

By Senator Diaz de la Portilla

34-859-01

See HB

1 A bill to be entitled
2 An act relating to elections; providing a short
3 title; amending s. 97.055, F.S.; eliminating
4 the book-closing period for voter registration;
5 providing for registration and changes in
6 registration at the polls on election day;
7 amending ss. 97.021, 97.053, 97.071, 98.065,
8 98.081, 98.231, 101.045, 101.64, 101.663, F.S.,
9 to conform; amending s. 101.657, F.S.;
10 requiring the office of the supervisor of
11 elections and any branch office to be open on
12 the Saturday prior to any statewide election or
13 other election held in conjunction therewith,
14 for the purpose of allowing early in-person
15 absentee voting for that election; amending ss.
16 97.057, 97.058, F.S.; requiring supervisors of
17 elections to provide assistance necessary to
18 ensure the timely forwarding of completed voter
19 registration applications processed or received
20 by the Department of Highway Safety and Motor
21 Vehicles and voter registration agencies;
22 creating s. 101.005, F.S.; providing for a
23 uniform statewide voting system and ballots;
24 providing rulemaking authority to the
25 Department of State to implement and adopt
26 standards for the system, including ballot
27 requirements; amending ss. 102.111, 102.112,
28 F.S.; providing that county returns submitted
29 to the Department of State after the required
30 deadline must be ignored and the results shown
31 by the returns on file certified; amending s.

1 102.141, F.S.; requiring a manual recount of
2 all ballots in all counties for any election in
3 which a candidate for statewide or
4 multidistrict office was defeated or eliminated
5 by one-half of a percent or less of the votes
6 cast for such office; amending s. 102.166,
7 F.S.; defining the terms "error in the vote
8 tabulation" and "affect the outcome of the
9 election" for purposes of establishing the
10 grounds for conducting a manual recount that is
11 not automatically required; requiring all
12 manual recounts to be open to the public and
13 follow certain procedures; creating s.
14 102.1665, F.S.; providing standards for the
15 manual recount of punchcard ballots; providing
16 effective dates.

17

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

19

20 Section 1. This act may be cited as the "Florida Fair
21 Elections Act of 2001."

22

23 Section 2. Section 97.055, Florida Statutes, is
24 amended to read:

25

26 97.055 Registration period open books; registration at
27 the polls when closed for an election.--

28

29 (1) The registration books shall remain open for
30 purposes of registration and changes in registration as
31 authorized in this code and may not ~~must~~ be closed on the 29th
day before any ~~each~~ election; and any person who is eligible
under s. 97.041 may register to vote or update a voter
registration at any time and in any manner authorized in this

1 code, including on the day of an election ~~must remain closed~~
2 ~~until after that election. If an election is called and there~~
3 ~~are fewer than 29 days before that election, the registration~~
4 ~~books must be closed immediately. When the registration books~~
5 ~~are closed for an election, voter registration and party~~
6 ~~changes must be accepted but only for the purpose of~~
7 ~~subsequent elections. However, party changes received between~~
8 ~~the book-closing date of the first primary election and the~~
9 ~~date of the second primary election are not effective until~~
10 ~~after the second primary election.~~

11 (2) Any person eligible under s. 97.041 who wishes to
12 register to vote or update a voter registration on the day of
13 an election may do so at the polls, while the polls are open,
14 by completing a voter registration application to provide the
15 required information. However, if the person has previously
16 attempted to register either by mail or through the division,
17 a driver license office, a voter registration agency, or an
18 armed forces recruitment office and that registration has not
19 been received by the supervisor in time to include the
20 person's name on the registration books or precinct register
21 for that election, the person shall, prior to completing the
22 voter registration application at the polls, inform the
23 supervisor, deputy supervisor, or other authorized
24 registration official of the prior attempt to register. Any
25 such prior registration or update of such a registration
26 received by the supervisor after the election shall be
27 considered obviated or superseded by the registration or
28 update of a registration at the polls on the day of that
29 election.~~In computing the 29-day period for the closing of~~
30 ~~the registration books, the day of the election is excluded~~
31 ~~and all other days are included. If the 29th day preceding an~~

1 ~~election falls on a Sunday or a legal holiday, the~~
2 ~~registration books must be closed on the next day that is not~~
3 ~~a Sunday or a legal holiday.~~

4 Section 3. Subsections (1) and (9) of section 97.021,
5 Florida Statutes, are amended to read:

6 97.021 Definitions.--For the purposes of this code,
7 except where the context clearly indicates otherwise, the
8 term:

9 (1) "Absent elector" means any registered and
10 qualified voter who:

11 (a) Is unable without another's assistance to attend
12 the polls.

