

# Florida Department of State



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# 2013 Legislative Changes to Chapter 97-105, Florida Statutes

**HB 7013 (Ch 2013-57, LOF)  
effective Jan 1, 2014**

**HBs 247 & 249\*--**

**effective Oct 1, 2013 &  
SB 556 (2013-109, LOF)  
effective July 1, 2013**



**\* [p.s. - HB 249 was vetoed]**

# **Voter Registration & Pre-Election Provisions**

# VOTER REGISTRATION APPLICATION (HB 247) – eff. 10/1/13, if becomes law. [p.s. - IT WAS SIGNED INTO LAW]



**s. 97.052(2)(e), F.S.:**

Uniform statewide voter registration application must be designed to elicit applicant's email address and whether the applicant wishes to receive sample ballots by email.

# Public Records Exemption

**(HB 249) – eff. 10/1/13, but is Retroactive (if it becomes law) [p.s. -- IT WAS VETOED]**

- **s. 97.0585(1), F.S.:** Listed info obtained for the purpose of voter registration is confidential & exempt:
  - Declinations to register to vote
  - Info where person registered to vote or updated registration.
  - SSN, driver's license #, and Fla. ID # of applicant/voter
  - Email address of voter registration applicant/voter  
[New provision]
- **DE 12-10 – SOE has discretion to treat voter's email address in absentee ballot request as confidential** <sup>5</sup>

# Public Records Exemption

**(HB 249) – If it comes law: (IT WAS VETOED)**

- **ISSUE: Section 97.0585(1), F.S., vs. Section 101.62(3), F.S., regarding email address of (absentee) voter. Which controls?**

**Answer: Section 97.0585(1)**

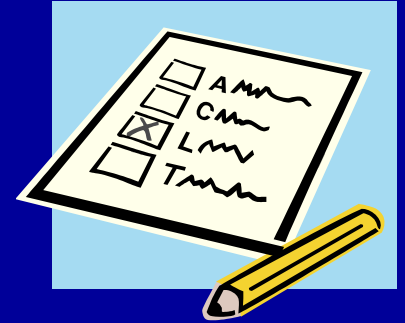
- Email address remains protected against disclosure to candidates, parties, and committees who normally have access to absentee ballot data.

# Specifications for Ballots

(s. 101.151(2), F.S.)

**SB 556 (Ch 2013-109, Laws of Fla.)**

**(effective July 1, 2013)**



- **Permissible Office Title for Clerk of the Circuit Court on Ballot:**
  - Clerk of the Circuit Court; or
  - Clerk of the Circuit Court and Comptroller when the Clerk also serves as the County Comptroller, when authorized by law.

# Multi-Language Ballots (s. 101.151(8), F.S.)



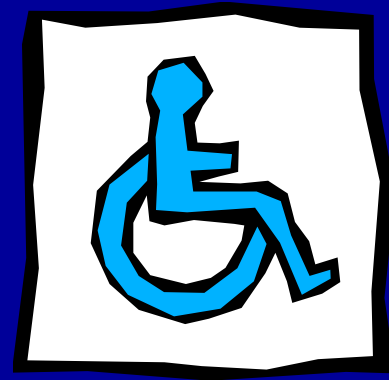
## New law:

In counties subject to multi-language ballot requirements, the SOE may petition the U.S. Department of Justice for authorization to print and deliver single-language ballots for each minority language required.



# Extension of Time to Accommodate Voters with Disabilities

(s. 101.56075(3), F.S.)



Persons with disabilities must be able to vote on devices that meet HAVA voter accessibility requirements by 2020, not 2016.

# Exception for Late Registrations relating to Book Closing Date (s. 97.0555, F.S.)



**Current law:** The following persons have until 5pm on Friday before the election to register in the SOE's office:

- Individual or accompanying family member who has been discharged or separated from:
  - Uniformed services,
  - Merchant Marine, or
  - from employment outside territorial limits of the U.S.

# Expanded Late Registrations re: Book Closing Date (s. 97.0555, F.S.)

**New law:** Expands exception to also include:

- An individual or accompanying family member who has returned from a military deployment or activation.
- **Note:** Under old and new law, such person must produce sufficient documentation showing evidence of falling within the exception. [see Rule 1S-2.029]



# Exception to Book Closing Date (s. 97.0555, F.S.)

**Definitions:** Joint Publication 1-02, Department of Defense *Dictionary of Military and Associated Terms* :

- 1. Activation:** “Order to active duty (other than for training) in the federal service.”
- 2. Deployment:** “The rotation of forces into and out of an operational area.”

