

By the Committee on Ethics and Elections; and Senator Cowin

313-1164-04

1 A bill to be entitled
2 An act relating to early voting; amending s.
3 101.657, F.S.; requiring supervisors of
4 elections to allow electors to vote early;
5 providing requirements for the location and
6 number of early voting facilities; specifying
7 the period and hours of operation; requiring
8 supervisors of elections to provide notice of
9 early voting; requiring the Department of State
10 to adopt rules; providing a penalty for failure
11 to provide for early voting; amending s.
12 101.5612, F.S.; modifying the timeframe for
13 testing voting equipment; amending s. 101.5613,
14 F.S.; providing for periodic examination of
15 equipment during early voting; creating s.
16 101.659, F.S.; providing for a voter to cast an
17 in-person absentee ballot as formerly provided
18 under s. 101.657, F.S., to conform; amending s.
19 101.62, F.S.; conforming a cross-reference;
20 authorizing the Department of State to adopt
21 emergency rules for the 2004 election cycle;
22 providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

26 Section 1. Section 101.657, Florida Statutes, is
27 amended to read:
28 101.657 Early voting ~~absentee ballots in person.--~~
29 ~~(1) Any qualified and registered elector may pick up~~
30 ~~and vote an absentee ballot in person at the office of, and~~
31 ~~under the supervision of, the supervisor of elections. Before~~

1 ~~receiving the ballot, the elector must present a current and~~
2 ~~valid picture identification as provided in s. 97.0535(3)(a).~~
3 ~~If the elector fails to furnish the required identification,~~
4 ~~or if the supervisor is in doubt as to the identity of the~~
5 ~~elector, the supervisor must follow the procedure prescribed~~
6 ~~in s. 101.49. If the elector who fails to furnish the required~~
7 ~~identification is a first-time voter who registered by mail~~
8 ~~and has not provided the required identification to the~~
9 ~~supervisor of elections prior to voting, the elector shall be~~
10 ~~allowed to vote a provisional ballot. The canvassing board~~
11 ~~shall compare the signature on the provisional ballot envelope~~
12 ~~with the signature on the voter's registration and, if the~~
13 ~~signatures match, shall count the ballot.~~

14 (1)(a)(2) As an alternative to the provisions of ss.
15 101.64, ~~and~~ 101.65, ~~and~~ 101.659, the supervisor of elections
16 shall ~~may~~ allow an elector to vote early ~~cast an absentee~~
17 ~~ballot in the main or branch office of the supervisor by~~
18 ~~depositing a~~ the voted ballot in a voting device used by the
19 supervisor to collect or tabulate ballots. The results or
20 tabulation may not be made before the close of the polls on
21 election day.

22 (b) The supervisor shall designate at least one early
23 voting location for every 100,000 voters registered to vote in
24 the election. The supervisor of any county with fewer than
25 100,000 voters registered to vote in the election shall
26 designate at least one early voting location. Except as
27 otherwise provided in this section, each early voting location
28 must meet the requirements for a polling place under the
29 election code. In addition, each early voting location must be
30 located in a public building owned by the state, county, or
31 municipality. The selection of early voting locations must be

1 designed to provide all voters in the county with an equal
2 opportunity to cast a ballot, insofar as is practicable.

3 (c) Early voting shall commence at 9 a.m. on the 10th
4 day before an election and conclude at 5 p.m. on the day
5 before the election. For a special election or special primary
6 election pursuant to s. 100.101, early voting shall commence
7 at 9 a.m. on the 8th day before the election and conclude at 5
8 p.m. on the day before the election. Early voting at each
9 location shall be conducted, at a minimum, from 9 a.m. to 5
10 p.m. Monday through Friday and for a total of 10 hours on each
11 weekend during the early voting period. The supervisor shall
12 publish the address and hours of operation of early voting
13 facilities two times in a newspaper of general circulation at
14 least 14 days prior to the date of the election.

