

By Representative Andrews

1 A bill to be entitled
 2 An act relating to statewide elections;
 3 amending s. 102.111, F.S.; providing for
 4 certification of district canvassing board
 5 returns by the Elections Canvassing Commission;
 6 amending s. 102.112, F.S.; providing the
 7 deadlines for submission of district returns;
 8 providing penalties; amending s. 102.131, F.S.;
 9 providing that the Elections Canvassing
 10 Commission may not look beyond the district
 11 returns in determining the true vote; amending
 12 s. 102.155, F.S.; correcting terminology;
 13 amending s. 102.166, F.S.; requiring manual
 14 recounts for offices filled on a statewide
 15 basis to be conducted by district canvassing
 16 boards; creating s. 102.1665, F.S.; providing
 17 for appointment, composition, and duties of
 18 district canvassing boards; amending s.
 19 102.167, F.S.; revising a cross reference;
 20 amending s. 102.168, F.S.; providing a filing
 21 deadline for contest of an election subject to
 22 a manual recount; amending s. 103.011, F.S.;
 23 revising the manner of electing presidential
 24 electors; providing an effective date.

25
 26 Be It Enacted by the Legislature of the State of Florida:

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

30 102.111 Elections Canvassing Commission.--
 31

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

19 Section 2. Section 102.112, Florida Statutes, is
20 amended to read:

21 102.112 Deadline for submission of county or district
22 returns to the Department of State; penalties.--

23 (1) The county or district canvassing board or a
24 majority thereof shall file the county or district returns for
25 the election of a federal or state officer with the Department
26 of State immediately after certification of the election
27 results. Returns must be filed by 5 p.m. on the 7th day
28 following the first primary and general election and by 3 p.m.
29 on the 3rd day following the second primary. If the returns
30 are not received by the department by the time specified, such
31

1 returns ~~shall~~ ~~may~~ be ignored and the results on file at that
2 time shall ~~may~~ be certified by the department.

3 (2) The department shall fine each board member \$200
4 for each day such returns are late, the fine to be paid only
5 from the board member's personal funds. Such fines shall be
6 deposited into the Election Campaign Financing Trust Fund,
7 created by s. 106.32.

8 (3) Members of the county or district canvassing board
9 may appeal such fines to the Florida Elections Commission,
10 which shall adopt rules for such appeals.

11 Section 3. Section 102.131, Florida Statutes, is
12 amended to read:

13 102.131 Returns before canvassing commission.--If any
14 returns shall appear to be irregular or false so that the
15 Elections Canvassing Commission is unable to determine the
16 true vote for any office, nomination, constitutional
17 amendment, or other measure presented to the electors, the
18 commission shall so certify and shall not include the returns
19 in its determination, canvass, and declaration. The Elections
20 Canvassing Commission in determining the true vote shall not
21 have authority to look beyond the county or district returns.
22 The Department of State shall file in its office all the
23 returns, together with other documents and papers received by
24 it or the commission. The commission shall canvass the
25 returns for presidential electors and representatives to
26 Congress separately from their canvass of returns for state
27 officers.

28 Section 4. Section 102.155, Florida Statutes, is
29 amended to read:

30 102.155 Certificate of election.--The supervisor shall
31 give to any person the election of whom is certified by the

1 county canvassing board a certificate of the person's
2 election. The Department of State shall give to any person
3 the election of whom is certified by the Elections Canvassing
4 Commission ~~state canvassing board~~ a certificate of the
5 person's election. The certificate of election which is
6 issued to any person shall be prima facie evidence of the
7 election of such person.

8 Section 5. Subsections (4) through (10) of section
9 102.166, Florida Statutes, are renumbered as section 102.1663,
10 Florida Statutes, and amended to read:

11 102.166 Protest of election returns; procedure.--

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

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

22 (3) Before canvassing the returns of the election, the
23 canvassing board shall:

24 (a) When paper ballots are used, examine the
25 tabulation of the paper ballots cast.

