Proposed Committee Substitute by the Committee on Governmental Oversight and Accountability

A bill to be entitled
An act relating to election administration; amending s. 101.62, F.S.; limiting the duration of requests for vote-by-mail ballots to all elections through the end of the calendar year of the next regularly scheduled general election; requiring vote-by-mail ballot requests to include additional identifying information regarding the requesting elector; prohibiting the supervisor from mailing, delivering, or otherwise providing vote-by-mail ballots to an elector, or a designee thereof, unless a request has been made for such ballot; requiring supervisors of elections to record whether a voter’s certificate on a vote-by-mail ballot has a mismatched signature; restricting who an elector may designate to pick up a vote-by-mail ballot to conform to changes made by the act; amending s. 101.64, F.S.; prohibiting the display of an absent elector’s party affiliation or other partisan information on the outside of vote-by-mail ballots and return and secrecy envelopes; amending s. 101.65, F.S.; revising instructions to absent electors to conform to changes made by the act; amending s. 101.68, F.S.; authorizing the canvassing of vote-by-mail ballots upon the completion of the public preelection testing of automatic tabulating equipment; requiring the canvassing board to use the most recent signature of an elector when verifying a signature on
a vote-by-mail ballot or a cure affidavit; amending s. 101.69, F.S.; prohibiting the use of drop boxes for the return of vote-by-mail ballots; amending s. 104.0616, F.S.; prohibiting any person from distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing a vote-by-mail ballot of another person, not including a ballot belonging to an immediate family member; providing an exception; providing a penalty; providing for construction and applicability; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (1), subsection (3), and paragraph (c) of subsection (4) of section 101.62, Florida Statutes, are amended, and paragraph (d) is added to subsection (1) of that section, to read:

101.62 Request for vote-by-mail ballots.—

(1)(a) The supervisor shall accept a request for a vote-by-mail ballot from an elector in person or in writing. One request is deemed sufficient to receive a vote-by-mail ballot for all elections through the end of the calendar year of the regularly scheduled general election, unless the elector or the elector’s designee indicates at the time the request is made the elections for which the elector desires to receive a vote-by-mail ballot. Such request may be considered canceled when any first-class mail sent by the supervisor to the elector is returned as undeliverable.
(b) The supervisor may accept a written or telephonic request for a vote-by-mail ballot to be mailed to an elector’s address on file in the Florida Voter Registration System from the elector, or, if directly instructed by the elector, a member of the elector’s immediate family, or the elector’s legal guardian. If the ballot is requested to be mailed to an address other than the elector’s address on file in the Florida Voter Registration System, the request must be made in writing and signed by the elector. However, an absent uniformed service voter or an overseas voter seeking a vote-by-mail ballot is not required to submit a signed, written request for a vote-by-mail ballot that is being mailed to an address other than the elector’s address on file in the Florida Voter Registration System. For purposes of this section, the term “immediate family” has the same meaning as specified in paragraph (4)(c). The person making the request must disclose:

1. The name of the elector for whom the ballot is requested.
2. The elector’s address.
3. The elector’s date of birth.
4. The elector’s Florida driver license number or Florida identification card number or the last four digits of the elector’s social security number.
5. The requester’s name.
6. The requester’s address.
7. The requester’s driver license number, if available.
8. The requester’s relationship to the elector.
9. The requester’s signature (written requests only).

(d) A supervisor may not mail or otherwise deliver or
provide a vote-by-mail ballot to an elector or an elector’s
designee unless a request for such ballot has been made that
meets the requirements of this section.

(3)(a) For each request for a vote-by-mail ballot received,
the supervisor shall record the date the request was made; the
date the vote-by-mail ballot was delivered to the voter or the
voter’s designee or the date the vote-by-mail ballot was
delivered to the post office or other carrier; the date the
ballot was received by the supervisor; the absence of the
voter’s signature on the voter’s certificate, if applicable; and
such other information he or she may deem necessary. The
information shall be provided in electronic format as provided
by rule adopted by the division. The information shall be
updated and made available no later than 8 a.m. of each day,
including weekends, beginning 60 days before the primary until
15 days after the general election and shall be
contemporaneously provided to the division. This information
shall be confidential and exempt from s. 119.07(1) and shall be
made available to or reproduced only for the voter requesting
the ballot, a canvassing board, an election official, a
political party or official thereof, a candidate who has filed
qualification papers and is opposed in an upcoming election, and
registered political committees for political purposes only.

(b) For each returned vote-by-mail ballot, the supervisor
shall record whether the voter’s certificate contains a
signature that does not match the elector’s signature in the
registration books or precinct register.