15 (d)(a) An ~~The~~ elector seeking to vote early must
16 present ~~provide~~ identification as required in s. 101.043(1)
17 subsection (1) and must complete an In-Office Voter
18 Certificate in substantially the following form:

19
20 IN-OFFICE VOTER CERTIFICATE

21
22 I, , am a qualified elector in this election and
23 registered voter of County, Florida. I do solemnly swear
24 or affirm that I am the person so listed on the voter
25 registration rolls of County and that I reside at the
26 listed address. I understand that if I commit or attempt to
27 commit fraud in connection with voting, vote a fraudulent
28 ballot, or vote more than once in an election I could be
29 convicted of a felony of the third degree and both fined up to
30 \$5,000 and imprisoned for up to 5 years. I understand that my
31

1 failure to sign this certificate ~~and have my signature~~
2 ~~witnessed~~ invalidates my ballot.
3
4
5 ... (Voter's Signature) ...
6
7 ... (Address) ...
8
9 ... (City/State) ...
10
11 ~~... (Name of Witness) ...~~
12
13 ~~... (Signature of Witness) ...~~
14
15 ~~... (Type of identification provided) ...~~
16
17 (e)(b) If an elector seeking to vote early is
18 challenged by any other elector or poll watcher, the oaths
19 provided in s. 101.111 shall be completed, sworn, and
20 subscribed. The challenged elector shall vote a provisional
21 ballot as otherwise provided in this chapter. ~~Any elector may~~
22 ~~challenge an elector seeking to cast an absentee ballot under~~
23 ~~the provisions of s. 101.111. Any challenged ballot must be~~
24 ~~placed in a regular absentee ballot envelope.~~ The canvassing
25 board shall review the ballot and decide the validity of the
26 ballot by majority vote.
27 (f)(c) The canvass of returns for ballots cast under
28 this subsection shall be substantially the same as votes cast
29 by electors in precincts, as provided in s. 101.5614.
30 (g) The department shall adopt rules for administering
31 this section, including, but not limited to, the selection and

1 security of early voting locations and the security of
2 ballots, tabulating equipment, and other voting materials at
3 early voting locations.

4 (2) Any supervisor of elections who fails to provide
5 for early voting as required by this section commits a
6 misdemeanor of the first degree, punishable as provided in s.
7 775.082 or s. 775.083.

8 Section 2. Subsection (2) of section 101.5612, Florida
9 Statutes, is amended to read:

10 101.5612 Testing of tabulating equipment.--

11 (2) On any day not more than 10 days prior to the
12 commencement of early voting as provided in s. 101.657
13 ~~election day~~, the supervisor of elections shall have the
14 automatic tabulating equipment publicly tested to ascertain
15 that the equipment will correctly count the votes cast for all
16 offices and on all measures. Public notice of the time and
17 place of the test shall be given at least 48 hours prior
18 thereto by publication once in one or more newspapers of
19 general circulation in the county or, if there is no newspaper
20 of general circulation in the county, by posting the such
21 notice in at least four conspicuous places in the county. The
22 supervisor or the municipal elections official may, at the
23 time of qualifying, give written notice of the time and
24 location of the such public preelection test to each candidate
25 qualifying with that office and obtain a signed receipt that
26 the such notice has been given. The Department of State shall
27 give written notice to each statewide candidate at the time of
28 qualifying, or immediately at the end of qualifying, that the
29 voting equipment will be tested and advise each the such
30 candidate to contact the county supervisor of elections as to
31 the time and location of the public preelection test. The

1 supervisor or the municipal elections official shall, at least
2 15 days prior to the commencement of early voting as provided
3 in s. 101.657 ~~an election~~, send written notice by certified
4 mail to the county party chair of each political party and to
5 all candidates for other than statewide office whose names
6 appear on the ballot in the county and who did not receive
7 written notification from the supervisor or municipal
8 elections official at the time of qualifying, stating the time
9 and location of the public preelection test of the automatic
10 tabulating equipment. The canvassing board shall convene, and
11 each member of the canvassing board shall certify to the
12 accuracy of the test. For the test, the canvassing board may
13 designate one member to represent it. The test shall be open
14 to representatives of the political parties, the press, and
15 the public. Each political party may designate one person with
16 expertise in the computer field who shall be allowed in the
17 central counting room when all tests are being conducted and
18 when the official votes are being counted. The ~~Such~~ designee
19 shall not interfere with the normal operation of the
20 canvassing board.

