

By Representative Diaz de la Portilla

1 A bill to be entitled
2 An act relating to elections; amending s.
3 98.471, F.S.; requiring photo identification of
4 electors at the polls; amending ss. 101.045,
5 101.111, 101.22, 101.47, 101.49, and 101.5608,
6 F.S., relating to various voting procedures at
7 the polls, to conform; creating s. 104.036,
8 F.S.; providing a penalty for using fraudulent
9 photo identification; creating s. 101.637,
10 F.S.; prohibiting an individual from witnessing
11 more than three absentee ballots for any given
12 election; providing exceptions; providing a
13 penalty; amending s. 101.64, F.S.; revising the
14 form of the voter's certificate to include a
15 space for witnesses to provide a required
16 identification number; amending s. 101.65,
17 F.S.; including in the instructions to absent
18 electors the requirement that witnesses provide
19 a number from an authorized form of
20 identification; amending ss. 101.68 and
21 163.511, F.S., relating to canvassing of
22 absentee ballots and referenda on special
23 neighborhood improvement districts,
24 respectively, to conform; amending s. 104.045,
25 F.S.; increasing the penalty applicable to vote
26 selling; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Section 98.471, Florida Statutes, is
31 amended to read:

1 98.471 Use of precinct register at polls.--The
2 precinct register, as prescribed in s. 98.461, may be used at
3 the polls in lieu of the registration books for the purpose of
4 identifying the elector at the polls prior to allowing him or
5 her to vote. The clerk or inspector shall require each
6 elector, upon entering the polling place, to present both a
7 form of photo identification and one of the forms of
8 identification which are on the list of forms approved by the
9 Department of State pursuant to s. 98.461; however, if the
10 form of identification authorized under s. 98.461 and
11 presented at the polling place is also a form of photo
12 identification, only that form of identification is required.
13 After presenting such identification,the elector shall sign
14 his or her name in the space provided, and the clerk or
15 inspector shall compare the signature with that on the
16 identification provided by the elector and enter his or her
17 initials in the space provided and allow the elector to vote
18 if the clerk or inspector is satisfied as to the identity of
19 the elector. If the elector fails to furnish the required
20 identification, or if the clerk or inspector is in doubt as to
21 the identity of the elector, such clerk or inspector shall
22 follow the procedure prescribed in s. 101.49. The precinct
23 register may also contain the information set forth in s.
24 101.47(8) and, if so, the inspector shall follow the procedure
25 required in s. 101.47, except that the identification provided
26 by the elector shall be used for the signature comparison.
27 Section 2. Subsection (2) of section 101.045, Florida
28 Statutes, is amended to read:
29 101.045 Electors must be registered in precinct;
30 provisions for residence or name change.--
31

1 (2)(a) An elector who moves from the precinct within
2 the county in which the elector is registered may be permitted
3 to vote in the precinct to which he or she has moved his or
4 her legal residence, provided such elector completes an
5 affirmation in substantially the following form:

6
7 Change of Legal Residence of Registered
8 Voter
9

10 Under penalties for false swearing, I, ...(Name of voter)...,
11 swear (or affirm) that the former address of my legal
12 residence was ...(Address of legal residence)... in the
13 municipality of, in County, Florida, and I was
14 registered to vote in the precinct of County,
15 Florida; that I have not voted in the precinct of my former
16 registration in this election; that I now reside at
17 ...(Address of legal residence)... in the Municipality of
18, in County, Florida, and am therefore eligible to
19 vote in the precinct of County, Florida; and I
20 further swear (or affirm) that I am otherwise legally
21 registered and entitled to vote.

22
23 ...(Signature of voter whose address of legal residence has
24 changed)...

25
26 (b) An elector whose name changes because of marriage
27 or other legal process may be permitted to vote, provided such
28 elector completes an affirmation in substantially the
29 following form:

30
31 Change of Name of Registered

1 indicate the change in address of legal residence or name of
2 such elector.

3 (d) Instead of the affirmation contained in paragraph
4 (a) or paragraph (b), an elector may complete a voter
5 registration application that indicates the change of name or
6 change of address of legal residence.

7 (e) A request for an absentee ballot pursuant to s.
8 101.62 which indicates that the elector has had a change of
9 address of legal residence from that in the supervisor's
10 records shall be sufficient as the notice to the supervisor of
11 change of address of legal residence required by this section.
12 Upon receipt of such request for an absentee ballot from an
13 elector who has changed his or her address of legal residence,
14 the supervisor shall provide the elector with the proper
15 ballot for the precinct in which the elector then has his or
16 her legal residence.