(c) The information specified in paragraphs (a) and (b)
shall be provided in electronic format as prescribed by division
rule. The information shall be updated and made available no later than 8 a.m. of each day, including weekends, beginning 60 days before the primary election until 15 days after the general election and shall be contemporaneously provided to the division.

(4)

(c) The supervisor shall provide a vote-by-mail ballot to each elector by whom a request for that ballot has been made by one of the following means:

1. By nonforwardable, return-if-undeliverable mail to the elector’s current mailing address on file with the supervisor or any other address the elector specifies in the request.

2. By forwardable mail, e-mail, or facsimile machine transmission to absent uniformed services voters and overseas voters. The absent uniformed services voter or overseas voter may designate in the vote-by-mail ballot request the preferred method of transmission. If the voter does not designate the method of transmission, the vote-by-mail ballot shall be mailed.

3. By personal delivery before 7 p.m. on election day to the elector, upon presentation of the identification required in s. 101.043.

4. By delivery to a designee on election day or up to 9 days before the day of an election. Any elector may designate in writing an immediate family member to pick up the ballot for the elector; however, the person designated may not pick up more than two vote-by-mail ballots per election, other than the designee’s own ballot, except that additional ballots may be picked up for members of the designee’s immediate family. For purposes of this section, “immediate family” means
the elector’s designee’s spouse or the parent, child, grandparent, or sibling of the elector designee or of the designee’s spouse. The designee shall provide to the supervisor the written authorization by the elector and a picture identification of the designee and must complete an affidavit. The designee shall state in the affidavit that the designee is authorized by the elector to pick up that ballot and that shall indicate if the elector is a member of the designee’s immediate family and indicate, if so, the relationship. The department shall prescribe the form of the affidavit. If the supervisor is satisfied that the designee is authorized to pick up the ballot and that the signature of the elector on the written authorization matches the signature of the elector on file, the supervisor shall give the ballot to that designee for delivery to the elector.

5. Except as provided in s. 101.655, the supervisor may not deliver a vote-by-mail ballot to an elector or an elector’s immediate family member on the day of the election unless there is an emergency, to the extent that the elector will be unable to go to his or her assigned polling place. If a vote-by-mail ballot is delivered, the elector or his or her designee shall execute an affidavit affirming to the facts which allow for delivery of the vote-by-mail ballot. The department shall adopt a rule providing for the form of the affidavit.

Section 2. Subsection (6) is added to section 101.64, Florida Statutes, to read:

101.64 Delivery of vote-by-mail ballots; envelopes; form.—
(6) The outside of the ballot and the secrecy and mailing envelopes may not display the party affiliation of the absent
elector who has been issued such ballot or display any other partisan information.

Section 3. Section 101.65, Florida Statutes, is amended to read:

101.65 Instructions to absent electors.—The supervisor shall enclose with each vote-by-mail ballot separate printed instructions in substantially the following form; however, where the instructions appear in capitalized text, the text of the printed instructions must be in bold font:

READ THESE INSTRUCTIONS CAREFULLY
BEFORE MARKING BALLOT.

1. VERY IMPORTANT. In order to ensure that your vote-by-mail 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 day of the election. However, if you are an overseas voter casting a ballot in a presidential preference primary or general election, your vote-by-mail ballot must be postmarked or dated no later than the date of the election and received by the supervisor of elections of the county in which you are registered to vote no later than 10 days after the date of the election. Note that the later you return your ballot, the less time you will have to cure any signature deficiencies, which is authorized until 5 p.m. on the 2nd day after 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 candidate, your vote in that race will not be counted.

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

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

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

7. VERY IMPORTANT. In order for your vote-by-mail ballot to be counted, you must sign your name on the line above (Voter’s Signature). A vote-by-mail ballot will be considered illegal and not be counted if the signature on the voter’s certificate does not match the signature on record. The signature on file at the time the supervisor of elections in the county in which your precinct is located receives your vote-by-mail ballot is the signature that will be used to verify your signature on the voter’s certificate. If you need to update your signature for this election, send your signature update on a voter registration application to your supervisor of elections so that it is received before your vote-by-mail ballot is received.

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

9. Mail, deliver, or have delivered the completed mailing envelope. Be sure there is sufficient postage if mailed. THE COMPLETED MAILING ENVELOPE CAN BE DELIVERED TO THE OFFICE OF THE
SUPERVISOR OF ELECTIONS OF THE COUNTY IN WHICH YOUR PRECINCT IS LOCATED OR DROPPED OFF AT AN AUTHORIZED SECURE DROP BOX, AVAILABLE AT EACH EARLY VOTING LOCATION.

