

Legislation 2021

QUESTIONS AND ANSWERS

Vote-by-Mail

QUESTIONS AND ANSWERS

Question – Vote-by-Mail

Since SB 90 is effective as of May 6, 2021, how do we address requests from voters for vote-by-mail ballots who have no SSN#, FL DL or FL state ID because they registered to vote years before it was added in statute and on the application form?

Question – Vote-by-Mail

Section 24 of ch. 2021-11, LOF, revises s. 101.62, Fla. Stat., relating to requests for vote-by-mail ballots.

“If a voter has not been issued a FL DL#, FL ID#, or SSN and they are registered to vote pursuant to F.S. 97.053(5)(a)5.b., can we accept a request for a vote-by-mail ballot for this voter?”

Since they have affirmed that they do not have either and this has been verified by the Division of Elections, how should we proceed with processing a request for a vote-by-mail ballot without the FL DL#, FL ID#, or SSN? It seems this scenario was not contemplated.”

Question – Vote-by-Mail Envelope

Under s. 26 of ch. 2021-11, LOF which revises section 101.64, Fla. Stat., what needs to change on the vote-by-mail ballot envelope and security envelope that was not required previously?

Question – Vote-by-Mail Envelope

Currently we indicate on the envelope R1 which means republican precinct 1, or D1 which means democrat precinct 1? We use these indicators to make sure that the correct ballot style is enclosed in the voter's VBM packet.

In regards to the new requirements [under section 101.64, Fla. Stat.] for information that must be displayed on the outside of a return mailing envelope and prohibits display of an elector's political affiliation on a ballot envelope – does this mean that we are going to have to change our marking on the envelope to **not** match the ballot style.

Question – Vote-by-Mail Ballot Count

New section 102.072, F.S., requires supervisors of elections to report vote-by-mail data on election night.

Do we have to report at 7pm exactly or sometime between 7pm and 8pm and then every hour thereafter while still actively counting?

Question – Vote-by-Mail Ballot Count

New section 102.072, F.S., requires supervisors of elections to report vote-by-mail data on election night.

“What should be included in the number of vote-by-mail ballots received? Everything including ballots that have already been rejected by the Canvassing Board?”

Updates to Voter Registration & Verification

QUESTIONS AND ANSWERS

A solid green horizontal bar at the bottom of the slide.

Question – Updates to Voter Registration Information

Section 9 of ch. 2021-11, LOF revises section 97.1031, Fla. Stat. which relates to notice of address, name and/or party changes.

What happens [when a person contacts a supervisor by phone or electronic means] for an update and the FL DL/ID or last 4 provided in an update cannot be verified pursuant to 97.1031(1)(b)1, F.S.?

Question – Updates to Voter Registration Information

Section 97.1031 (1)(b) as revised by s. 9 of ch. 2021-11, LOF, still reads as follows:

(b) 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:

1. Contacting the supervisor of elections via telephone or electronic means, in which case the elector must provide his or her date of birth and the last four digits of his or her social security number, his or her Florida driver license number, or his or her Florida identification card number, whichever may be verified in the supervisor's records; or

2. Submitting the change on a voter registration application **or other signed written notice**

So can we accept “other signed written notice” as long as it includes the DL/ID/last four?”

Question – Updates to Voter Registration Information

The polling location affirmations in 101.045 (2)(a) and (2)(c) do not request the voter to provide driver license number, Florida identification card number or last four digits of social security number as required in 97.053 and 97.1031 for a valid change in name or address. Does a voter making an address or name change at a polling location need to provide this information on an affirmation and have it verified (in office or FVRS) to complete the change?

Question – Updates to Voter Registration Information – Verification Process

What is the verification process of a FL DL/ID # or SS# that is being entered in a voter's active record for the first time? If VR is working on it, what is their timeline? How should SOE's handle this process in the meantime?

Question – Drop Boxes

Sections 28 and 32 of ch. 2021-11, LOF, revised s. 101.69, Fla. Stat., and s. 104.0616, Fla. Stat., respectively

If law limits a person's lawful possession of ballots to his or her own, those of an immediate family member [which also expanded to included a grandchild], and two others, if the expectation that the person monitoring a VBM drop box supposed to question those dropping off ballots to confirm they belong to themselves, an immediate family member, or two others?

Does the person dropping off the ballots have to show some kind of proof? If so, how would person confirm that it is an immediate family (different addresses, different names, etc.)

Question – Ballot Harvesting

Section 32 of ch. 2021-11, LOF, revised s. 104.0616, Fla. Stat.

What duty does a Supervisor have under s. 104.0616, F.S., to monitor and enforce this section which limits the number of vote-by-mail ballots someone may have in their possession?

Polling Place

QUESTIONS AND ANSWERS

Question – Polling Place – No Solicitation

Section 29 of ch. 2021-11, LOF revised s. 102.031, Fla. Stat. (relating to order at the polls and no-solicitation zones)

Does the change to (4)(e) of s. 102.031, F.S., allow for the owner, operator, or lessee of the polling place property to prohibit the solicitation of voters by individuals, groups or organizations not affiliated with a candidate outside of the no-solicitation zone?

Public Records

QUESTIONS AND ANSWERS

A solid green horizontal bar at the bottom of the page.

Question – Public Records and Public Inspection of Ballots - 1

Section 24 of ch. 2021-11, LOF revised the information to be recorded as it relates to a voter's ballot request and which gets subsumed into the vote-by-mail request files.