# Election Preparation Report

## (s. 100.032, F.S.)



### New law:

- SOE must post a report on his or her official website at least 3 months before a general election which outlines preparations for the upcoming general election, which report, at a minimum, includes:
  - Anticipated staffing levels for Early Voting period, on election day, and after election day.
  - Anticipated amount of automatic tabulating equipment at each Early Voting site and polling place.

# Early Voting and Absentee Ballot Upload (s. 102.141(4)(a), F.S.)



- **New requirement:** SOE to upload into the county's election management system by 7pm on the day before the election the results of all early voting and absentee ballots that have been tabulated by the end of the early voting period.
- Such tabulation may not be made public before the closing of polls on Election Day.
- Law codifies what DE 10-10 permitted.

# Absentee Ballot (s. 104.0616, F.S.)



## New prohibition :

Any person who provides or offers to provide, and any person who accepts, a pecuniary or other benefit in exchange for distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing more than two absentee ballots per election in addition to his or her own ballot or a ballot belonging to an immediate family member,\* commits a misdemeanor of the first degree.

\***“Immediate family member”** = person’s spouse, or the parent, child, grandparent, or sibling of the person or person’s spouse.

# Absentee Ballot (s. 104.0616, F.S.)

## Comments on the new prohibition:

- **The person's possession must be tied to the phrase:** “*in exchange for* distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing” the ballots
- ***I.E.*, the Statute requires a “*quid pro quo*:**” “something for something” must exist – e.g., “If you give me \$5, I will deliver your ballot for you” or “I will accept \$50 from the campaign to collect absentee ballots on Apple Street.”



# Absentee Ballot (s. 104.0616, F.S.)

## Examples regarding the new prohibition:

1. An unpaid volunteer who merely collects and delivers > 2 absentee ballots on behalf of a campaign would not violate the section even though the voter receives a benefit of free ballot delivery.

- Reason: The volunteer is not receiving any benefit “in exchange for” collecting, distributing, *etc.*

2. A paid campaign worker collecting absentee ballots from voters would violate the law.

- Reason: The worker is receiving a benefit (payment) “in exchange” for collecting and delivering the ballots.

# Elections

# Presidential Preference Primary

(s. 103.101(1), F.S.)

- **Current law:** PPP Date Selection Committee sets date between first Tuesday in January and first Tuesday in March
- **New law:** PPP to be held on first Tuesday that party rules provide that state delegations to be allocated in a winner-take-all manner without the party imposing any penalty on the delegations.
- If this law existed in 2012, PPP would have been on 6 March, not 31 January. If rules remain unchanged for 2016, PPP will be held on 1 March 2016.

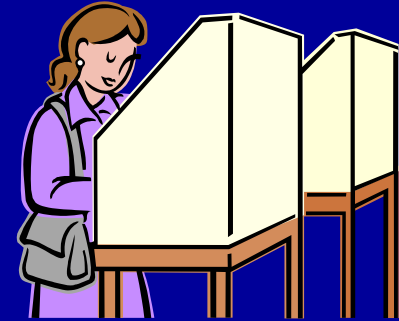
# Presidential Preference Primary (s. 103.101(2), F.S.)

## ○ **New Procedural Timelines:**

- Party submits names of its PPP candidates by Nov 30<sup>th</sup> of year preceding PPP [11/30/15]
- SOS publishes list by first Tuesday after first Monday in December [12/8/15]
- Candidate has until second Tuesday after first Monday in December to withdraw [12/15/15]
- DOS to certify PPP candidates to SOEs by third Tuesday after the first Monday in December. [12/22/15]

# Primary Election Date

(s. 100.061, F.S.)



Date of Primary Election moved  
from 12 weeks to 10 weeks before the  
general election.

(Primary election is now scheduled for  
August 26, 2014; not August 12th.)

# Canvassing Board Composition

(s. 102.141(1)(e), F.S.)



## New law:

- **Alternate members must be appointed:**
  - Chief Judge to appoint an additional county judge (if judge not available, then a qualified voter of county not otherwise disqualified to serve)
  - Chair, County Commission to appoint an additional county commissioner (if commissioner not available, then a qualified voter of county not otherwise disqualified to serve)

# Canvassing Board Composition (s. 102.141(1)(e), F.S.)

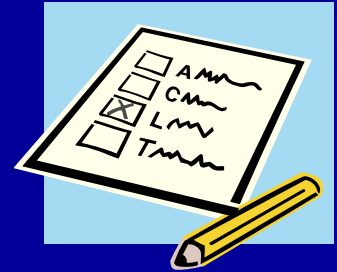
## New law:

- If canvassing board member is unable to participate in a meeting, the canvassing board chair (normally a county judge) shall designate which alternate member will serve for that meeting.
- An alternate member may be present, observe, and communicate with the 3 board members, but may not vote in the board's decisions.