13 (b) Is an inspector, a poll worker, a deputy voting
14 machine custodian, a deputy sheriff, a supervisor of
15 elections, or a deputy supervisor who is assigned to a
16 different precinct than that in which he or she is registered
17 to vote.

18 (c) On account of the tenets of his or her religion,
19 cannot attend the polls on the day of the general, special, or
20 primary election.

21 (d) May not be in the precinct of his or her residence
22 during the hours the polls are open for voting on the day of
23 the election.

24 ~~(e) Has changed his or her residency to another county~~
25 ~~in this state within the time period during which the~~
26 ~~registration books are closed for the election for which the~~
27 ~~ballot is requested.~~

28 (e)(f) Has changed his or her residency to another
29 state and is ineligible under the laws of that state to vote
30 in the general election; however, this pertains only to
31 presidential ballots.

1 (9) "Election costs" shall include, but not be limited
2 to, expenditures for all paper supplies such as envelopes,
3 instructions to voters, affidavits, reports, ballot cards,
4 ballot booklets for absentee voters, postage, notices to
5 voters; advertisements for ~~registration book closings~~, testing
6 of voting equipment, sample ballots, and polling places; forms
7 used to qualify candidates; polling site rental and equipment
8 delivery and pickup; data processing time and supplies;
9 election records retention; and labor costs, including those
10 costs uniquely associated with absentee ballot preparation,
11 poll workers, and election night canvass.

12 Section 4. Subsection (4) of section 97.053, Florida
13 Statutes, is amended to read:

14 97.053 Acceptance of voter registration
15 applications.--

16 (4) The registration date for a valid initial voter
17 registration application that has been mailed and bears a
18 clear postmark is the date of the postmark. If an initial
19 voter registration application that has been mailed does not
20 bear a postmark or if the postmark is unclear, the
21 registration date is the date the registration is received by
22 any supervisor or the division, ~~unless it is received within 5~~
23 ~~days after the closing of the books for an election, excluding~~
24 ~~Saturdays, Sundays, and legal holidays, in which case the~~
25 ~~registration date is the book-closing date.~~

26 Section 5. Subsection (3) of section 97.071, Florida
27 Statutes, is amended to read:

28 97.071 Registration identification card.--

29 (3) In the case of a change of name, address, or party
30 affiliation, the supervisor must issue the voter a new
31 registration identification card. However, a registration

1 identification card indicating a party affiliation change made
2 between the ~~book-closing~~ date for the first primary election
3 and the date of the second primary election may not be issued
4 until after the second primary election.

5 Section 6. Subsection (5) of section 98.065, Florida
6 Statutes, is amended to read:

7 98.065 Registration list maintenance programs.--

8 (5) The supervisor must designate as inactive all
9 voters who have been sent an address confirmation final notice
10 and who have not returned the postage prepaid preaddressed
11 return form within 30 days. A voter on the inactive list must
12 be allowed to vote and to change the voter's name or address
13 of legal residence at the polls ~~pursuant to s. 101.045~~. Names
14 on the inactive list may not be used to calculate the number
15 of signatures needed on any petition or the quantity of voting
16 equipment needed.

17 Section 7. Subsections (1) and (3) of section 98.081,
18 Florida Statutes, are amended to read:

19 98.081 Names removed from registration books;
20 restrictions on reregistering; recordkeeping; restoration of
21 erroneously or illegally removed names.--

22 (1) Any person who requested that his or her name be
23 removed from the registration books between the ~~book-closing~~
24 date of the first primary and the date of the second primary
25 may not register in a different political party until after
26 the date of the second primary election.

27 (3) When the name of any elector has been erroneously
28 or illegally removed from the registration books, the name of
29 the elector shall be restored by the supervisor upon
30 satisfactory proof, ~~even though the registration period for~~
31 ~~that election is closed~~.

