SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Ethics and Elections Committee

BILL: SB 506

SPONSOR: Senator Hill

SUBJECT: Mail Ballots/Early Voting

DATE: February 24, 2005 REVISED: 02/22/05

	ANALYST	STAFF DIRECTOR	REFERENCE		ACTION
1.	Babington	Rubinas	EE		**Fav/2 amendments**
2.			JU		
3.					
4.					
5.					
6.					

Please see last section for Summary of Amendments

X	Technical amendments were recommended
	Amendments were recommended
X	Significant amendments were recommended

I. Summary:

This bill requires supervisors of elections to count otherwise valid mail ballots cast for local referenda, and ballots cast during early voting, even if the elector dies after casting the ballot but prior to election day.

The bill substantially amends sections 101.6103 and 101.657, Florida Statutes.

The effective date of the bill is July 1, 2005.

II. Present Situation:

Approximately 455 voting-age residents die every day in the state of Florida.[1] Current law[2] requires the Department of Health to furnish to each supervisor of elections monthly lists of the names of all residents 17 years of age and older who died in the supervisor's county the previous month. Upon receipt of that information, the supervisor is required to remove those names from the voter registration books. Similarly, nothing prohibits the supervisor from removing the name of a deceased voter if the supervisor verifies the information through other sources. Some

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[1] Florida Department of Health, Office of Planning, Evaluation, and Data Analysis.
[2] Section 98.093, Florida Statutes.

supervisors learn of deceased voters by having staff review daily obituary pages, while others receive notification from the decedent's family.

While this bill only addresses mail ballots for local referenda, absentee ballots are currently handled in the same manner. If a voter votes in a mail ballot election, and subsequently dies before Election Day, the supervisor must learn of the voter's death prior to the counting of the ballot in order to remove the voter from the registration book and invalidate the ballot. If the supervisor is notified or learns of the voter's death, the mail ballot of the deceased voter is not counted. There are no studies showing how successful supervisors have been at removing deceased voters from registration books prior to elections.

There is no procedure, however, for invalidating early voted ballots. Early voted ballots are collected and processed by voting machines at the time they are cast. Unlike mail ballots, early voted ballots contain no identifying information. A supervisor who learns of a voter who died prior to Election Day after casting an early ballot has no ability to remove that vote from the machine in which the vote was cast.

California, Texas, and Ohio, among others, have specifically provided that absentee and early voters who die before Election Day will have their votes counted.

III.   Effect of Proposed Changes:

Section 1. The bill states that a mail ballot in a local issue referendum which is returned by 7 p.m. on Election Day in a return mailing envelope that contains a valid signature shall be tabulated with all other ballots in that referendum, even if the particular elector died prior to Election Day but after mailing the ballot.

Section 2. The bill requires supervisors of elections to count all early voted ballots, even if an elector died after voting but before Election Day.

Section 3. The effective date of this bill is July 1, 2005.

IV.   Constitutional Issues:

A.   Municipality/County Mandates Restrictions:

None.

B.   Public Records/Open Meetings Issues:

None.

C.   Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill may reduce certain administrative costs for the Department of Health and the supervisors of elections.

VI. Technical Deficiencies:

Section 2 of the bill instructs supervisors of elections to count ballots cast during early voting. As supervisors of elections are not responsible for counting ballots, it may be advisable to re-word the section as follows: "The ballot of every elector voting early shall be counted even if the elector dies on or before election day."

VII. Related Issues:

None.

VIII.   Summary of Amendments:

Barcode 020048 by Ethics and Elections:
Technical amendment providing that early voting ballots be counted irrespective of whether the elector dies on or before election day.
(WITH TITLE AMENDMENT)

Barcode 121834 by Ethics and Elections:
Providing that electors who cast absentee ballots but die on or before election day shall remain listed in the registration books until the election is certified; providing that an absentee ballot cast by an elector be counted irrespective of whether the elector dies on or before election day.
(WITH TITLE AMENDMENT)

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.