# Absentee Ballots

## (s. 101.62, F.S.)



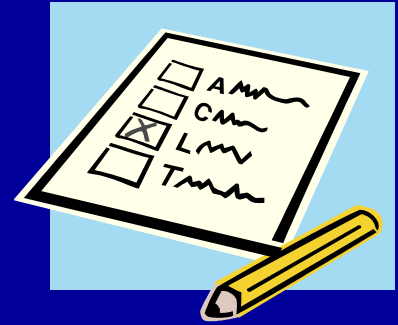
### New law:

- (1)(b): A request for absentee ballot to be mailed to an address other than the one on file in FVRS must be in writing and signed by the voter.
  - Exception: Absent uniformed service voter or an overseas voter is not required to have signed, written request for ballot to be mailed to different address.
- (3): When SOE receives absentee ballot, if voter's signature is missing on the voter's certificate, the SOE must record such along with usual absentee ballot data and upload daily.



# Absentee Ballots

(s. 101.62, F.S.)



## Interaction with current law:

- **New law:** A request for absentee ballot to be mailed to an address other than the one on file in FVRS must be in writing and signed by the voter (except as noted on prior slide).
- **Current law:** Section 97.1031, F.S., permits voter within the state to change address by phone or electronic means (if DOB is provided)
- **Interaction:** Nothing prevents voter from changing address in FVRS and requesting ballot to be sent to new FVRS address without a need to have a signed writing.

# Absentee Ballots

## (s. 101.62, F.S.)



### New law:

- SOE may not deliver absentee ballot to a voter or voter's immediate family member on the day of the election unless there is an emergency that precludes the voter from going to the voter's assigned polling place.
  - **Exception:** Voters residing in an assisted living facility (s. 101.655, F.S.),
- If absentee ballot is delivered, affidavit must be executed affirming to facts which permit delivery.
- DOS to adopt form of affidavit by rule.

# Overseas Absentee Ballots

(ss. 101.65, 101.67, 101.68, 101.6923,  
& 101.6952(5), F.S.)



## New law:

- Absentee ballot from overseas voter in
  - Presidential Preference Primary or
  - General election

which is postmarked or signed and dated no later than the date of the election and is received by the SOE no later than 10 days after the date of the election shall be counted as long as the absentee ballot is otherwise proper.

- **Effect: Extends what was previously permitted for federal races to all races.**

# Rejected Absentee Ballot

(s. 101.68(4), F.S.)



## New law:

- SOE must notify voter if absentee ballot was rejected and provide the specific reason for the rejection.
- No deadline established for the notification.

# **Rejected Absentee Ballot**

**(s. 101.68(4), F.S.) –**

**3 possible ways for voter to get notice before canvass of absentee ballot that certificate was returned unsigned:**

- 1. SOE affirmative notification (not required).**
- 2. Via candidates and political committees' access to SOE's uploaded absentee ballot request information reports to the Division.**
- 3. SOE could (not required) add this piece of information to the information that is provided through the online absentee ballot tracking.**

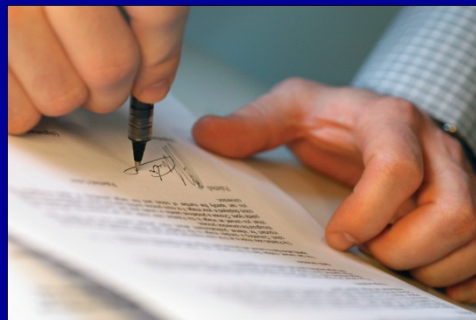
# Rejected Absentee Ballot – AFFIDAVIT CONFLICT (s. 101.68, F.S.)

