

# 2014 Canvassing Board Workshop

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**FLORIDA**  
★ DIVISION OF ★  
**ELECTIONS**

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# Selected 2013 Legislative Changes to Florida's Election Code



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

# 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.)

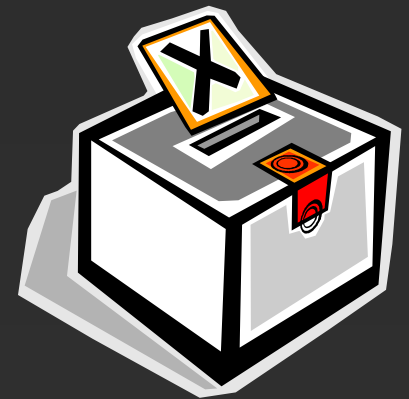


Persons with disabilities must be able to vote on devices that meet HAVA voter accessibility requirements by 2020, not 2016.

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

## New requirement:

- SOE must upload early voting results and results of absentee ballots tabulated by end of early voting period.
- Upload must be by 7 pm day before election day. Such tabulation may not be made public before the closing of polls on Election Day.
- Law codifies what DE 10-10 permitted.



# Elections

# Presidential Preference Primary

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

- **Old law:** PPP Date Selection Committee sets date between first Tuesday in January and first Tuesday in March (for 2012, it was January 31)
  - **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 rules remain unchanged for 2016, PPP will be held on 1 March 2016.



# Primary Election Date

(s. 100.061, F.S.)

**Old law:** Date of Primary Election 12 weeks before the general election.

**New law:** Date of Primary Election 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.
- Also normal substitute rules remain in statute.

# 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 an emergency precludes the voter from going to the voter's assigned polling place.
- If absentee ballot is delivered, affidavit must be executed affirming to facts which permit delivery.
- **Exception:** Voters residing in an assisted living facility (s. 101.655, F.S.),
- DOS to adopt form of affidavit by rule  
(See DS-DE 136, R1S-2.052, F.A.C.)



# Election Day Absentee Ballot Affidavit

(s. 101.62, F.S.;  
R1S-2.052)

## ELECTION DAY ABSENTEE BALLOT DELIVERY AFFIDAVIT

(SECTION 101.62(4)(c)5., FLA. STAT.)

(NOTE: ALL INFORMATION ON THIS FORM BECOMES A PUBLIC RECORD WHEN SUBMITTED TO THE SUPERVISOR OF ELECTIONS' OFFICE.)

I hereby swear or affirm that:

1. (Check applicable box)

I, \_\_\_\_\_, am the voter requesting the absentee ballot;  
(Print the voter's name)

or

I, \_\_\_\_\_, have been designated by \_\_\_\_\_.  
(Print the designee's name) (Print the voter's name)

2. (Check box and complete entry)

The voter cannot go to the assigned polling place on this Election Day: \_\_\_\_\_  
(Specify the election date)

because of the following emergency (*THIS INFORMATION BECOMES PUBLIC RECORD*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*I understand that any person who willfully affirms falsely to any affirmation in connection with elections and any person who perpetrates any fraud in connection with any vote to be cast in an election violates sections 104.011 and 104.041, Florida Statutes, and can be convicted of a felony of the third degree and fined up to \$5,000 and/or imprisoned for up to five years under each of the named statutes.*

***Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true.***

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**FOR OFFICIAL USE ONLY, TO BE COMPLETED BEFORE DELIVERY OF ABSENTEE BALLOT: No absentee ballot can be delivered to a voter's designee unless the designee provides picture identification; the voter provides a separate written authorization for the designee to pick up the ballot; and the designee provides a separate affidavit under s. 101.62(4)(c)4., Fla.Stat., stating that the designee is authorized by the voter to pick up the ballot.**

Check the applicable boxes (*all must be checked before delivery of the ballot to a designee*) and sign:

- The designee provided picture identification.  
 The designee provided the voter's written authorization or the voter's written authorization was already on file.  
 The designee provided the separate affidavit required by s. 101.62(4)(c)4., Fla.Stat.

\_\_\_\_\_  
Election official's name

\_\_\_\_\_  
Election official's signature

# Overseas Absentee Ballots

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



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**Old law** (based on R1S-2.013, F.A.C.)

- 10 extra days from election day to receive overseas absentee ballot in Presidential Preference Primary or General election
- Postmarked or signed and dated no later than election day
- Only federal races counted (as long as ballot otherwise proper)

**New law (codifies rule) and:**

- All races on ballot must now be counted (as long as ballot otherwise proper)

# 10-day Extension for Overseas Absentee Ballots (cont'd)

- Applies also to special (general and primary) elections
- Special elections means those held per ss. 100.101, 100.191, F.S., to fill:
  - ✓ Office required to be held for which no one was elected in the general election.
  - ✓ Vacancy for state senator or state representative election
  - ✓ Vacancy in office of President and Vice-President (presidential electors)
  - ✓ Vacancy for Florida member of Congress.

