submitted before May 6, 2021 (effective date of chapter 2020-11, LOF) to be good for elections held through end of 2022 calendar year
- All in-person or telephonic requests must include voter's Florida DL #, FL ID Card #, or last 4 of SSN (no exceptions) whichever may be verified in the supervisors' records
- All signed written requests by the voter must include voter's Florida DL #, FL ID Card #, or last 4 of SSN (no exceptions)

# Vote-by-Mail Requests -2

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- Revises s. 101.62, F.S.
- Supervisors cannot mail a vote-by-mail ballot without a validly submitted request on file (Exception for voters having a disability (s. 101.662), UOCAVA voters (s. 101.697), local referenda (ss. 101.6102 and 101.6103.)
- Supervisors must record additional information in the vote-by-mail request records: *the identity of the voter's designee making the request, if any; the Florida driver license number, Florida identification card number, or last four digits of the social security number of the elector provided with a written request as well as the address to which the ballot was mailed or the identity of the voter's designee to whom the ballot was delivered and whether the voter's certificate contains a signature that does not match the elector's signature in the registration books or precinct register.*

# Vote-by-Mail Envelope

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- Revises s. 101.64, F.S.
- Requires each return mailing envelope to bear:
  - Absent voter's name
  - Any encoded mark used by supervisor's office
- Provides that a mailing or secrecy envelope may not bear any indication of political affiliation of absent voter

# Canvassing Vote-by-Mail

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- Revises s. 101,68, F.S.
- Codifies provision in Executive Order 20-149 that allows canvassing to begin immediately after L&A testing

*(This means canvassing could start as early as 40 days before election day depending on when early voting is done which drives L&A testing dates)*

- States that supervisor of elections should not use his or her knowledge of the voter's party affiliation when verifying signatures

# Drop Boxes – 1

## Designation

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- Revises s. 101.69, F.S.
- Adds “permanent” qualifier to branch office of supervisor for purposes of where a drop box may be placed
- Requires that drop boxes be geographically located to provide all voters an equal opportunity to cast a ballot insofar as practicable
- Clarifies that except for secure drop boxes at an office of the supervisor, a secure drop box may only be used during county’s early voting hours of operation
- Requires supervisor to designate each drop box site at least 30 days before election after which DOE must approve move or change

# Drop Boxes – 2

## Ballot accounting

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- Revises s. 101.69, F.S.
- Monitor continuously in person by staff (removes sworn law enforcement officer) when accessible for deposit of ballots
- Empty at end of early voting hours and return ballots to supervisor of elections' office
- For drop box at supervisor of elections' office, retrieve all ballots before drop box is no longer monitored by employee

# Polling Place

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NO SOLICITATION ZONE FOR VOTER ASSISTANCE

POLL WATCHERS

NO SOLICITATION ZONE



# No-solicitation Zone

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- Expands no-solicitation zone to include 150-foot of the drop box.
- Redefines terms “. . . . “solicit” or “solicitation” shall include, but not be limited to, seeking or attempting to seek any vote, fact, opinion, or contribution; distributing or attempting to distribute any political or campaign material, leaflet, or handout; conducting a poll except as specified in this paragraph; seeking or attempting to seek a signature on any petition; ~~and~~ selling or attempting to sell any item; and engaging in any activity with the intent to influence or effect of influencing a voter. The terms “solicit” or “solicitation” may not be construed to prohibit an employee of, or a volunteer with, the supervisor from providing nonpartisan assistance to voters within the no-solicitation zone such as, but not limited to, giving items to voters, or to prohibit exit polling.



# Canvassing Board



CANVASS/BALLOT DUPLICATION/OBSERVATION  
PUBLIC INSPECTION OF BALLOTS  
NOTICE TO PUBLIC  
PUBLIC INSPECTION OF SIGNATURE MATCHING

# Canvass -Duplication Observation

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- Duplication of damaged ballot must be in an “open and accessible room.”
- Overvoted or undervoted race to be duplicated ONLY “if there is a clear indication on the ballot that the voter has made a definite choice in the race or ballot measure.”
- Observers must be able to see ballot markings and duplication
- If observer reasonably objects to a duplicated ballot, such ballot to be presented to canvassing board:
  - Ballot serial document to be documented in minutes and determination made as to validity of duplication
  - If determined to be invalid, duplicate ballot must be rejected and a proper duplicate made and counted in lieu of original.

