

By the Committee on Ethics and Elections; and Senator Dockery

313-2473-04

1                                   A bill to be entitled  
 2           An act relating to absentee ballots; amending  
 3           s. 101.64, F.S.; removing the requirement that  
 4           a voter's signature on an absentee ballot must  
 5           be witnessed; amending s. 101.65, F.S.;  
 6           revising the Voter's Certificate and  
 7           instructions to absent electors to remove the  
 8           requirement of an attesting witness; amending  
 9           s. 101.68, F.S.; removing the requirement of  
 10          the signature of an attesting witness for an  
 11          absentee ballot to be considered legal;  
 12          amending ss. 101.6921 and 101.6923, F.S.;  
 13          revising the Voter's Certificate and  
 14          instructions for special absentee ballots for  
 15          certain first-time voters to remove the  
 16          requirement of an attesting witness; amending  
 17          s. 101.6952, F.S., relating to absentee ballots  
 18          received from overseas voters, to conform;  
 19          providing an effective date.

20  
 21 Be It Enacted by the Legislature of the State of Florida:

22  
 23           Section 1. Section 101.64, Florida Statutes, is  
 24 amended to read:

25           101.64 Delivery of absentee ballots; envelopes;  
 26 form.--

27           (1) The supervisor shall enclose with each absentee  
 28 ballot two envelopes: a secrecy envelope, into which the  
 29 absent elector shall enclose his or her marked ballot; and a  
 30 mailing envelope, into which the absent elector shall then  
 31 place the secrecy envelope, which shall be addressed to the

1 supervisor and also bear on the back side a certificate in  
2 substantially the following form:

3

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

6

7 VOTER'S CERTIFICATE

8 I, ....., do solemnly swear or affirm that I am a  
9 qualified and registered voter of .... County, Florida, and  
10 that I have not and will not vote more than one ballot in this  
11 election. I understand that if I commit or attempt to commit  
12 any fraud in connection with voting, vote a fraudulent ballot,  
13 or vote more than once in an election, I can be convicted of a  
14 felony of the third degree and fined up to \$5,000 and/or  
15 imprisoned for up to 5 years. I also understand that failure  
16 to sign this certificate ~~and have my signature properly~~  
17 ~~witnessed~~ will invalidate my ballot.

18

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

20

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

23

24 ~~I swear or affirm that the voter signed this Voter's~~  
25 ~~Certificate in my presence.~~

26

27 ~~...(Signature of Witness)...~~

28

29 ~~...(Address)...~~

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

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1           (2) The certificate shall be arranged on the back of  
2 the mailing envelope so that the lines for the signature  
3 ~~signatures~~ of the absent elector is ~~and the attesting witness~~  
4 ~~are~~ across the seal of the envelope; however, no statement  
5 shall appear on the envelope which indicates that a signature  
6 of the voter ~~or witness~~ must cross the seal of the envelope.  
7 The absent elector ~~and the attesting witness~~ shall execute the  
8 certificate on the envelope.

9           Section 2. Section 101.65, Florida Statutes, is  
10 amended to read:

11           101.65 Instructions to absent electors.--The  
12 supervisor shall enclose with each absentee ballot separate  
13 printed instructions in substantially the following form:

14  
15 READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT.

16           1. VERY IMPORTANT. In order to ensure that your  
17 absentee ballot will be counted, it should be completed and  
18 returned as soon as possible so that it can reach the  
19 supervisor of elections of the county in which your precinct  
20 is located no later than 7 p.m. on the day of the election.

21           2. Mark your ballot in secret as instructed on the  
22 ballot. You must mark your own ballot unless you are unable to  
23 do so because of blindness, disability, or inability to read  
24 or write.

25           3. Mark only the number of candidates or issue choices  
26 for a race as indicated on the ballot. If you are allowed to  
27 "Vote for One" candidate and you vote for more than one  
28 candidate, your vote in that race will not be counted.

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

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

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

5           7. VERY IMPORTANT. In order for your absentee ballot  
6 to be counted, you must sign your name on the line above  
7 (Voter's Signature).

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

11           ~~9. VERY IMPORTANT. In order for your absentee ballot~~  
12 ~~to be counted, it must include the signature and address of a~~  
13 ~~witness 18 years of age or older affixed to the Voter's~~  
14 ~~Certificate. No candidate may serve as an attesting witness.~~

15           9.10. Mail, deliver, or have delivered the completed  
16 mailing envelope. Be sure there is sufficient postage if  
17 mailed.

18           10.11. FELONY NOTICE. It is a felony under Florida law  
19 to accept any gift, payment, or gratuity in exchange for your  
20 vote for a candidate. It is also a felony under Florida law to  
21 vote in an election using a false identity or false address,  
22 or under any other circumstances making your ballot false or  
23 fraudulent.