How do we implement and/or protect a voter's designee's Florida driver license number/state ID number or last 4 SSN4? Is it protected under the confidentiality provisions typically associated with FL DL/State ID and SSN4, in s. 97.0585, Fla. Stat.?

Question – Public Records and Public Inspection of Ballots - 2

Section 21 of ch. 2021-11, LOF, revises s. 101.572, relating to public inspection of ballots.

The new legislation does not specify as in other sections of election law. Naturally, newspaper publication would be acceptable.

“Can publication instead be made on the SOE website and in SOE social media instead of a newspaper of general circulation?”

“Does the notice of access the Supervisor of Elections need to be published in a newspaper of general circulation before they begin comparing signatures on voter's certificates?”

Question – Public Records and Public Inspection of Ballots - 3

Section 21 of ch. 2021-11, LOF, revises s. 101.572, relating to public inspection of ballots.

Suppose a requesting entity does not make a timely request before canvassing or tabulation begins. Does this mean that the entity has missed its opportunity to review or inspect as provided in the new subsection (2)?

Question – Public Records and Public Inspection of Ballots - 4

Does the notice of access under the new subsection (2) relate only to the items brought to canvassing and before those items are canvassed and tabulated or all?

- If yes, could the supervisor grant access on the day of each CB meeting, before the CB meeting commences, or grant access on a different day before a CB meeting? *In this scenario, the SOE would include this on the canvassing board meeting schedule that will be published before signature comparison begins on VBM voter's certificates and define, on the published notice, when access will be available and how to request access. For example, each meeting could consider potential requests for access to inspect and review before the items presented at that particular meeting are canvassed and tabulated.*
- If no, would access mean to all items brought before canvassing board before canvassing or tabulation begins, including but not limited to reviewing and inspecting for example, 100,000 voter certificates, 1,500 cure affidavits, and 3,000 duplicates and their originals?
- *Obviously, this would be problematic because we could not begin canvassing or tabulation until all requesting entities have had an opportunity to review or inspect the items for which they have submitted a request. A reasonable effort to accommodate such requests before canvassing or tabulation begins would seriously impede the SOE's ability to carry out its election duties."*

Duplication and Canvassing

QUESTIONS AND ANSWERS

A solid green horizontal bar at the bottom of the slide.

Question – Duplication & Canvassing -1

Section 20 of ch. 2021-11, LOF, revises s. 101.5614, Fla.Stat., relating to canvass of returns.

Based on the language in the statute, is there a difference in whether canvassing board review is required for duplication of a ballot containing an overvote versus an undervote?

Question – Duplication & Canvassing -2

Section 20 of ch. 2021-11, LOF, revises s. 101.5614, Fla.Stat., relating to canvass of returns.

If an observer on behalf of a party official, political committee official, or authorized designee objects to the duplication of a ballot, must the observer be present when the ballot is duplicated?

The observer entities designated in Section 101.5614 are the same entities designated in Section 101.572 (Public Inspection of Ballots). Would they likewise have missed their window to object to duplication if they did not request access?

Question – Duplication & Canvassing -3

The new language provides in that "the observer must be allowed to observe the duplication of ballots in such a way that the observer can see the markings on each ballot and the duplication taking place."

How much latitude does the supervisor of elections have in the public observation process of duplicated ballots? Understanding that this is a procedural issue, does the SOE have the latitude to allow the observer to view the markings on the duplicate during the QC (quality control) phase (post-duplication during a comparison by QC staff) instead of viewing markings on a duplicate as the duplication occurs?

- For example, for an SOE that utilizes document cameras with a visual display, duplication teams could duplicate as usual without a visual display. The visual display would occur at the quality control end, where QC staff would compare the original to the duplicate visual display. An observer would be able to see the markings and the comparison taking place - at this point, they have already seen the duplication taking place. At the QC time, an observer could make a reasonable objection. Due to the cost of document cameras and the set-up required to enable the visual display, comparison of the original and duplicate markings at the QC end would decrease the number of document cameras and visual display units needed to facilitate the observation requirement in statute."

Question – Duplication & Canvassing -4

Section 20 of ch. 2021-11, LOF, revises s. 101.5614, Fla.Stat., relating to canvass of returns.

“(4)(a) . . . If any observer makes a reasonable objection to a duplicate of a ballot. . . What constitutes a reasonable objection?”

Voting Systems

QUESTIONS AND ANSWERS

Question – Voting System Audit

Section 22 of ch. 2021-11, LOF, revises s. 101.591 Fla. Stat., relating to voting Systems audit.

While the new law still requires post-election voting system audits to be conducted for all elections (except in cases of a manual recount having been done), the only report that would have to be filed with the state would be the one for the general election, correct?

The revision provides that the post-election manual audit report is due to the DOS **by December 15** of each general election year. Before, the audit report was due within 15 days after completion of the post-election manual audit. The post-election manual audit report must be combined with the overvote and undervote report filed with the DOS. The new language now states that a post-election manual audit report must be filed with the Department **by December 15** of each general election year instead of 15 days after every audit. For other types of elections that may not occur in a general election year as defined in Section 97.021 FS, for example, odd-numbered year special district referendum or municipal elections, etc.

Miscellaneous

QUESTIONS AND ANSWERS

A solid green horizontal bar at the bottom of the page.

Question – Prohibition on Use of Private Funds

Section 2 of ch. 2021-11, LOF, creates section 97.0291, Fla.Stat., relating to prohibition on use of private funds for election-related expenses.

“Does this mean that we can no longer use free space at farmers markets or no cost space at ticketed events for voter outreach, etc.?”