

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Military and Veterans Affairs, Space, and Domestic Security

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BILL: SB 486

INTRODUCER: Senator Evers

SUBJECT: Federal Write-in Absentee Ballot

DATE: February 3, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fox</u>	<u>Roberts</u>	<u>EE</u>	<b>Favorable</b>
2.	<u>Spaulding</u>	<u>Ryon</u>	<u>MS</u>	<b>Pre-meeting</b>

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## I. Summary:

SB 486 expands the use of the Federal Write-in Absentee Ballot (FWAB) to state/local ballot measures and judicial merit retention elections. The FWAB is a “ballot of last resort” for absent, active-duty military (and their families) and overseas citizens who timely request, but fail to receive, an official absentee ballot from their county supervisor of elections.

## II. Present Situation:

The Federal Write-in Absentee Ballot (FWAB) is a federally-mandated, alternative or “back-up” ballot that allows otherwise-eligible overseas citizens and absent active-duty military (and their families) to cast votes in federal elections,<sup>1</sup> *provided* they made a timely-request for a regular absentee ballot. Most states have also authorized the FWAB for voting in certain state and local elections.

In 2011, Florida expanded the FWAB’s use beyond just federal elections to include state and local elections involving two or more candidates.<sup>2</sup> At the time, the FWAB was designed *solely* for candidate races, with lines for designating candidates’ names and offices sought; it did not contemplate ballot elections requiring a voter’s affirmation or rejection. In August 2013, the federal government modified the FWAB form and to specifically include spaces for “Ballot Initiatives” and the “Initiative Vote.”<sup>3</sup>

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<sup>1</sup> From its inception in 1986 (Uniformed and Overseas Citizens Absentee Voting Act [UOCAVA]) until it was amended in 2010, the FWAB was mandated only for **federal general** elections. *See*, U.S. Dep’t of Justice, Civil Rights Division web site at [http://www.justice.gov/crt/about/vot/misc/activ\\_uoc.php](http://www.justice.gov/crt/about/vot/misc/activ_uoc.php), last accessed January 28, 2014, (UOCAVA overview). In 2010, the federal Military and Overseas Voter Empowerment Act (MOVE) expanded the required use of the FWAB to *all federal* elections, including primaries. *Id.*

<sup>2</sup> Ch. 2011-162, Laws of Fla.

<sup>3</sup>Current FVAP form and instructions, available at Federal Voting Assistance Program web site: <http://www.fvap.gov/resources/media/fwab.pdf>, last accessed January 28, 2014.

**III. Effect of Proposed Changes:**

The bill eliminates Florida's "multi-candidate restriction," and authorizes the FWAB as a "ballot of last resort"<sup>4</sup> for eligible voters in all federal, state, and local elections — including statewide constitutional initiatives/local ballot measures and judicial merit retention elections for the Florida Supreme Court and district courts of appeal. It specifically directs that votes cast in judicial retention elections be treated in the same manner as ballot measures requiring a "yes" or "no" vote. Finally, it requires the Department of State to adopt rules prescribing what markings, symbols, or language on the FWAB constitute a valid vote with regard to ballot measures.

The bill takes effect July 1, 2014.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>4</sup> Current law provides that eligible military or overseas voter must have timely requested and not received an official absentee ballot in order to vote by FWAB. Section 101.6952(2)(a), F.S.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 101.6952, 102.166

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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