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

1 (c) When electronic or electromechanical equipment is
2 used, the canvassing board shall examine precinct records and
3 election returns. If there is a clerical error, such error
4 shall be corrected by the county canvassing board. If there is
5 a discrepancy which could affect the outcome of an election,
6 the canvassing board may recount the ballots on the automatic
7 tabulating equipment.

8 102.1663 Manual recount.--

9 ~~(1)(4)~~(a) Any candidate whose name appeared on the
10 ballot, any political committee that supports or opposes an
11 issue which appeared on the ballot, or any political party
12 whose candidates' names appeared on the ballot may file a
13 written request for a manual recount with the county
14 canvassing board or, if the manual recount is for an office
15 filled on a statewide basis, with the district canvassing
16 board ~~for a manual recount~~. The written request shall contain
17 a statement of the reason the manual recount is being
18 requested.

19 (b) Such request must be filed with the canvassing
20 board prior to the time the canvassing board certifies the
21 results for the office being protested or within 72 hours
22 after midnight of the date the election was held, whichever
23 occurs later.

24 (c) The ~~county~~ canvassing board may authorize a manual
25 recount. If a manual recount is authorized, the ~~county~~
26 canvassing board shall make a reasonable effort to notify each
27 candidate whose race is being recounted of the time and place
28 of such recount.

29 (d) The manual recount must include at least three
30 precincts and at least 1 percent of the total votes cast for
31 such candidate or issue. In the event there are less than

1 three precincts involved in the election, all precincts shall
2 be counted. The person who requested the recount shall choose
3 three precincts to be recounted, and, if other precincts are
4 recounted, the ~~county~~ canvassing board shall select the
5 additional precincts.

6 (2)~~(5)~~ If the manual recount indicates an error in the
7 vote tabulation which could affect the outcome of the
8 election, the ~~county~~ canvassing board shall:

9 (a) Correct the error and recount the remaining
10 precincts with the vote tabulation system;

11 (b) Request the department ~~of State~~ to verify the
12 tabulation software; or

13 (c) Manually recount all ballots.

14 (3)~~(6)~~ Any manual recount shall be open to the public.

15 (4)~~(7)~~ Procedures for a manual recount are as follows:

16 (a) The ~~county~~ canvassing board shall appoint as many
17 counting teams of at least two electors as is necessary to
18 manually recount the ballots. A counting team must have, when
19 possible, members of at least two political parties. A
20 candidate involved in the race shall not be a member of the
21 counting team.

22 (b) If a counting team is unable to determine a
23 voter's intent in casting a ballot, the ballot shall be
24 presented to the ~~county~~ canvassing board for it to determine
25 the voter's intent.

26 (5)~~(8)~~ If the ~~county~~ canvassing board determines the
27 need to verify the tabulation software, the ~~county~~ canvassing
28 board shall request in writing that the department ~~of State~~
29 verify the software.

30 (6)~~(9)~~ When the department ~~of State~~ verifies such
31 software, the department shall:

1 (a) Compare the software used to tabulate the votes
2 with the software filed with the department ~~of State~~ pursuant
3 to s. 101.5607; and

4 (b) Check the election parameters.

5 ~~(7)(10)~~ The department ~~of State~~ shall respond to the
6 ~~county~~ canvassing board within 3 working days.

7 Section 6. Section 102.1665, Florida Statutes, is
8 created to read:

9 102.1665 District canvassing board; duties.--

10 (1) The Secretary of State, at least 20 days prior to
11 the holding of any election at which offices will be filled on
12 a statewide basis, shall appoint a district canvassing board
13 for each state representative district, the sole purpose of
14 which shall be to canvass the vote for any office to be filled
15 on a statewide basis for which a request for a manual recount
16 has been filed pursuant to s. 102.1663.

17 (2)(a) The district canvassing board shall be composed
18 of a county court judge of any county in the district, who
19 shall act as chair, and two qualified electors of the district
20 who are able to read and write the English language and who
21 are not registered in the same political party. A member of
22 the district canvassing board may not be a candidate who has
23 opposition in the election being canvassed or an active
24 participant in the campaign or candidacy of any candidate who
25 has opposition in the election being canvassed.