# Notices and Signature Observation

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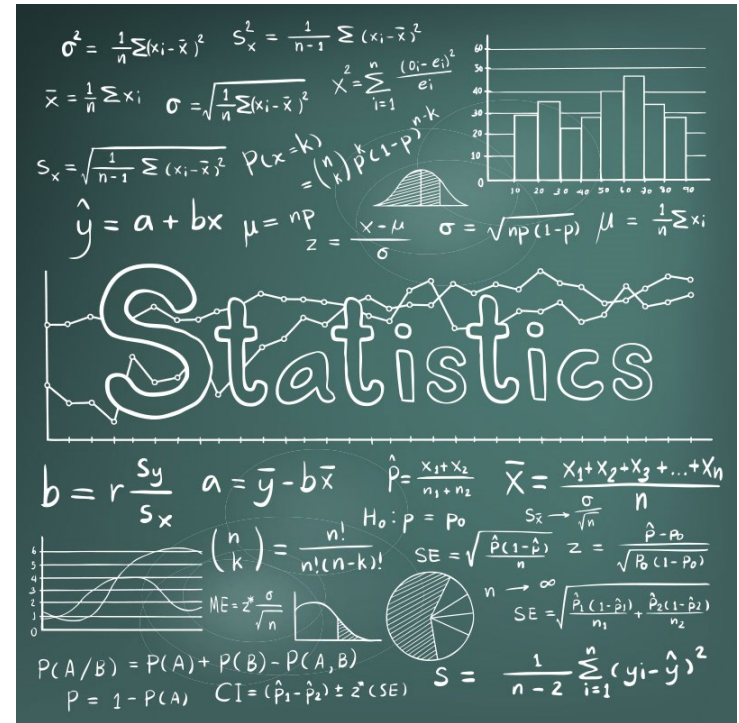
- Canvassing board members' names must be published on the supervisor's website upon completion of L&A testing.
- Public notices must include names of specific members and alternates before each canvassing board meeting.
- Each political party and each candidate can have one watcher during each canvassing board meeting to view directly or on a display screen ballots being examined for signature matching and other processes.

# Ballot Inspection

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- Voter certificates and envelopes are open to public inspection or examination
- Upon request prior to canvassing, a candidate, political party official, or a political committee official, or an authorized designee thereof, must be granted reasonable access to review/inspect ballot materials before canvassing or tabulations. (e.g., voter certificates on vote-by-mail envelopes, cure affidavits, corresponding comparison signatures, duplicate ballots, and corresponding originals)
- Public notice about how to request to see signature comparisons on vote-by-mail voter certificates, the supervisor must publish public notice of the access to be provided (may be documents or images thereof, and the method of requesting such access)
- Observers may not copy signatures

# Reports



Election day – live turnout data

Election night - vote-by-mail count

Post-election –voting system audit report and overvote/undervote report consolidation

Post-election precinct-level election results

# Election Day Live Turn Out Data

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- Revises s. 98.0981, F.S.
- Report live turnout data hourly on supervisor of elections' website
- State to develop and maintain a real-time statewide turnout dashboard from your live turnout reports and make it available on division's website

# Election Night Vote-by-Mail Count

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- Creates s. 102.072, F.S.
- Requires supervisors of elections to report hourly starting at 7 p.m. the number of vote-by-mail ballot received and number uncounted
- Post information on website

# Post-Election Precinct-level Election Results

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- Revises s. 98.0981, F.S.
- **Old law**
  - Do not report when fewer than 30 voters voting a ballot type
- **New law**
  - Do not report when fewer than 30 voters voting in a precinct



# Post-Election Reports

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- Revises ss. 101.591 and 101.595, F.S.
- Consolidates into one report voting system audit report and overvote/undervote report for general election
- Due to Department by December 15 following general election
- Voting system audits still required but no longer required to report results to the Department for other elections
- Department to report to Governor and legislature by February 15 in lieu of January 31 following general election

# Public Records



EXEMPTION FOR FELONY CONVICTION RECORDS

RETENTION OF ELECTION MATERIALS

EXEMPTION FOR NETWORK SECURITY

# Exemption - Repeal

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- Revises s. 97.0585, F.S.
- Strikes exemption for information about voter's felony conviction

# Exemption - New

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- Amends s. 98.015, F.S.
- Exempts from public disclosure portions of records held by a supervisor of elections that contain *network schematics, hardware and software configurations, or encryption, or which identify detection, investigation, or response practices for suspected or confirmed information technology security incidents*
- Requires access however to be made to the Auditor General and to another governmental entity for information technology security purposes or for official duties
- Applies retroactively
- Subject to the Open Government Sunset Review Act (5-year review
- Effective June 4, 2021

# Exemption - New

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- Revises s. 119.071(4)(d)1.-2., F.S. (new paragraph u.; chapter 2021-48, Laws of Florida)
- Creates new exemption from public records disclosure *for specified address and personal information of current and former staff and domestic violence advocates of domestic violence centers* certified by the Department of Children and Families under chapter 39, F.S., and specified personal information relating to their spouses and children.
  - *“Domestic violence advocate” is defined as an employee or volunteer of a certified domestic violence center who: provides direct services to individuals victimized by domestic violence; has received 30 hours of domestic violence core competency training; and has been identified by the domestic violence center as an individual who may assert a claim of privilege for communications with domestic violence victims under s. 39.905, F.S. See Section 90.503(1)(b), F.S.*
- Effective June 4, 2021