1 Section 8. Section 98.231, Florida Statutes, is
2 amended to read:

3 98.231 Supervisor of elections to furnish Department
4 of State number of registered electors.--The supervisor of
5 each county, not less than ~~within~~ 15 days ~~after the closing of~~
6 ~~registration books~~ prior to the election, shall, for the
7 county and for each legislative and congressional district in
8 which such county or any portion thereof is located, advise
9 the Department of State of the total number of registered
10 electors of each political party in which any elector has
11 registered and the number of electors registered as
12 independents or without party affiliation.

13 Section 9. Section 101.045, Florida Statutes, is
14 amended to read:

15 101.045 Electors must be registered in precinct;
16 provisions for residence or name change.--

17 (1) No person shall be permitted to vote in any
18 election precinct or district other than the one in which the
19 person has his or her legal residence and in which the person
20 is registered. However, a person temporarily residing outside
21 the county shall be registered in the precinct in which the
22 main office of the supervisor, as designated by the
23 supervisor, is located when the person has no permanent
24 address in the county and it is the person's intention to
25 remain a resident of Florida and of the county in which he or
26 she is registered to vote. Such persons who are registered in
27 the precinct in which the main office of the supervisor, as
28 designated by the supervisor, is located and who are residing
29 outside the county with no permanent address in the county
30 shall not be registered electors of a municipality and
31

1 therefore shall not be permitted to vote in any municipal
2 election.

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

8

9 ~~Change of Legal Residence of Registered~~
10 ~~Voter~~

11

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

24

25 ~~...(Signature of voter whose address of legal residence has~~
26 ~~changed)...~~

27

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

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~~Change of Name of Registered
Voter~~

~~Under penalties for false swearing, I, ... (New name of
voter) ..., swear (or affirm) that my name has been changed
because of marriage or other legal process. My former name and
address of legal residence appear on the registration books of
precinct as follows:~~

~~Name.....
Address.....
Municipality.....
County.....
Florida, Zip.....~~

~~My present name and address of legal residence are as follows:
Name.....
Address.....
Municipality.....
County.....
Florida, Zip.....~~

~~and I further swear (or affirm) that I am otherwise legally
registered and entitled to vote.~~

~~.....(Signature of voter whose name has changed)...~~

~~(c) Such affirmation, when completed and presented at
the precinct in which such elector is entitled to vote, shall
entitle such elector to vote as provided in this subsection.
Upon receipt of an affirmation certifying a change in address
of legal residence or name, the supervisor shall as soon as
practicable make the necessary changes in the registration~~

1 ~~records of the county to indicate the change in address of~~
2 ~~legal residence or name of 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 or change of name.

7 (b)(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 (3) When an elector's name does not appear on the
18 registration books or precinct register of the election
19 precinct in which the elector claims to be ~~is~~ registered and
20 when the elector cannot present a valid registration
21 identification card, the elector may have his or her name
22 restored by completing a voter registration application to
23 provide the required information indicating eligibility under
24 s. 97.041 ~~if the supervisor is otherwise satisfied that the~~
25 ~~elector is validly registered, that the elector's name has~~
26 ~~been erroneously omitted from the books, and that the elector~~
27 ~~is entitled to have his or her name restored.~~ The supervisor,
28 ~~if he or she is satisfied as to the elector's previous~~
29 ~~registration,~~ shall then allow such person to vote and shall
30 thereafter issue a duplicate registration identification card.

31

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

3 101.64 Delivery of absentee ballots; envelopes;
4 form.--

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

12
13 Note: Please Read Instructions Carefully Before
14 Marking Ballot and Completing Voter's Certificate.

15 VOTER'S CERTIFICATE

16 I,, am a qualified and registered voter of
17 County, Florida. I understand that if I commit or attempt to
18 commit any fraud in connection with voting, vote a fraudulent
19 ballot, or vote more than once in an election, I can be
20 convicted of a felony of the third degree and fined up to
21 \$5,000 and/or imprisoned for up to 5 years. I also understand
22 that failure to sign this certificate and have my signature
23 witnessed will invalidate my ballot. I am entitled to vote an
24 absentee ballot for one of the following reasons:

25
26 1. I am unable without another's assistance to attend
27 the polls.

28 2. I may not be in the precinct of my residence during
29 the hours the polls are open for voting on election day.

30 3. I am an inspector, a poll worker, a deputy voting
31 machine custodian, a deputy sheriff, a supervisor of

1 elections, or a deputy supervisor who is assigned to a
2 different precinct than that in which I am registered.