17 Section 3. Subsection (3) of section 101.111, Florida
18 Statutes, is amended to read:

19 101.111 Person desiring to vote may be challenged;
20 challenger to execute oath; oath of challenged elector;
21 determination of challenge.--

22 (3) If the challenged person refuses to make and sign
23 the affidavit, the clerk or inspector shall refuse to allow
24 him or her to vote. If such person makes the affidavit, the
25 inspectors and clerk of election shall compare the information
26 in the affidavit with that entered on the registration books
27 opposite the person's name, and, upon such comparison of the
28 information and the person's signature, a comparison of the
29 person's appearance with that on the photo identification
30 required by s. 98.471, and the taking of other evidence which
31 may then be offered, the clerk and inspectors shall decide by

1 a majority vote whether the challenged person may vote. If the
2 challenged person is unable to write or sign his or her name,
3 the clerk or inspector shall examine the precinct register to
4 ascertain whether the person registered under the name of such
5 person is represented to have signed his or her name. If the
6 person is so represented, then he or she shall be denied
7 permission to vote without further examination; but, if not,
8 then the clerk or one of the inspectors shall place such
9 person under oath and orally examine him or her upon the
10 subject matter contained in the affidavit, and, if there is
11 any doubt as to the identity of such person, the clerk or
12 inspector shall compare the person's appearance with the image
13 of the person on the photo identification required by s.
14 98.471 and with the description of the person entered upon the
15 precinct register opposite the person's name. The clerk or
16 inspector shall then proceed as in other cases to determine
17 whether the challenged person may vote.

18 Section 4. Section 101.22, Florida Statutes, is
19 amended to read:

20 101.22 Voting procedure, paper ballots.--Before any
21 paper ballot is delivered to an elector at the polls on
22 election day, one of the inspectors shall affix his or her
23 initials on the line provided on each of the two ballot stubs
24 and the elector, after submitting the identification required
25 by s. 98.471, shall sign his or her name on the line on the
26 top stub, or, if the elector is unable to write, he or she
27 shall sign his or her mark. The inspector shall compare the
28 elector with the image of the elector on the photo
29 identification provided by the elector and shall then compare
30 the signature on the ballot stub with the signature on the
31 elector's registration and, if necessary, require other

1 identification. If the inspector is reasonably sure that the
2 person is entitled to vote, the inspector shall detach and
3 retain the upper stub, and the elector shall go to the booth
4 and mark his or her ballot and, after the elector has marked
5 the ballot, he or she shall fold it so as to leave the stub
6 remaining attached visible so that it can be detached without
7 unfolding. The inspector shall compare it with the stub he or
8 she retained and, if it is the ballot the inspector delivered
9 to the elector, the inspector shall detach and retain the
10 remaining stub, and the elector shall then deposit the folded
11 ballot in the ballot box. But, if the marked ballot returned
12 proves to be a different one from the one delivered to the
13 elector, the inspector shall search the elector, and, if the
14 original ballot is found on the elector's person, the
15 inspector shall take possession of the ballot and discharge
16 the elector from the polling place without permitting him or
17 her to vote. An inspector of elections, where paper ballots
18 are used, is clothed with such police power as is necessary to
19 carry out the provisions of this section.

20 Section 5. Subsections (1) and (2) of section 101.47,
21 Florida Statutes, are amended to read:

22 101.47 Requirements before elector enters voting
23 machine booth.--

24 (1) Whenever voting machines are used, each elector
25 desiring to vote shall identify himself or herself to the
26 clerk or an inspector of the election as a duly qualified
27 elector at such election by submitting the identification
28 required by s. 98.471 and by signing his or her signature, in
29 ink or indelible pencil, to an identification blank or slip
30 which is in substantially the form provided by this code.

31

1 (2) The clerk or inspector shall compare the elector
2 with the image of the elector on the photo identification
3 provided by the elector, and, if satisfied that the person in
4 the photo identification is the elector, the clerk or elector
5 shall proceed to verify the signature of the elector on the
6 identification slip.The clerk or inspector shall compare the
7 signature with the signature of the elector upon the
8 registration books, and, if satisfied that the signature is
9 the same, the clerk or inspector then shall initial the slip
10 in the place provided and the initials shall constitute an
11 oath or affirmation of the fact stated by the clerk or
12 inspector above his or her initials.