# Unsigned absentee ballot certificate (s. 101.68(4)(b), F.S.)

**New law:** Absentee voter has opportunity to cure unsigned returned absentee ballot before it is canvassed:

- Must sign “cure” affidavit
- Provide copy of ID by returning signed affidavit. (See next slide for ID requirements)
- Must provide affidavit and copy of ID by deadline before election day (discussion to follow on conflict in law)
- Return in person, by fax, by email or by mail



# “The Cure” (cont’d): *Acceptable IDs*

Acceptable forms of ID to accompany “unsigned ballot cure’ affidavit”:

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)

## “The Cure” (cont’d):

# Conflict in law about deadline to cure

### New law:

- Subsection (4)(b) (substantive law) says: Until 5pm on the day before the election.
- Subsection (4)(d)(ballot instructions for form) says: No later than 5 pm on 2<sup>nd</sup> day before the election
- ❖ DOE direction: Modify ballot instructions to comport with deadline in Subsection (4)(b) - 5 pm on day before election day

# “The Cure” (cont’d): Other duties

## New law:

- SOE must attach any affidavit and copy of ID received to the corresponding absentee ballot envelope.
- DOE and each SOE must include the affidavit form and instructions on their websites, to include SOE office’s mailing address, email address, and fax number.

## “The Cure” (cont’d):

### How is voter notified of unsigned ballot before ballot is canvassed?

- ➔ SOE opts to notify voter (not required by law)
- ➔ Candidates and political committees notify their voter constituency through access to information on the uploaded absentee ballot request file that indicate voter returned return ballot without signature
- ➔ Voter finds out through online ballot tracking system if SOE incorporates this information into system

# Absentee Ballot Signature Comparison

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(s. 101.68(1) & (2), F.S.)

## New law:

Must compare voter's signature on voter's certificate or on absentee ballot affidavit to signature in registration books or on the precinct register



# Rejected Absentee Ballot

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

## Old law:

- Notify voter if ballot rejected due to signature mismatch
- Send voter an application in all cases in which ballot rejected.

## New law:

- Still notify voter but include specific reason why ballot rejected
- Send voter an application only in cases where signature differed.

# Federal Write-In Absentee Ballot

(ss. 101.6952 & 102.161, F.S., and Rule 1S-2.051)

- Emergency back-up for UOCAVA voters
- May be used for federal, state, and local elections involving 2 or more candidates. [Look for legislative change in 2014 to allow for all elections]
- Cannot be canvassed until 7pm on Election Day (to wait for possibility of returned official regular ballot).
- See **new** Rule 1S-2.051 for determination of voter intent.

# Election Day



# Change of Residence

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



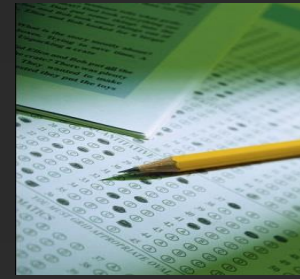
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- When voter moves his/her legal residence, the voter may vote a regular ballot in the precinct where new legal residence is located if:
  - change is within the same county; or
  - voter is an active uniformed services voter or a member of his or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

# Post-Election

# Post-Election Voting

## System Audit (s. 101.591(1), F.S.)



**Old law:** Manual audit must be done of voting system after election certified

**New law:** Option to conduct automated, independent audit (AIA) instead of manual audit.

- 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.

# Automated independent audit system

(cont'd) (s. 101.591(2)(c), F.S.)

## New law:

- Pre-approved for use by the Department of State based on rule adopted criteria
- Completely independent of primary voting system
- Fast enough to produce the final audit results by 11:59 pm 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.

# Post-Election Voting System Audit

## Upcoming Revised Rule:

- Rule 1S-5.2056, Post-Election Certification Voting System Audit
- Public hearing held in mid-January 2014
- Next step is notice of change or if no substantive change, rule adoption

# **Constitutional Amendments Proposed by the Legislature**

# Constitutional Amendments by Joint Resolution (JR): Word Limit

(s. 101.161(3), F.S.)

## Old law:

- No word limit on ballot summary
- Presumption that full text clear and unambiguous statement of the amendment

## New law:

- Deletes 'clear and unambiguous' presumption
- 75-word limit on 1st ballot summary only
- 75-word limit does not apply to summary re-written by Attorney General



# Constitutional Amendments by Joint Resolution (s. 101.56075(4), F.S.): Coded Text Requirement

**Old 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.)

- Registered agent information (name, address and phone number) must be filed with state before any person seeks approval of voting 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.)

Voting system vendors must report:

- “Known defects” and known corrective measures by Dec 31, 2013 and January 1st of every odd-number year thereafter along with any known corrective measures
- Any other defect not otherwise reported within 30 days of knowing of any defect

# Voting System Defects

(s. 101.56065, F.S.)

Department of State may:

- Suspend the sale, lease, and use of the voting system in the state upon disclosure of defect
- Investigate if defect exists in any system (procedures are specified in statute)
- Determine a defect exists and if so, and vendor cannot cure within timeframe established by DOS, then DOS shall impose civil penalty of \$25,000, plus costs of DOS investigation
- May disapprove the voting system for use in Florida

**Non-Election Code:  
Public Meetings;  
Reasonable Opportunity to  
be Heard  
(SB 50; Ch. 2013-227, Laws of Fla.)**

# Public Opportunity to be Heard

(Section 286.0114, F. S., eff. 10/1/2013)

- Must 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.

# Public Opportunity to be Heard

(cont'd)(Section 286.0114, F. S., eff. 10/1/2013)

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“Board or commission” is defined to include any board or commission of a county or any political subdivision.

Canvassing board may fit definition of a board

“Proposition” is not defined. Dictionary meaning = something which the board must consider or accept in the performance of its duties.

Canvassing Board’s does consider such matters as validity of a voter challenge, whether a signature matches one on record, whether to count a provisional ballot or absentee ballot

**May require AG interpretation and opinion.**

**The End --**

**Any Questions**