3 4. On account of the tenets of my religion, I cannot
4 attend the polls on the day of the general, special, or
5 primary election.

6 ~~5. I have changed my permanent residency to another~~
7 ~~county in Florida within the time period during which the~~
8 ~~registration books are closed for the election. I understand~~
9 ~~that I am allowed to vote only for national and statewide~~
10 ~~offices and on statewide issues.~~

11 5.6. I have changed my permanent residency to another
12 state and am unable under the laws of such state to vote in
13 the general election. I understand that I am allowed to vote
14 only for President and Vice President.

15 6.7. I am unable to attend the polls on election day
16 and am voting this ballot in person at the office of, and
17 under the supervision of, the county supervisor of elections.

18

19 ... (Voter's Signature) ...

20

21 ... (Last four digits of voter's social security number) ...

22 Note: Your Signature Must Be Witnessed By Either:

23 a. A Notary or Officer Defined in Item 6.b. of the
24 Instruction Sheet.

25

26 Sworn to (or affirmed) and subscribed before me this
27 day of, ...(year)..., by ...(name of person
28 making statement).... My commission expires this day of
29, ...(year)....

30

...(Signature of Official)...

31

...(Print, Type, or Stamp Name)...

1 | ... (State or Country of Commission) ...
2 | Personally Known OR Produced Identification
3 |
4 | Type of Identification Produced.....
5 |
6 | OR
7 |
8 | b. One Witness, who is a registered voter in the
9 | State.
10 |
11 | I swear or affirm that the voter signed this Voter's
12 | Certificate in my presence and that, unless certified as an
13 | absentee ballot coordinator, I have not witnessed more than 5
14 | ballots for this election.
15 |
16 | WITNESS:
17 |
18 | ... (Signature of Witness) ...
19 | ... (Printed Name of Witness) ...
20 |
21 | ... (Voter I.D. Number of Witness and County of Registration) ...
22 |
23 | ... (Address) ...
24 | ... (City/State) ...
25 |
26 | Section 11. Section 101.663, Florida Statutes, is
27 | amended to read:
28 | 101.663 Electors; change of residence.--
29 | (1) An elector who changes his or her residence to
30 | another county in Florida from the county in Florida in which
31 | he or she is registered as an elector must register in the

1 county of his or her new residence prior to being allowed to
2 vote in any election and may not vote, either in person or by
3 absentee ballot, in the county of his or her former residence
4 ~~after the books in the county to which the elector has changed~~
5 ~~his or her residence are closed for any general, primary, or~~
6 ~~special election shall be permitted to vote absentee in the~~
7 ~~county of his or her former residence in that election for~~
8 ~~President and Vice President, United States Senator, statewide~~
9 ~~offices, and statewide issues. Such person shall not be~~
10 ~~permitted to vote in the county of the person's former~~
11 ~~residence after the general election.~~

12 (2) An elector registered in this state who moves his
13 or her permanent residence to another state and who is
14 prohibited by the laws of that state from voting for the
15 offices of President and Vice President of the United States
16 may ~~shall~~ be permitted to vote absentee in the county of his
17 or her former residence for those offices.

18 Section 12. Subsection (1) of section 101.657, Florida
19 Statutes, is amended to read:

20 101.657 Voting absentee ballots in person; early
21 voting.--

22 (1)(a) Notwithstanding s. 97.021(1), any qualified and
23 registered elector who is unable to attend the polls on
24 election day may pick up and vote an absentee ballot in person
25 at the office of, and under the supervision of, the supervisor
26 of elections. Before receiving the ballot, the elector must
27 present a Florida driver's license, a Florida identification
28 card issued under s. 322.051, or another form of picture
29 identification approved by the Department of State. If the
30 elector fails to furnish the required identification, or if
31 the supervisor is in doubt as to the identity of the elector,

1 the supervisor must follow the procedure prescribed in s.
2 101.49.

3 (b) The office of the supervisor of elections and each
4 branch office must be open from 9 a.m. until 5 p.m., using the
5 customary time in standard use in the locality, on the
6 Saturday prior to any statewide election or other election
7 held in conjunction therewith, for the purpose of permitting
8 any qualified and registered elector to cast an absentee
9 ballot for that election on a day prior to the election that
10 is not a standard workday and that might, therefore, be more
11 convenient. Notwithstanding s. 97.021(1), such electors shall
12 be considered absent electors voting in person as otherwise
13 authorized in this section.