13 Section 6. Subsection (1) of section 101.49, Florida
14 Statutes, is amended to read:

15 101.49 Procedure of election officers where photo
16 identification is not conclusive or signatures differ.--

17 (1) Whenever any clerk or inspector, upon a just
18 examination of the photo identification and a just comparison
19 of the signature, doubts ~~shall doubt~~ that the person in the
20 photo identification presented by an elector at the polls is
21 that elector or that the handwriting affixed to a signature
22 identification slip of any elector who presents himself or
23 herself at the polls to vote is the same as the signature of
24 the elector affixed in the registration book, the clerk or
25 inspector shall deliver to the person an affidavit which shall
26 be in substantially the following form:

27

28 STATE OF FLORIDA,

29 COUNTY OF

30 I do solemnly swear (or affirm) that my name is;
31 that I am years old; that I was born in the State of

1; that I am registered to vote, and at the time I
2 registered I resided on Street, in the municipality of
3, County of, State of Florida; that I am a qualified
4 voter of the county and state aforesaid and have not voted in
5 this election.

6(Signature of voter)...

7 Sworn to and subscribed before me this day of
8, A. D. 19.....

9(Clerk or inspector of election)..
10 Precinct No.
11 County of

12
13 Section 7. Subsection (1) of section 101.5608, Florida
14 Statutes, is amended to read:

15 101.5608 Voting by electronic or electromechanical
16 method; procedures.--

17 (1) Each elector desiring to vote shall be identified
18 to the clerk or inspector of the election as a duly qualified
19 elector of such election by submitting the identification
20 required by s. 98.471 and shall then sign his or her name in
21 ink or indelible pencil to an identification blank, signature
22 slip, precinct register, or ballot stub on which the ballot
23 serial number may be recorded. The inspector shall compare the
24 elector with the image of the elector on the photo
25 identification provided by the elector and shall then compare
26 the signature on the identification blank, signature slip,
27 precinct register, or ballot stub with the signature on the
28 identification provided by the elector. If the inspector is
29 reasonably sure that the person is entitled to vote, the
30 inspector shall provide the person with a ballot.

31

1 Section 8. Section 104.036, Florida Statutes, is
2 created to read:

3 104.036 Presenting fraudulent photo identification at
4 the polls.--Any person who, upon entering the polling place to
5 vote, knowingly and willfully presents to the clerk or an
6 inspector a fraudulent photo identification commits a felony
7 of the third degree, punishable as provided in s. 775.082, s.
8 775.083, or s. 775.084.

9 Section 9. Section 101.637, Florida Statutes, is
10 created to read:

11 101.637 Restrictions on witnessing absentee ballots;
12 penalty.--An individual may not witness more than three
13 absentee ballots for any given election; however, this
14 restriction does not apply to the supervisor of elections, any
15 deputy supervisor or other employee of the supervisor, or any
16 person authorized by the supervisor to conduct absentee
17 balloting. A person who violates this section commits a felony
18 of the third degree, punishable as provided in s. 775.082 or
19 s. 775.083.

20 Section 10. Subsection (1) of section 101.64, Florida
21 Statutes, is amended to read:

22 101.64 Delivery of absentee ballots; envelopes;
23 form.--

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

31

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

3 VOTER'S CERTIFICATE

4 I, ...(print name)..., do solemnly swear or affirm that
5 I am a qualified elector in this election, that I am unable to
6 attend the polls on election day, and that I have not and will
7 not vote more than one ballot in this election. I understand
8 that failure to sign this certificate and have my signature
9 witnessed will invalidate my ballot.

10 ...(Voter's Signature)...

11

12 Note: Your Signature Must Be Witnessed By One Witness 18
13 Years of Age or Older as provided in Item 7. of the
14 Instruction Sheet.

15

16 I swear or affirm that the elector signed this Voter's
17 Certificate in my presence.

18 ...(Signature of Witness)...

19 ...(Address)...

...(City/State)...

20

21 ...(Authorized identification type and number)...

22

23 Section 11. Section 101.65, Florida Statutes, is
24 amended to read:

25 101.65 Instructions to absent electors.--The
26 supervisor shall enclose with each absentee ballot separate
27 printed instructions in substantially the following form:

28

29 READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT.

30 1. VERY IMPORTANT. In order to ensure that your
31 absentee ballot will be counted, it should be completed and