21 Section 3. Section 101.5613, Florida Statutes, is
22 amended to read:

23 101.5613 Examination of equipment during voting.--A
24 member of the election board or, for purposes of early voting
25 pursuant to s. 101.657, a representative of the supervisor of
26 elections, shall occasionally examine the face of the voting
27 device and the ballot information to determine that the device
28 and the ballot information have not been damaged or tampered
29 with.

30 Section 4. Section 101.659, Florida Statutes, is
31 created to read:

1 101.659 Voting absentee ballots in person.--Any
2 qualified and registered elector may pick up and vote an
3 absentee ballot in person at the office of, and under the
4 supervision of, the supervisor of elections. Before receiving
5 the ballot, the elector must present identification as
6 required in s. 101.043(1). If the elector fails to furnish
7 the required identification, or if the supervisor is in doubt
8 as to the identity of the elector, the supervisor must follow
9 the procedure prescribed in s. 101.49.

10 Section 5. Paragraph (b) of subsection (4) of section
11 101.62, Florida Statutes, is amended to read:

12 101.62 Request for absentee ballots.--

13 (4)

14 (b) As soon as the remainder of the absentee ballots
15 are printed, the supervisor shall provide an absentee ballot
16 to each elector by whom a request for that ballot has been
17 made by one of the following means:

18 1. By nonforwardable, return-if-undeliverable mail to
19 the elector's current mailing address on file with the
20 supervisor, unless the elector specifies in the request that:

21 a. The elector is absent from the county and does not
22 plan to return before the day of the election;

23 b. The elector is temporarily unable to occupy the
24 residence because of hurricane, tornado, flood, fire, or other
25 emergency or natural disaster; or

26 c. The elector is in a hospital, assisted-living
27 facility, nursing home, short-term medical or rehabilitation
28 facility, or correctional facility,

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1 in which case the supervisor shall mail the ballot by
2 nonforwardable, return-if-undeliverable mail to any other
3 address the elector specifies in the request.

4 2. By forwardable mail to voters who are entitled to
5 vote by absentee ballot under the Uniformed and Overseas
6 Citizens Voting Act.

7 3. By personal delivery to the elector, upon
8 presentation of the identification required in s. 101.659 ~~s.~~
9 ~~101.657~~.

10 4. By delivery to a designee on election day or up to
11 4 days prior to the day of an election. Any elector may
12 designate in writing a person to pick up the ballot for the
13 elector; however, the person designated may not pick up more
14 than two absentee ballots per election, other than the
15 designee's own ballot, except that additional ballots may be
16 picked up for members of the designee's immediate family. For
17 purposes of this section, "immediate family" means the
18 designee's spouse or the parent, child, grandparent, or
19 sibling of the designee or of the designee's spouse. The
20 designee shall provide to the supervisor the written
21 authorization by the elector and a picture identification of
22 the designee and must complete an affidavit. The designee
23 shall state in the affidavit that the designee is authorized
24 by the elector to pick up that ballot and shall indicate if
25 the elector is a member of the designee's immediate family
26 and, if so, the relationship. The department shall prescribe
27 the form of the affidavit. If the supervisor is satisfied that
28 the designee is authorized to pick up the ballot and that the
29 signature of the elector on the written authorization matches
30 the signature of the elector on file, the supervisor shall
31 give the ballot to that designee for delivery to the elector.

1 Section 6. Due to the exigency of the need for federal
2 preclearance, the Department of State may adopt the rules
3 referenced in section 1 of this act by emergency rule pursuant
4 to section 120.54(4), Florida Statutes. Such emergency rules
5 shall be effective through November 2, 2004.

6 Section 7. This act shall take effect upon becoming a
7 law.

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9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 Senate Bill 618

12 The Committee Substitute differs from the original bill in
13 that it: requires an early voting facility for every 100,000
14 registered voters instead of every 70,000, with a minimum of
15 one early voting facility per county; authorizes the
16 Department of State to adopt emergency rules implementing the
17 early voting process for the 2004 election cycle.
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