14 Section 13. Subsection (4) of section 97.057, Florida
15 Statutes, is amended to read:

16 97.057 Voter registration by the Department of Highway
17 Safety and Motor Vehicles.--

18 (4) The Department of Highway Safety and Motor
19 Vehicles must forward completed voter registration
20 applications within 5 days after receipt to the supervisor of
21 the county where the office that processed or received that
22 application is located, and the supervisor shall provide the
23 office any assistance necessary to ensure the timely
24 forwarding of such applications.

25 Section 14. Subsection (6) of section 97.058, Florida
26 Statutes, is amended to read:

27 97.058 Voter registration agencies.--

28 (6) A voter registration agency must forward completed
29 voter registration applications within 5 days after receipt to
30 the supervisor of the county where the agency that processed
31 or received that application is located, and the supervisor

1 shall provide the office any assistance necessary to ensure
2 the timely forwarding of such applications.

3 Section 15. Effective upon this act becoming a law,
4 section 101.005, Florida Statutes, is created to read:

5 101.005 Uniform statewide voting system and ballots.--

6 (1) Notwithstanding any other provision of law to the
7 contrary, there shall be a uniform statewide voting system,
8 beginning with the primary and general elections to be held in
9 2004. The uniform statewide voting system shall be the most
10 reliable, accurate, and secure marksense or optical scan
11 voting system using precinct tabulation which has been
12 certified by the department as of September 30, 2003; and such
13 system may be updated for subsequent elections as needed.

14 (2) The ballots used by the uniform statewide voting
15 system shall be uniform, to the extent practicable, and must
16 be approved by the department prior to use in any election.

17 (3) The department may adopt rules pursuant to ss.
18 120.536(1) and 120.54 necessary to implement this section and
19 to specify both the standards for the uniform statewide voting
20 system, including those relating to software, hardware,
21 accuracy, and security, and the requirements for the ballots
22 used by such system, including those relating to the order and
23 manner of arrangement of the names of candidates and issues in
24 order to ensure consistency and those relating to the
25 placement of the voting squares in order to eliminate
26 confusion as to which name or issue a square belongs.

27 Section 16. Subsection (1) of section 102.111, Florida
28 Statutes, is amended to read:

29 102.111 Elections Canvassing Commission.--

30 (1) Immediately after certification of any election by
31 the county canvassing board, the results shall be forwarded to

1 the Department of State concerning the election of any federal
2 or state officer. The Governor, the Secretary of State, and
3 the Director of the Division of Elections shall be the
4 Elections Canvassing Commission. The Elections Canvassing
5 Commission shall, as soon as the official results are compiled
6 from all counties, certify the returns of the election and
7 determine and declare who has been elected for each office. In
8 the event that any member of the Elections Canvassing
9 Commission is unavailable to certify the returns of any
10 election, such member shall be replaced by a substitute member
11 of the Cabinet as determined by the Director of the Division
12 of Elections. If the county returns are not received by the
13 Department of State by the deadline set forth in s. 102.112(1)
14 ~~5 p.m. of the seventh day following an election~~, all missing
15 returns ~~counties~~ shall be ignored, and the results shown by
16 the returns on file shall be certified.

17 Section 17. Subsection (1) of section 102.112, Florida
18 Statutes, is amended to read:

19 102.112 Deadline for submission of county returns to
20 the Department of State; penalties.--

21 (1) The county canvassing board or a majority thereof
22 shall file the county returns for the election of a federal or
23 state officer with the Department of State immediately after
24 certification of the election results. Returns must be filed
25 by 5 p.m. on the 7th day following the first primary and
26 general election and by 3 p.m. on the 3rd day following the
27 second primary. ~~If the returns are not received by the~~
28 ~~department by the time specified, such returns may be ignored~~
29 ~~and the results on file at that time may be certified by the~~
30 ~~department.~~

31

1 Section 18. Subsection (4) of section 102.141, Florida
2 Statutes, is amended to read:

3 102.141 County canvassing board; duties.--

4 (4)(a)1. If the returns ~~for any office~~ reflect that a
5 candidate for an office other than a statewide or multicounty
6 office was defeated or eliminated by one-half of a percent or
7 less of the votes cast for such office, that a candidate for
8 retention to a judicial office was retained or not retained by
9 one-half of a percent or less of the votes cast on the
10 question of retention, or that a measure appearing on the
11 ballot was approved or rejected by one-half of a percent or
12 less of the votes cast on such measure, the board responsible
13 for certifying the results of the vote on such race or measure
14 shall order a recount of the votes cast with respect to such
15 office or measure.