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

Section 4. Paragraphs (a) and (c) of subsection (2) of section 101.68, Florida Statutes, are amended to read:

101.68 Canvassing of vote-by-mail ballot.—

(2)(a) The county canvassing board may begin the canvassing of vote-by-mail ballots upon the completion of the public testing of automatic tabulating equipment pursuant to s. 101.5612(2) at 7 a.m. on the 22nd day before the election, but must begin such canvassing by no later than noon on the day following the election. In addition, for any county using electronic tabulating equipment, the processing of vote-by-mail ballots through such tabulating equipment may begin at 7 a.m. on the 22nd day before the election. However, notwithstanding any such authorization to begin canvassing or otherwise processing vote-by-mail ballots early, no result shall be released until after the closing of the polls in that county on election day. Any supervisor, deputy supervisor, canvassing board member, election board member, or election employee who releases the results of a canvassing or processing of vote-by-mail ballots prior to the closing of the polls in that county on election day commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
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(c)(1). The canvassing board must, if the supervisor has not already done so, compare the signature of the elector on the voter’s certificate or on the vote-by-mail ballot cure affidavit as provided in subsection (4) with the most recent signature of the elector in the registration books or the precinct register to see that the elector is duly registered in the county and to determine the legality of that vote-by-mail ballot. A vote-by-mail ballot may only be counted if:

a. The signature on the voter’s certificate or the cure affidavit matches the elector’s signature in the registration books or precinct register; however, in the case of a cure affidavit, the supporting identification listed in subsection (4) must also confirm the identity of the elector; or

b. The cure affidavit contains a signature that does not match the elector’s signature in the registration books or precinct register, but the elector has submitted a current and valid Tier 1 identification pursuant to subsection (4) which confirms the identity of the elector.

For purposes of this subparagraph, any canvassing board finding that an elector’s signatures do not match must be by majority vote and beyond a reasonable doubt.

2. The ballot of an elector who casts a vote-by-mail ballot shall be counted even if the elector dies on or before election day, as long as, before the death of the voter, the ballot was postmarked by the United States Postal Service, date-stamped with a verifiable tracking number by a common carrier, or already in the possession of the supervisor.

3. A vote-by-mail ballot is not considered illegal if the
signature of the elector does not cross the seal of the mailing envelope.

4. If any elector or candidate present believes that a vote-by-mail ballot is illegal due to a defect apparent on the voter’s certificate or the cure affidavit, he or she may, at any time before the ballot is removed from the envelope, file with the canvassing board a protest against the canvass of that ballot, specifying the precinct, the ballot, and the reason he or she believes the ballot to be illegal. A challenge based upon a defect in the voter’s certificate or cure affidavit may not be accepted after the ballot has been removed from the mailing envelope.

5. If the canvassing board determines that a ballot is illegal, a member of the board must, without opening the envelope, mark across the face of the envelope: “rejected as illegal.” The cure affidavit, if applicable, the envelope, and the ballot therein shall be preserved in the manner that official ballots are preserved.

Section 5. Subsection (2) of section 101.69, Florida Statutes, is amended to read:

101.69 Voting in person; return of vote-by-mail ballot.—

(2) The supervisor may not allow an elector who has received a vote-by-mail ballot to physically return a voted vote-by-mail ballot to the supervisor by placing the envelope containing his or her marked ballot in a secure drop box. Secure drop boxes shall be placed at the main office of the supervisor, at each branch office of the supervisor, and at each early voting site. Secure drop boxes may also be placed at any other site that would otherwise qualify as an early voting site under
s. 101.657(1); provided, however, that any such site must be staffed during the county’s early voting hours of operation by an employee of the supervisor’s office or a sworn law enforcement officer.

Section 6. Subsection (2) of section 104.0616, Florida Statutes, is amended to read:

104.0616 Vote-by-mail ballots and voting; violations.—
(2) Any person who distributes, orders, requests, collects, delivers provides or offers to provide, and any person who accepts, a pecuniary or other benefit in exchange for distributing, ordering, requesting, collecting, delivering, or otherwise physically possesses a vote-by-mail ballot of another person, not including possessing more than two vote-by-mail ballots per election in addition to his or her own ballot or a ballot belonging to an immediate family member, except as provided in ss. 101.6105-101.694, commits a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 7. Notwithstanding that an elector has submitted a vote-by-mail ballot request before the effective date of this act initially applicable through the end of the calendar year of the second ensuing regularly scheduled general election, any such elector must affirmatively resubmit a vote-by-mail ballot request following the effective date of this act in order to receive vote-by-mail ballots for the 2022 primary and general elections.

Section 8. This act shall take effect July 1, 2021.