

HB 1591

2004

A bill to be entitled

An act relating to absentee ballots; amending ss. 101.64 and 101.65, F.S.; revising the Voter's Certificate and instructions to absent electors to remove the requirement of an attesting witness; amending s. 101.68, F.S.; removing the requirement of the signature of an attesting witness for an absentee ballot to be considered legal; amending ss. 101.6921 and 101.6923, F.S.; revising the Voter's Certificate and instructions for special absentee ballots for certain first-time voters to remove the requirement of an attesting witness; amending s. 101.6952, F.S., relating to absentee ballots received from overseas voters, to conform; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 101.64, Florida Statutes, is amended to read:

101.64 Delivery of absentee ballots; envelopes; form.--

(1) The supervisor shall enclose with each absentee ballot two envelopes: a secrecy envelope, into which the absent elector shall enclose his or her marked ballot; and a mailing envelope, into which the absent elector shall then place the secrecy envelope, which shall be addressed to the supervisor and also bear on the back side a certificate in substantially the following form:

Note: Please Read Instructions Carefully Before Marking Ballot and Completing Voter's Certificate.

HB 1591

2004

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VOTER'S CERTIFICATE

I, _____, do solemnly swear or affirm that I am a qualified and registered voter of _____ County, Florida, and that I have not and will not vote more than one ballot in this election. I understand that if I commit or attempt to commit any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I can be convicted of a felony of the third degree and fined up to \$5,000 and/or imprisoned for up to 5 years. I also understand that failure to sign this certificate ~~and have my signature properly witnessed~~ will invalidate my ballot.

... (Date) (Voter's Signature) ...

~~Note: Your Signature Must Be Witnessed By One Witness 18 Years of Age or Older as provided in the Instruction Sheet.~~

~~I swear or affirm that the voter signed this Voter's Certificate in my presence.~~

~~... (Signature of Witness) ...~~

~~... (Address) ...~~

~~... (City/State) ...~~

(2) The certificate shall be arranged on the back of the mailing envelope so that the lines for the signature ~~signatures~~ of the absent elector is ~~and the attesting witness~~ are across

HB 1591

2004

59 the seal of the envelope; however, no statement shall appear on
 60 the envelope which indicates that a signature of the voter ~~or~~
 61 ~~witness~~ must cross the seal of the envelope. The absent elector
 62 ~~and the attesting witness~~ shall execute the certificate on the
 63 envelope.

64 Section 2. Section 101.65, Florida Statutes, is amended to
 65 read:

66 101.65 Instructions to absent electors.--The supervisor
 67 shall enclose with each absentee ballot separate printed
 68 instructions in substantially the following form:

69

70 READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT.

71 1. VERY IMPORTANT. In order to ensure that your absentee
 72 ballot will be counted, it should be completed and returned as
 73 soon as possible so that it can reach the supervisor of
 74 elections of the county in which your precinct is located no
 75 later than 7 p.m. on the day of the election.

76 2. Mark your ballot in secret as instructed on the ballot.
 77 You must mark your own ballot unless you are unable to do so
 78 because of blindness, disability, or inability to read or write.

79 3. Mark only the number of candidates or issue choices for
 80 a race as indicated on the ballot. If you are allowed to "Vote
 81 for One" candidate and you vote for more than one candidate,
 82 your vote in that race will not be counted.

83 4. Place your marked ballot in the enclosed secrecy
 84 envelope.

85 5. Insert the secrecy envelope into the enclosed mailing
 86 envelope which is addressed to the supervisor.

HB 1591

2004

87 6. Seal the mailing envelope and completely fill out the
 88 Voter's Certificate on the back of the mailing envelope.

89 7. VERY IMPORTANT. In order for your absentee ballot to be
 90 counted, you must sign your name on the line above (Voter's
 91 Signature).

92 8. VERY IMPORTANT. If you are an overseas voter, you must
 93 include the date you signed the Voter's Certificate on the line
 94 above (Date) or your ballot may not be counted.

95 ~~9. VERY IMPORTANT. In order for your absentee ballot to be~~
 96 ~~counted, it must include the signature and address of a witness~~
 97 ~~18 years of age or older affixed to the Voter's Certificate. No~~
 98 ~~candidate may serve as an attesting witness.~~

99 9.10. Mail, deliver, or have delivered the completed
 100 mailing envelope. Be sure there is sufficient postage if mailed.