16 2. If the returns reflect that a candidate for a
17 statewide or multicounty office was defeated or eliminated by
18 one-half of a percent or less of the votes cast for such
19 office, each board responsible for certifying the results of
20 the vote on such race shall order a manual recount of all
21 ballots cast for such office.

22 (b) A recount need not be ordered with respect to the
23 returns for any office, however, if the candidate or
24 candidates defeated or eliminated from contention for such
25 office by one-half of a percent or less of the votes cast for
26 such office request in writing that a recount not be made.

27 (c) Each canvassing board responsible for conducting a
28 recount other than a manual recount of all ballots shall
29 examine the counters on the machines or the tabulation of the
30 ballots cast in each precinct in which the office or issue
31 appeared on the ballot and determine whether the returns

1 correctly reflect the votes cast. If there is a discrepancy
2 between the returns and the counters of the machines or the
3 tabulation of the ballots cast, the counters of such machines
4 or the tabulation of the ballots cast shall be presumed
5 correct and such votes shall be canvassed accordingly.

6 Section 19. Section 102.166, Florida Statutes, is
7 amended to read:

8 102.166 Protest of election returns; procedure.--

9 (1)(a) Any candidate for nomination or election, or
10 any elector qualified to vote in the election related to such
11 candidacy, shall have the right to protest the returns of the
12 election as being erroneous by filing with the appropriate
13 canvassing board a sworn, written protest.

14 (b)~~(2)~~ Such protest shall be filed with the canvassing
15 board prior to the time the canvassing board certifies the
16 results for the office being protested or within 5 days after
17 midnight of the date the election is held, whichever occurs
18 later.

19 (2)~~(3)~~ Before canvassing the returns of the election,
20 the canvassing board shall:

21 (a) When paper ballots are used, examine the
22 tabulation of the paper ballots cast.

23 (b) When voting machines are used, examine the
24 counters on the machines of nonprinter machines or the
25 printer-pac on printer machines. If there is a discrepancy
26 between the returns and the counters of the machines or the
27 printer-pac, the counters of such machines or the printer-pac
28 shall be presumed correct.

29 (c) When electronic or electromechanical equipment is
30 used, the canvassing board shall examine precinct records and
31 election returns. If there is a clerical error, such error

1 shall be corrected by the county canvassing board. If there is
2 a discrepancy which could affect the outcome of an election,
3 the canvassing board may recount the ballots on the automatic
4 tabulating equipment.

5 (3)~~(4)~~(a) Any candidate whose name appeared on the
6 ballot, any political committee that supports or opposes an
7 issue which appeared on the ballot, or any political party
8 whose candidates' names appeared on the ballot may file a
9 written request with the county canvassing board for a manual
10 recount not otherwise required under s. 102.141(4). The
11 written request shall contain a statement of the reason the
12 manual recount is being requested.

13 (b) Such request must be filed with the canvassing
14 board prior to the time the canvassing board certifies the
15 results for the office being protested or within 72 hours
16 after midnight of the date the election was held, whichever
17 occurs later.

18 (c) The county canvassing board may authorize the ~~a~~
19 manual recount. If the ~~a~~ manual recount is authorized, the
20 county canvassing board shall make a reasonable effort to
21 notify each candidate whose race is being recounted of the
22 time and place of such recount.

23 (d) The manual recount must include at least three
24 precincts and at least 1 percent of the total votes cast for
25 such candidate or issue. In the event there are less than
26 three precincts involved in the election, all precincts shall
27 be counted. The person who requested the recount shall choose
28 three precincts to be recounted, and, if other precincts are
29 recounted, the county canvassing board shall select the
30 additional precincts.

