

**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 Ethics and Elections

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BILL: SB 726

INTRODUCER: Senators Powell and Campbell

SUBJECT: Vote-by-mail Ballots

DATE: March 30, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Ulrich	EE	<b>Pre-meeting</b>
2.			RC	

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**I. Summary:**

Senate Bill 726 is a single-subject, election administration bill that specifically authorizes electors to drop off vote-by-mail ballots at *any* early voting site during statutorily authorized early voting hours. Arguably, the law does not currently allow for this return method; instead, a vote-by-mail voter may only return a ballot to his or her county *Supervisor of Election's office*, unless the voter wants to wait in line at an early voting site or Election Day polling place and vote in person.

The bill takes effect on July 1, 2017.

**II. Present Situation:**

An elector generally returns his or her vote-by-mail ballot to the supervisor's office, by either mail or delivery.<sup>1</sup>

An elector possessing a vote-by-mail ballot who seeks to vote at an early voting site or polling place must have an elections worker spoil the ballot and may cast a regular or provisional ballot.<sup>2</sup> Poll workers may utilize alternate procedures if the voter does not have the vote-by-mail ballot in his or her possession.<sup>3</sup> All of these procedures, however, require a voter to wait in line at the early voting site or polling place to cast a ballot.

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<sup>1</sup> Secretary of State, *Directive 2013-01— Return of Absentee Ballots* (Nov. 25, 2013) [hereinafter, SOS, *Directive 2013-01*]. The Secretary of State's Directive was controversial; Deb Clark, Pinellas County Supervisor of Elections, openly defied the Directive by maintaining remote ballot drop-off sites throughout her county for an upcoming federal special election. Steve Bosquet, Tampa Bay Times, *Detzner's Directive on Absentee Ballots Sets Off Spirited Debate*, available at <http://www.tampabay.com/blogs/the-buzz-florida-politics/detzners-directive-on-absentee-ballots-sets-off-heated-debate/2154326> (last accessed Mar. 7, 2017). It is unclear how many Supervisors of Elections are currently complying with the Secretary's mandate.

<sup>2</sup> *Id.*; ss. 101.68 and 101.69, F.S.

<sup>3</sup> Section 101.69, F.S.

### III. Effect of Proposed Changes:

Senate Bill 726 provides that an elector may vote by personally delivering his or her completed vote-by-mail ballot to *any* early voting site during *statutorily-authorized* early voting period hours. The bill also directs the Florida Division of Elections to adopt uniform rules for the receipt of ballots.

Voters have historically been required to return their ballots to county Supervisors of Elections *where they reside*; there is currently no process or mechanism in place for transferring ballots from one county to another. Further, providing for inter-county ballot drop-off would complicate and potentially slow the reporting of unofficial election results on election night and beyond.

With respect to allowing voters to return ballots to early voting sites during statutorily authorized hours, the law provides that early voting sites must be open for a minimum of 8 hours/day and a maximum of 12 hours/day.<sup>4</sup> It is unclear how the courts would interpret this new drop-off requirement for early voting sites that are open for *less* than the 12-hour/day statutory maximum.

The bill takes effect on July 1, 2017.

### 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.

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<sup>4</sup> Section 101.657(1)(d), F.S.

**VI. Technical Deficiencies:**

An amendment should be drafted to change the term “absent elector” on line 15 to “elector.” The modifier “absent” is an archaic reference and is inconsistent with the notion of “personal delivery” to an early voting site on Election Day.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 101.64 of the Florida Statutes.

**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.