- **Subsection (4)(b):** Until 5pm on the day before the election, SOE shall allow a voter who returned a ballot without a signature to complete and submit an affidavit (format of which is in the statute) which will cure the unsigned ballot.
- **Subsection (4)(d):** Instructions accompanying the affidavit provides that the affidavit is to reach the SOE not later than 5pm on the 2nd day before the election.
- **Our proposal: Modify the instructions to comport with Subsection (4)(b).**

# Absentee Ballot Signature Comparison (s. 101.68(1) & (2), F.S.)

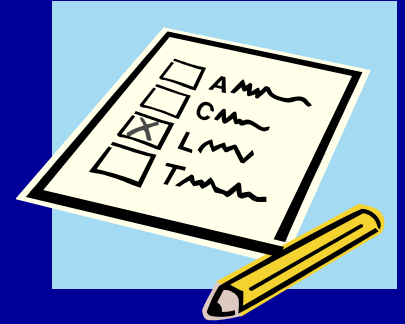
## New law:

- Comparison of voter's signature on voter's certificate or on absentee ballot affidavit shall be made against signature in registration books or on the precinct register



# Absentee Ballot Canvass

(s. 101.68(4), F.S.)



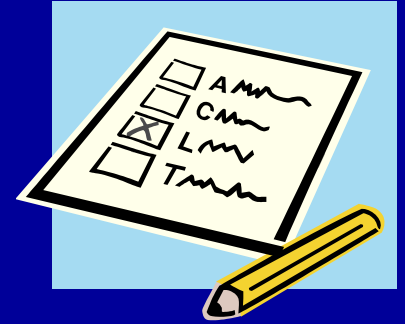
## New law:

- Along with affidavit when signature is missing, the voter must provide copy of ID as specified in statute. (See next slide for ID requirements)
- DOE and each SOE must include the affidavit and instructions on their websites, to include SOE office's mailing address, email address, and fax number.
- SOE to attach any affidavit received to the corresponding absentee ballot envelope.



# Absentee Ballot Canvass

(s. 101.68(4), F.S.)



**Copy of ID to be included with affidavit when signature is missing on first absentee ballot:**

1. ID that includes name & photo: U.S. passport; debit or credit card; military ID; student ID; retirement center ID; neighborhood association ID; or public assistance ID; or

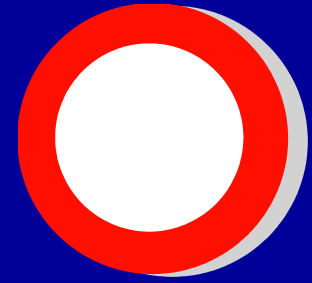
2. ID that shows name and current residence address: current utility bill, bank statement, government check, paycheck, or government document (excluding voter ID card)

# **Methods for Return of Absentee Ballot Affidavit & ID (s. 101.68(4), F.S.)**

- **Mail**
- **Personal delivery**
- **Have delivered by someone else**
- **Fax**
- **Email (affidavit & ID to be attached)**

# No Solicitation Zone

(s. 102.031(4) F.S.)



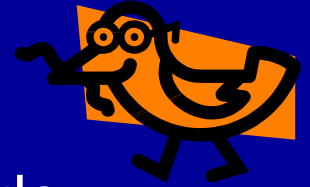
## New law:

1. 100-foot zone also applies to an office of the SOE where absentee ballots are requested & printed on demand for voters for the convenience of voters who appear in person to request them.
2. Except as specified in law, the SOE may not designate any other no-solicitation zone or otherwise restrict persons or groups from soliciting voters at a polling place or early voting site.

# Early Voting Times (s. 101.657(1), F.S.)

- **New provision** expands minimum hours per day from 6 to 8 hours (max remains 12 hrs.)
- Early voting shall begin on 10<sup>th</sup> day & end on 3<sup>rd</sup> day before election that contains state or federal races (**no change**)
- In addition, early voting may be offered at the discretion of the SOE on 15<sup>th</sup>, 14<sup>th</sup>, 13<sup>th</sup>, 12<sup>th</sup>, 11<sup>th</sup>, or 2<sup>nd</sup> day before an election that contains state or federal races (**new**)

# Early Voting Sites (s. 101.657(1), F.S.)



## New law:

- Expands existing permissible sites to also include fairground, civic center, courthouse, county commission building, stadium, convention center, government-owned senior center, or government-owned community center.
  - [Sites must also be geographically located to provide all voters equal opportunity to cast ballot.]
- In addition, SOE may designate one additional site per election in an area of the county that does not have an eligible early voting location.
  - This site must be geographically located to provide all voters in that area with an equal opportunity to cast a ballot.
- Each county must have at a minimum the same number of early voting sites for a general election it operated for the 2012 general election.