- 1 returned as soon as possible so that it can reach the
2 supervisor of elections of the county in which your precinct
3 is located no later than 7 p.m. on the day of the election.
- 4 2. Mark your ballot in secret as instructed on the
5 ballot.
- 6 3. Place your marked ballot in the enclosed secrecy
7 envelope.
- 8 4. Insert the secrecy envelope into the enclosed
9 mailing envelope which is addressed to the supervisor.
- 10 5. Seal the mailing envelope and completely fill out
11 the Voter's Certificate on the back of the mailing envelope.
- 12 6. VERY IMPORTANT. Sign your name on the line above
13 "(Voter's Signature)."
- 14 7. VERY IMPORTANT. In order for your absentee ballot
15 to be counted, it must include the signature, ~~and~~ address, and
16 type and number of an authorized form of identification of a
17 witness 18 years of age or older affixed to the Voter's
18 Certificate; ~~however, no~~ candidate may serve as an attesting
19 witness. Authorized forms of identification are as follows:
- 20 a. A voter registration identification card issued by
21 a supervisor of elections in this state;
- 22 b. An identification card or driver's license issued
23 by the Department of Highway Safety and Motor Vehicles;
- 24 c. A passport issued by the Department of State of the
25 United States; or
- 26 d. Any of the following forms of identification, if
27 the document is current or has been issued within the past 5
28 years and bears a serial or other identifying number, and, if
29 the document is a passport, the document is stamped by the
30 United States Immigration and Naturalization Service:
- 31 (I) A passport issued by a foreign government;

1 (II) A voter registration identification card issued
2 by a territory of the United States or a state other than
3 Florida;

4 (III) A driver's license issued by a territory of the
5 United States or a state other than Florida or by a Canadian
6 or Mexican public agency authorized to issue drivers'
7 licenses;

8 (IV) An identification card issued by a territory of
9 the United States or a state other than Florida;

10 (V) An identification card issued by any branch of the
11 armed forces of the United States;

12 (VI) An inmate identification card issued on or after
13 January 1, 1991, by the Department of Corrections for an
14 inmate who is in the custody of that department; or

15 (VII) An identification card issued by the United
16 States Department of Justice, Immigration and Naturalization
17 Service.

18 8. Mail, deliver, or have delivered the completed
19 mailing envelope. Be sure there is sufficient postage if
20 mailed.

21 Section 12. Paragraph (c) of subsection (2) of section
22 101.68, Florida Statutes, is amended to read:

23 101.68 Canvassing of absentee ballot.--

24 (2)

25 (c)1. The canvassing board shall, if the supervisor
26 has not already done so, compare the signature of the elector
27 on the voter's certificate with the signature of the elector
28 in the registration books to see that the elector is duly
29 registered in the county and to determine the legality of that
30 absentee ballot. An absentee ballot shall be considered
31 illegal if it does not include the signature of the elector,

1 as shown by the registration records, and the signature, and
2 address, and type and number of an authorized form of
3 identification of an attesting witness. However, an absentee
4 ballot shall not be considered illegal if the signature of the
5 elector or attesting witness does not cross the seal of the
6 mailing envelope. If the canvassing board determines that any
7 ballot is illegal, a member of the board shall, without
8 opening the envelope, mark across the face of the envelope:
9 "rejected as illegal." The envelope and the ballot contained
10 therein shall be preserved in the manner that official ballots
11 voted are preserved.

12 2. If any elector or candidate present believes that
13 an absentee ballot is illegal due to a defect apparent on the
14 voter's certificate, he or she may, at any time before the
15 ballot is removed from the envelope, file with the canvassing
16 board a protest against the canvass of that ballot, specifying
17 the precinct, the ballot, and the reason he or she believes
18 the ballot to be illegal. A challenge based upon a defect in
19 the voter's certificate may not be accepted after the ballot
20 has been removed from the mailing envelope.

21 Section 13. Paragraph (a) of subsection (5) and
22 subsection (6) of section 163.511, Florida Statutes, are
23 amended to read:

24 163.511 Special neighborhood improvement districts;
25 creation; referendum; board of directors; duration;
26 extension.--

27 (5)(a) The city clerk or the supervisor of elections,
28 whichever is appropriate, shall enclose with each ballot sent
29 pursuant to this section two envelopes: a secrecy envelope,
30 into which the elector or freeholder shall enclose the marked
31 ballot; and a mailing envelope, into which the elector or

1 freeholder shall then place the secrecy envelope, which shall
2 be addressed to the city clerk or the supervisor of elections.
3 The back side of the mailing envelope shall bear a certificate
4 in substantially the following form:

5
6 Note: Please Read Instructions Carefully Before
7 Marking Ballot and Completing Voter's Certificate.

8
9 VOTER'S CERTIFICATE

10
11 I,, am a duly qualified and registered ...(voter
12 or freeholder, whichever is appropriate)... of the proposed
13 ...(name)... ...(Special Residential or Business, whichever is
14 appropriate)... Neighborhood Improvement District; and I am
15 entitled to vote this ballot. I do solemnly swear or affirm
16 that I have not and will not vote more than one ballot in this
17 election. I understand that failure to sign this certificate
18 and have my signature witnessed will invalidate my ballot.