101 10.11. FELONY NOTICE. It is a felony under Florida law to
 102 accept any gift, payment, or gratuity in exchange for your vote
 103 for a candidate. It is also a felony under Florida law to vote
 104 in an election using a false identity or false address, or under
 105 any other circumstances making your ballot false or fraudulent.

106 Section 3. Paragraph (c) of subsection (2) of section
 107 101.68, Florida Statutes, is amended to read:

108 101.68 Canvassing of absentee ballot.--

109 (2)

110 (c)1. The canvassing board shall, if the supervisor has
 111 not already done so, compare the signature of the elector on the
 112 voter's certificate with the signature of the elector in the
 113 registration books to see that the elector is duly registered in
 114 the county and to determine the legality of that absentee
 115 ballot. An absentee ballot shall be considered illegal if it

HB 1591

2004

116 does not include the signature of the elector, as shown by the
 117 registration records, ~~and the signature and address of an~~
 118 ~~attesting witness~~. However, an absentee ballot shall not be
 119 considered illegal if the signature of the elector ~~or attesting~~
 120 ~~witness~~ does not cross the seal of the mailing envelope. If the
 121 canvassing board determines that any ballot is illegal, a member
 122 of the board shall, without opening the envelope, mark across
 123 the face of the envelope: "rejected as illegal." The envelope
 124 and the ballot contained therein shall be preserved in the
 125 manner that official ballots voted are preserved.

126 2. If any elector or candidate present believes that an
 127 absentee ballot is illegal due to a defect apparent on the
 128 voter's certificate, he or she may, at any time before the
 129 ballot is removed from the envelope, file with the canvassing
 130 board a protest against the canvass of that ballot, specifying
 131 the precinct, the ballot, and the reason he or she believes the
 132 ballot to be illegal. A challenge based upon a defect in the
 133 voter's certificate may not be accepted after the ballot has
 134 been removed from the mailing envelope.

135 Section 4. Subsections (3) and (4) of section 101.6921,
 136 Florida Statutes, are amended to read:

137 101.6921 Delivery of special absentee ballot to certain
 138 first-time voters.--

139 (3) The Voter's Certificate shall be in substantially the
 140 following form:

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 142 Note: Please Read Instructions Carefully Before Marking Ballot
 143 and Completing Voter's Certificate
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HB 1591

2004

VOTER'S CERTIFICATE

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I, _____, do solemnly swear or affirm that I am a qualified and registered voter of _____ County, Florida, and that I have not and will not vote more than one ballot in this election. I understand that if I commit or attempt to commit any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I can be convicted of a felony of the third degree and fined up to \$5,000 and/or imprisoned for up to 5 years. I also understand that failure to sign this certificate ~~and have my signature properly witnessed~~ will invalidate my ballot. I understand that unless I meet one of the exemptions below, I must provide a copy of a current and valid identification as provided in the instruction sheet to the supervisor of elections in order for my ballot to count.

I further certify that I am exempt from the requirements to furnish a copy of a current and valid identification with my ballot because of one or more of the following (check all that apply):

- I am 65 years of age or older.
- I have a permanent or temporary physical disability.
- I am a member of a uniformed service on active duty who, by reason of such active duty, will be absent from the county on election day.
- I am a member of the Merchant Marine who, by reason of service in the Merchant Marine, will be absent from the county on election day.
- I am the spouse or dependent of a member of the uniformed service or Merchant Marine who, by reason of the

CODING: Words **stricken** are deletions; words underlined are additions.

HB 1591

2004

174 active duty or service of the member, will be absent from the
 175 county on election day.

176 [] I am currently residing outside the United States.

177
 178 ... (Date) Voter's Signature ...

179
 180 ~~Note: Your signature must be witnessed by one witness 18 years~~
 181 ~~of age or older as provided in the instruction sheet.~~

182
 183 ~~I swear or affirm that the voter signed this Voter's Certificate~~
 184 ~~in my presence.~~

185
 186 ~~... (Signature of Witness) ...~~

187
 188 ~~... (Address) ...~~

189
 190 ~~... (City/State) ...~~

191
 192 (4) The certificate shall be arranged on the back of the
 193 envelope so that the lines for the signature ~~signatures~~ of the
 194 absent elector is ~~and the attesting witness~~ are across the seal
 195 of the envelope.