# Election Day

# Change of Residence

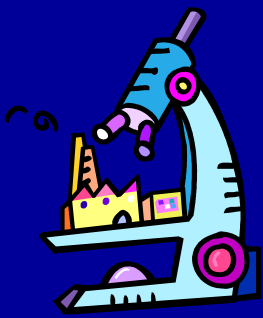
(s. 101.045(2)(a), F.S.)

- When voter moves his/her legal residence, the voter may vote a regular ballot in the precinct where new legal residence is located if
  - change is within the same county; or
  - the new precinct is within a county that uses an electronic database as a precinct register at the polling place; [New provision] or
  - voter is an active uniformed services voter or a member of his or her family



# Post-Election





# Post-Election Audit

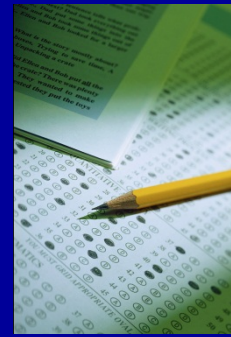
(s. 101.591(1), F.S.)

**New law:** Permits optional alternative to manual audit – may have an automated, independent audit (AIA).

- AIA consists of public automated tally of votes casts in every race on the ballot.
- Tally sheet is to include election day, early vote, absentee, provisional, and overseas ballots in at least 20% of precincts chosen at random by canvassing board at publicly noticed meeting.

# Post-Election Audit

## (s. 101.591(2)(c), F.S.)



**New law:** DOS to adopt rules for automated independent audit, which must provide that system be:

- Completely independent of primary voting system
- Fast enough to produce the final audit results by 11:59pm on 7<sup>th</sup> day following the certification of results by canvassing board
- Capable of demonstrating that the ballots of record have been accurately adjudicated by the audit system.

# **Constitutional Amendments Proposed by the Legislature**

# Constitutional Amendments by Joint Resolution – Word Limit (s. 101.161(3), F.S.)



- First ballot summary proposed by Joint Resolution is limited to 75 words
- 75-word limit does not apply to any Joint Resolution re-written by Attorney General
- Deletes the provision that stated the full text is presumed to be a clear and unambiguous statement of the amendment

# Constitutional Amendments by Joint Resolution (s. 101.56075(4), F.S. – repealed)



- **Current law:** Voting machines must be capable of handling coded text of amendments on ballot by December 31, 2013.
- **New law:** Provision is entirely repealed.

# **Voting System Defects & Vendors**

# Voting System Registered Agent (s. 101.5605(3), F.S.)

- Any person seeking approval of voting system must provide DOS the name, address, and phone number of its registered agent before DOS may approve the system.
- Voting system vendor must do same before the vendor enters into any contract for sale or lease for the voting system to any county.
- Registered agent must continuously maintain an office in Florida.

# Voting System Defects (s. 101.56065, F.S.)



- Vendors must disclose to DOS any known defects in voting system by Dec 31, 2013 and thereafter by Jan 1 of each odd-numbered year along with any known corrective measures
- Otherwise, must also notify DOS within 30 days of knowing of any defect
- Upon disclosure of a defect, DOS may suspend the sale, lease, and use of the voting system in the state



# Voting System Defects

## (s. 101.56065, F.S.)



- DOS has ability to investigate if defect exists in any system (procedures are specified in statute)
- If DOS determines defect exists and vendor cannot cure within timeframe established by DOS, then DOS shall impose civil penalty of \$25,000, plus costs of DOS investigation
- DOS has ability to disapprove the voting system for use in Florida

# **Non-Election Code:**

## **SB 50\* –**

### **Public Meetings; Reasonable Opportunity to be Heard**

**\*Not yet law; if it becomes law, is effective Oct 1, 2013.**

# SB 50 – Will create s. 286.0114, F. S., eff. 10/1/2013.

- Gov't in Sunshine Law – under AG, not DOE.
- Members of the public shall be given reasonable opportunity to be heard on a proposition before a board or commission.
- Right to be heard subject to rules or policies adopted by board or commission.
- Statute specifies the limits of any rule or policy.

# SB 50 – Will create s. 286.0114, F. S., eff. 10/1/2013.

- “Board or commission” includes any board or commission of a county or any political subdivision.
- **Applicability to Canvassing Board?** It appears so, but only for “propositions before” the board. May require AG interpretation and opinion.
- **“Proposition” is not defined.** Dictionary meaning = something which the board must consider or accept in the performance of its duties.
- E.g.? Validity of voter challenge, signature, provisional ballot?

**The End --**

**Any Questions**

