

By the Committee on Judiciary; and Senator Hill

590-1805-05

1 A bill to be entitled
2 An act relating to voting; amending s.
3 101.6103, F.S.; requiring that a mail ballot
4 that otherwise satisfies the requirements of
5 law for mail ballots be counted even if the
6 elector dies after mailing the ballot but
7 before election day if certain conditions are
8 met; amending s. 101.657, F.S.; requiring that
9 an early voting ballot that otherwise satisfies
10 the requirements of law for early voting
11 ballots be counted even if the elector dies on
12 or before election day; amending s. 101.68,
13 F.S.; providing that electors who die on or
14 before election day and have cast an absentee
15 ballot shall remain on the voter registration
16 books until the election is certified;
17 providing that the ballot of an elector who
18 casts an absentee ballot shall be counted even
19 if the elector dies on or before election day
20 if certain conditions are met; providing an
21 effective date.

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

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25 Section 1. Subsection (7) is added to section
26 101.6103, Florida Statutes, to read:
27 101.6103 Mail ballot election procedure.--
28 (7) A ballot that otherwise satisfies the requirements
29 of subsection (5) shall be counted even if the elector dies
30 after mailing the ballot but before election day, as long as,
31 prior to the death of the voter, the ballot was:

- 1 (a) Postmarked by the United States Postal Service;
2 (b) Date-stamped with a verifiable tracking number by
3 common carrier; or
4 (c) Already in the possession of the supervisor of
5 elections.

6 Section 2. Subsection (3) is added to section 101.657,
7 Florida Statutes, to read:

8 101.657 Early voting.--

- 9 (3) The ballot of every elector voting early shall be
10 counted even if the elector dies on or before election day.

11 Section 3. Subsection (1) and paragraph (c) of
12 subsection (2) of section 101.68, Florida Statutes, are
13 amended to read:

14 101.68 Canvassing of absentee ballot.--

- 15 (1) The supervisor of the county where the absent
16 elector resides shall receive the voted ballot, at which time
17 the supervisor shall compare the signature of the elector on
18 the voter's certificate with the signature of the elector in
19 the registration books to determine whether the elector is
20 duly registered in the county and may record on the elector's
21 registration certificate that the elector has voted. However,
22 an elector who dies after casting an absentee ballot but on or
23 before election day shall remain listed in the registration
24 books until the results have been certified for the election
25 in which the ballot was cast. The supervisor shall safely keep
26 the ballot unopened in his or her office until the county
27 canvassing board canvasses the vote.

28 (2)

- 29 (c)1. The canvassing board shall, if the supervisor
30 has not already done so, compare the signature of the elector
31 on the voter's certificate with the signature of the elector

1 | in the registration books to see that the elector is duly
2 | registered in the county and to determine the legality of that
3 | absentee ballot. The ballot of an elector who casts an
4 | absentee ballot shall be counted even if the elector dies on
5 | or before election day, as long as, prior to the death of the
6 | voter, the ballot was postmarked by the United States Postal
7 | Service, date-stamped with a verifiable tracking number by
8 | common carrier, or already in the possession of the supervisor
9 | of elections. An absentee ballot shall be considered illegal
10 | if it does not include the signature of the elector, as shown
11 | by the registration records. However, an absentee ballot shall
12 | not be considered illegal if the signature of the elector does
13 | not cross the seal of the mailing envelope. If the canvassing
14 | board determines that any ballot is illegal, a member of the
15 | board shall, without opening the envelope, mark across the
16 | face of the envelope: "rejected as illegal." The envelope and
17 | the ballot contained therein shall be preserved in the manner
18 | that official ballots voted are preserved.

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

28 | Section 4. This act shall take effect July 1, 2005.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 506

This committee substitute extends authority to count votes for electors who have died pre-election day to that of electors voting by absentee ballot.

Limiting language is provided regarding votes cast by mail ballot in a local referendum and absentee ballot voting. Ballots are to be counted for electors who die after mailing the ballot but before election day, as long as the ballot was:

- Postmarked by the U.S. Postal Service;
- Date-stamped with a verifiable tracking number by a common carrier; or
- Already in the possession of the supervisor of elections.

This committee substitute corrects a reference to the supervisor of elections as the entity that counts votes.