24           Section 3. Paragraph (c) of subsection (2) of section  
25 101.68, Florida Statutes, is amended to read:

26           101.68 Canvassing of absentee ballot.--

27           (2)

28           (c)1. The canvassing board shall, if the supervisor  
29 has not already done so, compare the signature of the elector  
30 on the voter's certificate with the signature of the elector  
31 in the registration books to see that the elector is duly

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

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

23           Section 4. Subsections (3) and (4) of section  
24 101.6921, Florida Statutes, are amended to read:

25           101.6921 Delivery of special absentee ballot to  
26 certain first-time voters.--

27           (3) The Voter's Certificate shall be in substantially  
28 the following form:

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30 Note: Please Read Instructions Carefully Before Marking Ballot  
31 and Completing Voter's Certificate

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VOTER'S CERTIFICATE

I, \_\_\_\_\_, do solemnly swear or affirm that I am a qualified and registered voter of \_\_\_\_\_ County, Florida, and that I have not and will not vote more than one ballot in this election. I understand that if I commit or attempt to commit any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I can be convicted of a felony of the third degree and fined up to \$5,000 and/or imprisoned for up to 5 years. I also understand that failure to sign this certificate ~~and have my signature properly witnessed~~ will invalidate my ballot. I understand that unless I meet one of the exemptions below, I must provide a copy of a current and valid identification as provided in the instruction sheet to the supervisor of elections in order for my ballot to count.

I further certify that I am exempt from the requirements to furnish a copy of a current and valid identification with my ballot because of one or more of the following (check all that apply):

- I am 65 years of age or older.
- I have a permanent or temporary physical disability.
- I am a member of a uniformed service on active duty who, by reason of such active duty, will be absent from the county on election day.
- I am a member of the Merchant Marine who, by reason of service in the Merchant Marine, will be absent from the county on election day.



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READ THESE INSTRUCTIONS CAREFULLY BEFORE  
MARKING YOUR BALLOT. FAILURE TO FOLLOW THESE  
INSTRUCTIONS MAY CAUSE YOUR BALLOT NOT TO  
COUNT.

1. In order to ensure that your absentee 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 date of 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, your  
vote in that race will not be counted.

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

5. Insert the secrecy envelope into the enclosed  
envelope bearing the Voter's Certificate. Seal the envelope  
and completely fill out the Voter's Certificate on the back of  
the envelope.

a. You must sign your name on the line above (Voter's  
Signature).

~~b. You must have your signature witnessed. Have the  
witness sign above (Signature of Witness) and include his or  
her address. No candidate may serve as an attesting witness.~~



1           ~~b.e.~~ If you are an overseas voter, you must include  
2 the date you signed the Voter's Certificate on the line above  
3 (Date) or your ballot may not be counted.

4           6. Unless you meet one of the exemptions in Item 7.,  
5 you must make a copy of one of the following forms of  
6 identification:

7           a. Identification which must include your name and  
8 photograph: current and valid Florida driver's license;  
9 Florida identification card issued by the Department of  
10 Highway Safety and Motor Vehicles; United States passport;  
11 employee badge or identification; buyer's club identification  
12 card; debit or credit card; military identification; student  
13 identification; retirement center identification; neighborhood  
14 association identification; entertainment identification; or  
15 public assistance identification; or

16           b. Identification which shows your name and current  
17 residence address: current utility bill, bank statement,  
18 government check, paycheck, or government document (excluding  
19 voter identification card).

20           7. The identification requirements of Item 6. do not  
21 apply if you meet one of the following requirements:

22           a. You are 65 years of age or older.

23           b. You have a temporary or permanent physical  
24 disability.

25           c. You are a member of a uniformed service on active  
26 duty who, by reason of such active duty, will be absent from  
27 the county on election day.

28           d. You are a member of the Merchant Marine who, by  
29 reason of service in the Merchant Marine, will be absent from  
30 the county on election day.

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1 e. You are the spouse or dependent of a member  
2 referred to in paragraph c. or paragraph d. who, by reason of  
3 the active duty or service of the member, will be absent from  
4 the county on election day.

5 f. You are currently residing outside the United  
6 States.

7 8. Place the envelope bearing the Voter's Certificate  
8 into the mailing envelope addressed to the supervisor. Insert  
9 a copy of your identification in the mailing envelope. DO NOT  
10 PUT YOUR IDENTIFICATION INSIDE THE SECRECY ENVELOPE WITH THE  
11 BALLOT OR INSIDE THE ENVELOPE WHICH BEARS THE VOTER'S  
12 CERTIFICATE OR YOUR BALLOT WILL NOT COUNT.

13 9. Mail, deliver, or have delivered the completed  
14 mailing envelope. Be sure there is sufficient postage if  
15 mailed.

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

22 Section 6. Subsection (2) of section 101.6952, Florida  
23 Statutes, is amended to read:

24 101.6952 Absentee ballots for overseas voters.--

25 (2) For absentee ballots received from overseas  
26 voters, there is a presumption that the envelope was mailed on  
27 the date stated ~~and witnessed~~ on the outside of the return  
28 envelope, regardless of the absence of a postmark on the  
29 mailed envelope or the existence of a postmark date that is  
30 later than the date of the election.

31 Section 7. This act shall take effect July 1, 2004.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 2566

The committee substitute differs from the original bill in that it also removes the references to the attesting witness signature from sections 101.65, 101.68, 101.6921, 101.6923, and 101.6952.