26 (b) If no county court judge is able to serve or if
27 all are disqualified, the Secretary of State shall appoint as
28 a substitute member a qualified elector of the district who is
29 neither a candidate with opposition in the election being
30 canvassed nor an active participant in the campaign or
31 candidacy of any candidate with opposition in the election

1 being canvassed. In such event, the members of the district
2 canvassing board shall meet and elect a chair.

3 (c) If any other member of the district canvassing
4 board is unable to serve, the Secretary of State shall appoint
5 as a substitute member a qualified elector of the district who
6 meets the same qualifications as the member being replaced and
7 who is neither a candidate with opposition in the election
8 being canvassed nor an active participant in the campaign or
9 candidacy of any candidate with opposition in the election
10 being canvassed.

11 (3) Each supervisor of elections of a county within
12 the district shall deliver to the district canvassing board,
13 upon the request of the board, all ballots cast in the part of
14 the county which is within the district with respect to an
15 office to be filled on a statewide basis for which a request
16 for a manual recount has been filed pursuant to s. 102.1663.
17 After the count has been completed and the returns submitted
18 to the Department of State, the district canvassing board
19 shall return the ballots of each county to the appropriate
20 supervisor of elections.

21 (4) The district canvassing board shall file the
22 district returns for the manual recount with the Department of
23 State, with a copy to each supervisor of elections of a county
24 within that district. The returns shall show the total vote
25 within the district and the vote by county within the
26 district.

27 Section 7. Section 102.167, Florida Statutes, is
28 amended to read:

29 102.167 Form of protest of election returns.--The form
30 of the "Protest of Election Returns to Canvassing Board" shall
31 be as follows:

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PROTEST OF ELECTION RETURNS TO
CANVASSING BOARD

....., Florida
....., ...(year)...

As provided in Section 102.166~~(1)~~, Florida Statutes, I,
..... of County, Florida, believe the election returns
from Precinct No. in the election ...(year)... are
erroneous.

I hereby protest the canvass of such returns by the
..... Canvassing Board, and request that said returns be
investigated, examined, checked, and corrected by said
Canvassing Board. The basis for this protest is
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.....

Under penalties of perjury, I swear (or affirm) that I have
read the foregoing and that the facts alleged are true, to the
best of my knowledge and belief.

...(Signature of person protesting election returns)...

Section 8. Subsection (2) of section 102.168, Florida
Statutes, is amended to read:

102.168 Contest of election.--

(2) Such contestant shall file a complaint, together
with the fees prescribed in chapter 28, with the clerk of the
circuit court within 10 days after midnight of the date the

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

1 last county canvassing board empowered to canvass the returns
2 certifies the results of the election being contested or
3 within 5 days after midnight of the date the last county
4 canvassing board empowered to canvass the returns certifies
5 the results of that particular election following a protest
6 pursuant to s. 102.166~~(1)~~or a request for a manual recount
7 pursuant to s. 102.1663, whichever occurs later.

8 Section 9. Section 103.011, Florida Statutes, is
9 amended to read:

10 103.011 Electors of President and Vice
11 President.--Electors of President and Vice President, known as
12 presidential electors, shall be elected on the first Tuesday
13 after the first Monday in November of each year the number of
14 which is a multiple of 4. Votes cast for the actual
15 candidates for President and Vice President shall be counted
16 as votes cast for the presidential electors supporting such
17 candidates. The Department of State shall certify as elected
18 the presidential electors of the candidates for President and
19 Vice President who receive the highest number of votes in each
20 of a majority of the districts for state representative.

21 Section 10. This act shall take effect January 1,
22 2002.

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HOUSE SUMMARY

Requires manual recounts for offices filled on a statewide basis to be conducted by district canvassing boards. Provides for appointment, composition, and duties of such boards. Provides deadlines for the submission of district returns and penalties for late submission. Provides for certification of district returns by the Elections Canvassing Commission, and provides that the Elections Canvassing Commission may not look beyond the district returns in determining the true vote. Provides a filing deadline for contest of an election subject to a manual recount. Provides that the Department of State shall certify as elected the presidential electors of the candidates for President and Vice President who receive the highest number of votes in each of a majority of the districts for state representative. See bill for details.