19(Voter's Signature)...

20 Note: Your Signature Must Be Witnessed By One Witness 18
21 Years of Age or Older as provided in Item 7. of the
22 Instruction Sheet.

23 I swear or affirm that the elector signed this Voter's
24 Certificate in my presence.

25
26(Signature of Witness)...

27 ...(Address)...

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

28
29 ...(Authorized identification type and number)...
30
31

1 (6) The city clerk or the supervisor of elections
2 shall enclose with each ballot sent to an elector or
3 freeholder pursuant to this section separate printed
4 instructions in substantially the following form:

5
6 READ THESE INSTRUCTIONS CAREFULLY
7 BEFORE MARKING BALLOT.

8 1. VERY IMPORTANT. In order to ensure that your
9 ballot will be counted, it should be completed and returned as
10 soon as possible so that it can reach the city clerk or the
11 supervisor of elections no later than 7 p.m. on the (final day
12 of the 120-day period given here).

13 2. Mark your ballot in secret as instructed on the
14 ballot.

15 3. Place your marked ballot in the enclosed secrecy
16 envelope.

17 4. Insert the secrecy envelope into the enclosed
18 mailing envelope, which is addressed to the city clerk or the
19 supervisor of elections.

20 5. Seal the mailing envelope and completely fill out
21 the Voter's Certificate on the back of the mailing envelope.

22 6. VERY IMPORTANT. Sign your name on the line
23 provided for "(Voter's Signature)."

24 7. VERY IMPORTANT. In order for your ballot to be
25 counted, it must include the signature,and address, and type
26 and number of an authorized form of identification of a
27 witness 18 years of age or older affixed to the Voter's
28 Certificate. Authorized forms of identification are as
29 follows:

30 a. A voter registration identification card issued by
31 a supervisor of elections in this state;

1 b. An identification card or driver's license issued
2 by the Department of Highway Safety and Motor Vehicles;

3 c. A passport issued by the Department of State of the
4 United States; or

5 d. Any of the following forms of identification, if
6 the document is current or has been issued within the past 5
7 years and bears a serial or other identifying number, and, if
8 the document is a passport, the document is stamped by the
9 United States Immigration and Naturalization Service:

10 (I) A passport issued by a foreign government;

11 (II) A voter registration identification card issued
12 by a territory of the United States or a state other than
13 Florida;

14 (III) A driver's license issued by a territory of the
15 United States or a state other than Florida or by a Canadian
16 or Mexican public agency authorized to issue drivers'
17 licenses;

18 (IV) An identification card issued by a territory of
19 the United States or a state other than Florida;

20 (V) An identification card issued by any branch of the
21 armed forces of the United States;

22 (VI) An inmate identification card issued on or after
23 January 1, 1991, by the Department of Corrections for an
24 inmate who is in the custody of that department; or

25 (VII) An identification card issued by the United
26 States Department of Justice, Immigration and Naturalization
27 Service.

28 8. Mail, deliver, or have delivered the completed
29 mailing envelope. Be sure there is sufficient postage if
30 mailed.

31

1 Section 14. Section 104.045, Florida Statutes, is
2 amended to read:

3 104.045 Vote selling.--Any person who:

4 (1) Corruptly offers to vote for or against, or to
5 refrain from voting for or against, any candidate in any
6 election in return for pecuniary or other benefit; or

7 (2) Accepts a pecuniary or other benefit in exchange
8 for a promise to vote for or against, or to refrain from
9 voting for or against, any candidate in any election,

10
11 commits ~~is guilty of a felony misdemeanor~~ of the third first
12 degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083,
13 or s. 775.084.

14 Section 15. This act shall take effect January 1 of
15 the year after the year in which enacted.

16
17 *****

18 HOUSE SUMMARY

19 Requires photo identification of electors at the polls,
20 and provides that submitting fraudulent photo
21 identification is a third degree felony.

22 Prohibits an individual, other than a supervisor of
23 elections, a deputy supervisor or other employee of the
24 supervisor, or other person authorized by the supervisor
25 to conduct absentee voting, from witnessing more than
26 three absentee ballots for any given election. Includes
27 in the instructions to absent electors the requirement
28 that ballot witnesses provide the number from an
authorized form of identification, and revises the form
of the voter's certificate to conform. Amends provisions
relating to canvassing of absentee ballots and referenda
on special neighborhood improvement districts, to
conform.

29 Increases the penalty for vote selling from a first
30 degree misdemeanor to a third degree felony.

31 See bill for details.