31

1 ~~(e)(5)~~ If the manual recount indicates an error in the
2 vote tabulation which could affect the outcome of the
3 election, the county canvassing board shall:
4 ~~1.(a)~~ Correct the error and recount the remaining
5 precincts with the vote tabulation system;
6 ~~2.(b)~~ Request the Department of State to verify the
7 tabulation software; or
8 ~~3.(c)~~ Manually recount all ballots.
9 (f) For purposes of this section:
10 1. "Error in the vote tabulation" means a counting
11 error in which the vote tabulation system fails to count
12 properly marked marksense or properly punched punchcard
13 ballots.
14 2. "Affect the outcome of the election" means to be of
15 a magnitude sufficient to make a difference as to which
16 candidate wins the election.
17 ~~(4)(6)~~ Any manual recount under this section or s.
18 102.141(4) shall be open to the public.
19 ~~(5)(7)~~ Procedures for a manual recount under this
20 section or s. 102.141(4) are as follows:
21 (a) The county canvassing board shall appoint as many
22 counting teams of at least two electors as is necessary to
23 manually recount the ballots. A counting team must have, when
24 possible, members of at least two political parties. A
25 candidate involved in the race shall not be a member of the
26 counting team.
27 (b) If a counting team is unable to determine a
28 voter's intent in casting a ballot, the ballot shall be
29 presented to the county canvassing board for it to determine
30 the voter's intent.
31

1 ~~(6)(a)(8)~~ If the county canvassing board determines
2 the need to verify the tabulation software, the county
3 canvassing board shall request in writing that the Department
4 of State verify the software.

5 ~~(b)(9)~~ When the Department of State verifies such
6 software, the department shall:

7 ~~1.(a)~~ Compare the software used to tabulate the votes
8 with the software filed with the Department of State pursuant
9 to s. 101.5607; and

10 ~~2.(b)~~ Check the election parameters.

11 ~~(c)(10)~~ The Department of State shall respond to the
12 county canvassing board within 3 working days.

13 Section 20. Section 102.1665, Florida Statutes, is
14 created to read:

15 102.1665 Standards for manual recount of punchcard
16 ballots.--

17 (1)(a) Except as otherwise provided in subsection (2),
18 in any manual count conducted under this code or pursuant to
19 court order, a vote on a ballot on which a voter indicates a
20 vote by punching a hole in the ballot may not be counted
21 unless:

22 1. At least two corners of the chad are detached;

23 2. Light is visible through the hole;

24 3. An indentation on the chad from the stylus or other
25 object is present and indicates a clearly ascertainable intent
26 of the voter to vote; or

27 4. The chad reflects by other means a clearly
28 ascertainable intent of the voter to vote.

29 (b) For purposes of this section, the term "chad"
30 means a small paper disk or square formed when a hole is
31 punched in a punchcard ballot.

1 (2) Any clearly ascertainable intent of the voter on a
2 punchcard ballot supersedes any provision of subsection (1)
3 that would prevent the ballot from being counted.

4 Section 21. Except as otherwise expressly provided in
5 this act, this act shall take effect January 1, 2002.

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LEGISLATIVE SUMMARY

Creates the "Florida Fair Elections Act of 2001."

Eliminates the book-closing period for voter registration, and provides for registration and changes in registration at the polls on election day.

Requires the office of the supervisor of elections and each branch office to be open on the Saturday prior to any statewide election or other election held in conjunction therewith, for the purpose of allowing early in-person absentee voting for that election.

Requires supervisors of elections to provide assistance necessary to ensure the timely forwarding of completed voter registration applications processed or received by the Department of Highway Safety and Motor Vehicles and voter registration agencies.

Provides for a uniform statewide voting system and ballots, beginning with the primary and general elections to be held in 2004, and requires the voting system to be a marksense or optical scan system with precinct tabulation. Provides rulemaking authority to the Department of State to implement and adopt standards for the system, including ballot requirements.

Provides that county returns submitted to the Department of State after the required deadline must be ignored and the results shown by the returns on file certified.

Requires a manual recount of all ballots in all counties for any election in which a candidate for statewide or multidistrict office was defeated or eliminated by one-half of a percent or less of the votes cast for such office. Defines the terms "error in the vote tabulation" and "affect the outcome of the election" for purposes of establishing the grounds for conducting a manual recount that is not automatically required. Requires all manual recounts to be open to the public and follow certain procedures. Provides standards for the manual recount of punchcard ballots.