

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 2566

SPONSOR: Ethics and Elections Committee and Senator Dockery

SUBJECT: Absentee Ballots

DATE: April 8, 2004

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Rubinas</u>	<u>Rubinas</u>	<u>EE</u>	<u>Fav/CS</u>
2.	<u>Brown</u>	<u>Lang</u>	<u>JU</u>	<u>Fav/1 amendment</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 2566 eliminates the requirement that an absentee ballot contain the signature and address of an attesting witness in order for a voter to cast a valid absentee ballot. It also conforms related statutes by eliminating the attesting witness requirement in those sections of the Florida Statutes.

The bill will take effect July 1, 2004.

This bill substantially amends, creates, or repeals sections 101.64, 101.65, 101.68, 101.6921, 101.6923, and 101.6952 of the Florida Statutes.

II. Present Situation:

Current law requires witness signatures for absentee ballots. Instructions to absentee voters, canvassing boards, and certain first-time voters voting on special absentee ballots, as well as all absentee ballots for overseas voters contain references to an attesting witness signature. The following sections are identified in current law as addressing, and/or requiring witness signatures:

- Section 101.64, Florida Statutes, requires a certificate to be executed by a voter in connection with the casting of an absentee ballot. The voter's certificate must also be executed by a witness, 18 years of age or older, swearing or affirming the voter signed the certificate in the witness's presence. Failure to have the witness sign the affidavit invalidates the absentee ballot.
- Section 101.65, F.S., providing instructions to absent electors, requires a witness signature and address to be included on an absentee ballot in order for the ballot to count.

- Section 101.68 (2)(c) 1., F.S., relating to canvassing of absentee ballots, provides that an absentee ballot is considered illegal if it does not contain the signature and address of an attesting witness.
- Section 101.6921, F.S., relating to delivery of special absentee ballots to certain first time voters, provides a sample form with a witness signature and address line.
- Section 101.6923 (2), F.S., relating to special absentee ballot instructions for certain first time voters, includes a sample instruction form which requires voters' signatures to be witnessed and an address provided of the witness.
- Section 101.6952, F.S., relating to absentee ballots for overseas voters, provides a presumption that the envelope was mailed on the date stated and witnessed on the outside of the return envelope for such absentee ballots.

In 2002, in the course of identifying improvements to Florida's continuing election reform effort, the Governor's Select Task Force on Election Procedures, Standards, and Technology, recommended in its published report of December 30, 2002, that the witness requirement for absentee ballots be eliminated.

Starting in 2000, the State of Florida relaxed its standards for voting by absentee ballot. Voters may make a written request for a ballot to their county supervisor of elections and must return the completed ballot so that it arrives by 7:00 p.m., on the day of an election. Voters are no longer required to provide a reason for requesting an absentee ballot.

An absentee ballot is enclosed in a special envelope with a certificate signed by the voter that says the voter will vote only once in the current election and will not commit fraud in doing so. The ballot is witnessed by one witness 18 years of age or older.

As a practical matter, supervisors are not able to identify or verify the signature of a witness to an absentee ballot. In fact, in many cases, the supervisor does not know if the witness exists. The Governor's Task Force concluded that the requirement for a witness therefore "seems superfluous." Section 101.68, F.S., requires the canvassing board, if the supervisor of elections has not already done so, to compare the signature of the elector on the voter's certificate with the signature in the registration books to determine if the elector is duly registered in the county. The canvassing board also checks to see that the absentee ballot contains the signature and address of an attesting witness. If the witness's signature is not present, the ballot is considered illegal and is not counted. There is anecdotal evidence from the supervisors of elections that many otherwise valid absentee ballots are rejected by canvassing boards because of the lack of a witness signature.

III. Effect of Proposed Changes:

Committee Substitute for Senate Bill 2566 eliminates the witness requirement for absentee ballots and makes conforming changes to related statutes.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Based on anecdotal evidence from Supervisors of Elections, the elimination of the attesting witness signature requirement for absentee ballots should reduce the number of invalidated absentee ballots by an indeterminate number.

C. Government Sector Impact:

Elimination of the attesting witness requirement should reduce the number of otherwise valid absentee ballots from being invalidated by canvassing boards.

VI. Technical Deficiencies:

Section 101.657, F.S., governs in-office absentee ballots, and provides a sample form that includes a witness line. It is recommended that witness language be removed, consistent with other changes in this bill.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Judiciary:

Removes witness line from sample form provided for in-office absentee ballots in Section 101.657, F.S.