196 Section 5. Subsection (2) of section 101.6923, Florida
 197 Statutes, is amended to read:

198 101.6923 Special absentee ballot instructions for certain
 199 first-time voters.--

200 (2) A voter covered by this section shall be provided with
 201 the following printed instructions with his or her absentee
 202 ballot:

HB 1591

2004

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READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING YOUR
BALLOT. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR
BALLOT NOT TO COUNT.

1. In order to ensure that your absentee ballot will be
counted, it should be completed and returned as soon as possible
so that it can reach the supervisor of elections of the county
in which your precinct is located no later than 7 p.m. on the
date of the election.

2. Mark your ballot in secret as instructed on the ballot.
You must mark your own ballot unless you are unable to do so
because of blindness, disability, or inability to read or write.

3. Mark only the number of candidates or issue choices for
a race as indicated on the ballot. If you are allowed to "Vote
for One" candidate and you vote for more than one, your vote in
that race will not be counted.

4. Place your marked ballot in the enclosed secrecy
envelope and seal the envelope.

5. Insert the secrecy envelope into the enclosed envelope
bearing the Voter's Certificate. Seal the envelope and
completely fill out the Voter's Certificate on the back of the
envelope.

a. You must sign your name on the line above (Voter's
Signature).

~~b. You must have your signature witnessed. Have the
witness sign above (Signature of Witness) and include his or her
address. No candidate may serve as an attesting witness.~~

HB 1591

2004

231 ~~b.e.~~ If you are an overseas voter, you must include the
 232 date you signed the Voter's Certificate on the line above (Date)
 233 or your ballot may not be counted.

234 6. Unless you meet one of the exemptions in Item 7., you
 235 must make a copy of one of the following forms of
 236 identification:

237 a. Identification which must include your name and
 238 photograph: current and valid Florida driver's license; Florida
 239 identification card issued by the Department of Highway Safety
 240 and Motor Vehicles; United States passport; employee badge or
 241 identification; buyer's club identification card; debit or
 242 credit card; military identification; student identification;
 243 retirement center identification; neighborhood association
 244 identification; entertainment identification; or public
 245 assistance identification; or

246 b. Identification which shows your name and current
 247 residence address: current utility bill, bank statement,
 248 government check, paycheck, or government document (excluding
 249 voter identification card).

250 7. The identification requirements of Item 6. do not apply
 251 if you meet one of the following requirements:

252 a. You are 65 years of age or older.

253 b. You have a temporary or permanent physical disability.

254 c. You are a member of a uniformed service on active duty
 255 who, by reason of such active duty, will be absent from the
 256 county on election day.

257 d. You are a member of the Merchant Marine who, by reason
 258 of service in the Merchant Marine, will be absent from the
 259 county on election day.

HB 1591

2004

260 e. You are the spouse or dependent of a member referred to
 261 in paragraph c. or paragraph d. who, by reason of the active
 262 duty or service of the member, will be absent from the county on
 263 election day.

264 f. You are currently residing outside the United States.

265 8. Place the envelope bearing the Voter's Certificate into
 266 the mailing envelope addressed to the supervisor. Insert a copy
 267 of your identification in the mailing envelope. DO NOT PUT YOUR
 268 IDENTIFICATION INSIDE THE SECRECY ENVELOPE WITH THE BALLOT OR
 269 INSIDE THE ENVELOPE WHICH BEARS THE VOTER'S CERTIFICATE OR YOUR
 270 BALLOT WILL NOT COUNT.

271 9. Mail, deliver, or have delivered the completed mailing
 272 envelope. Be sure there is sufficient postage if mailed.

273 10. FELONY NOTICE. It is a felony under Florida law to
 274 accept any gift, payment, or gratuity in exchange for your vote
 275 for a candidate. It is also a felony under Florida law to vote
 276 in an election using a false identity or false address, or under
 277 any other circumstances making your ballot false or fraudulent.

278 Section 6. Subsection (2) of section 101.6952, Florida
 279 Statutes, is amended to read:

280 101.6952 Absentee ballots for overseas voters.--

281 (2) For absentee ballots received from overseas voters,
 282 there is a presumption that the envelope was mailed on the date
 283 stated ~~and witnessed~~ on the outside of the return envelope,
 284 regardless of the absence of a postmark on the mailed envelope
 285 or the existence of a postmark date that is later than the date
 286 of the election.

287 Section 7. This act shall take effect July 1, 2004.