# Retention – Election Records

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- Revises s. 101.545, F.S.
- Keep all ballots, forms, and other election materials for at least 22 months (regardless of election)
- May still dispose of all unused ballots, forms, and other election materials, subject to written request and approval from Division of Elections (no change in law)

# Prohibitions

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BALLOT “HARVESTING”

SETTLEMENT/CONSENT DECREES

USE OF PRIVATE FUNDS

# Ballot harvesting (s.32, ch.2020-11, Laws of Florida)

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- Revises s. 104.616, F.S., to prohibit any person from distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing more than two vote-by-mail ballots per election in addition to his or her own ballot or a ballot belonging to an immediate family member

*(Previously was only prohibited for pecuniary or other benefit).*

- Exception for supervised voting as assisted living facilities and nursing home facilities)
- Expands “immediate family” to include grandchild
- Violation of this section remains a 1<sup>st</sup> degree misdemeanor



# Settlement/Consent Decree

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- Creates new section 97.029, Fla. Stat.
- Prohibits settlement, consent or other agreement in civil action to nullify, suspend or otherwise be in conflict with Election Code without some notices along the way
- Requires written notice to Senate President, House Speaker and Attorney General:
  - At time of earnest settlement negotiations
  - At time of proposed settlement, consent decree or court order
  - At least 10 days before settlement becomes final
  - If required notice is precluded by federal law or rule, court order or court rule, and party has to challenge constitutionality of that law, rule or order and provide notice
- If court enters order nullifying or suspending part of Election Code, party must move to dismiss or terminate court jurisdiction

# Private funds

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- Creates section 97.0291, Fla. Stat.
- Prohibits any state agency, state or local official responsible for conducting elections from accepting any donation (money, grant, property or personal services) from an individual or nongovernmental entity to fund election-related expenses or voter education, voter outreach or registration
- No prohibition on acceptance of space for polling location or early voting site

# Other Legislation of Interest

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# Enrolled or Chapter Laws

(Slide Updated 7/12/21)

- **Judicial Branch** ch. 2021-45; s. 7 of ch. 2021-36, Laws of Florida) – new judgeships: 14<sup>th</sup> Judicial Circuit (2 circuit ct judges); HIL (2 county court judges); STJ (1 county court judge); CIT (1 county court judge)
- **Legal notices** –Ch. 2021-17, Laws of Florida; CS/HB 35 Eff. 1/1/2022; Provides an option under certain circumstances for government agencies to publish legal notices on newspapers’ website in lieu of a paper-based publication upon specified findings
- **Courts** –Ch. 2021-30, Laws of Florida (CS/HB 1197) (Eff. 7/1/2021)- Pertains to operations of the court system including plans for statewide electronic solution to identify all civil and criminal mandatory financial assessments
- **Homasassa Special Water District** –Ch. 2021-251, Laws of Florida(HB 1213) (Eff. 6/21/21) -changes process for filling vacancy on the board of commissioners from special election to interim step before special election
- **East Manatee Fire District** –Ch. 2021-257, Laws of Florida (CS/1587) (Eff. 10/1/2021) – change in jurisdictional boundaries; based on referendum matter in 2020 to merge 2 city fire districts
- **Trailer Estates Park and Recreation District, Manatee County** – Ch. 2021-261, Laws of Florida (HB 1631) (eff. 6/29/201) –revises boundaries of special district
- **Okaloosa Gas District, Okaloosa, Santa Rosa, and Walton Counties** –Ch. 2021-262< Laws of Florida (CS/HB 1633)(Eff. 6/29/2021) Revises boundaries & area of service of district to include all of Santa Rosa and Walton Counties.
- **Emergency Management** (Ch. 2021-08; eff. July 1, 2021) equips Florida to address a pandemic or other public health emergency, etc.

# Enrolled or Chapter Laws (Slide Added 07/12/21)

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- **Loxahatchee River Environmental Control District, Martin and Palm Beach Counties – (Ch. 2021-249, Laws of Florida) (Eff. 6/29/2021)** Loxahatchee River Environmental Control District, Martin and Palm Beach Counties; Codifies, amends, repeals, & reenacts special acts relating to district.
- **Education** Ch. 2021-157, Laws of Florida; Revises and adds a number of provisions relating to education including requiring a character development curriculum to include instructions to 11<sup>th</sup> and 12<sup>th</sup> graders on voting using primary and general election ballots.



# FLORIDA DEPARTMENT *of* STATE

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