

1 A bill to be entitled
2 An act relating to elections; providing a short title;
3 amending s. 98.075, F.S.; revising requirements for
4 supervisors relating to removal of deceased voters' names
5 from the statewide voter registration system; amending s.
6 100.061, F.S.; revising the date on which the primary
7 election is held; amending s. 101.151, F.S.; authorizing
8 the use of ballot-on-demand technology to produce certain
9 marksense ballots; creating s. 101.56075, F.S.; requiring
10 all voting to be by marksense ballots; providing an
11 exemption for voters with disabilities; amending s.
12 101.5612, F.S.; providing for testing of ballots that are
13 pre-printed and printed by ballot-on-demand technology;
14 amending s. 101.591, F.S.; requiring postelection, random
15 audits of voting systems; providing general audit
16 procedures; requiring that audit results be reported to
17 the Department of State; prescribing requirements for
18 audit reports; requiring the department to adopt rules
19 prescribing audit procedures and a standard reporting
20 form; amending s. 101.6102, F.S.; authorizing counties and
21 cities to conduct county or city elections by mail ballot
22 under certain circumstances; amending s. 101.6103, F.S.;
23 revising the date the canvassing of mail ballots may
24 begin; amending s. 101.68, F.S.; revising the date the
25 canvassing of absentee ballots may begin; removing an
26 obsolete implementation date; amending s. 104.20, F.S.;
27 providing that removal of a ballot from a polling place in
28 certain circumstances is a felony; providing penalties;

29 requiring the department to seek funding to pay for
 30 specified costs; providing certain contingent effect;
 31 providing effective dates.

32

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

34

35 Section 1. This act may be cited as the "Truth in
 36 Elections Act."

37 Section 2. Subsection (3) of section 98.075, Florida
 38 Statutes, is amended to read:

39 98.075 Registration records maintenance activities;
 40 ineligibility determinations.--

41 (3) DECEASED PERSONS.--The department shall identify those
 42 registered voters who are deceased by comparing information on
 43 the lists of deceased persons received from the Department of
 44 Health as provided in s. 98.093. Upon receipt of such
 45 information through the statewide voter registration system, the
 46 supervisor shall remove the name of the registered voter.
 47 Additionally, if the supervisor is presented with a certified
 48 copy of a death certificate issued from a bona fide governmental
 49 agency, the supervisor may remove the name of the deceased voter
 50 from the statewide voter registration system.

51 Section 3. Section 100.061, Florida Statutes, is amended
 52 to read:

53 100.061 Primary election.--In each year in which a general
 54 election is held, a primary election for nomination of
 55 candidates of political parties shall be held on the Tuesday 10
 56 9 weeks prior to the general election. The candidate receiving

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57 the highest number of votes cast in each contest in the primary
58 election shall be declared nominated for such office. If two or
59 more candidates receive an equal and highest number of votes for
60 the same office, such candidates shall draw lots to determine
61 which candidate is nominated.

62 Section 4. Subsection (1) of section 101.151, Florida
63 Statutes, is amended to read:

64 101.151 Specifications for ballots.--

65 (1) (a) Marksense ballots shall be printed on paper of such
66 thickness that the printing cannot be distinguished from the
67 back and shall meet the specifications of the voting system that
68 will be used to tabulate the ballots.

69 (b) Supervisors of elections may employ ballot-on-demand
70 technology to print individual marksense ballots for early
71 voting and election day voting, including provisional and
72 absentee ballots.

73 Section 5. Section 101.56075, Florida Statutes, is created
74 to read:

75 101.56075 Voting methods.--

76 (1) Except as provided in subsection (2), all voting shall
77 be conducted by marksense ballots utilizing a marking device for
78 the purpose of designating ballot selections.

79 (2) Persons with disabilities may vote on a voter
80 interface device that meets the voting system accessibility
81 requirements for individuals with disabilities pursuant to
82 section 301 of the Help America Vote Act of 2002 and s.
83 101.56062.

84 Section 6. Subsection (3) and paragraph (a) of subsection

85 (4) of section 101.5612, Florida Statutes, are amended to read:

86 101.5612 Testing of tabulating equipment.--

87 (3) For electronic or electromechanical voting systems
88 configured to tabulate absentee ballots at a central or regional
89 site, the public testing shall be conducted by processing a
90 preaudited group of ballots so produced as to record a
91 predetermined number of valid votes for each candidate and on
92 each measure and to include one or more ballots for each office
93 which have activated voting positions in excess of the number
94 allowed by law in order to test the ability of the automatic
95 tabulating equipment to reject such votes. If a county intends
96 to use ballot-on-demand equipment in an election, it must also
97 process ballots that have been printed with such equipment. If
98 any error is detected, the cause therefor shall be corrected and
99 an errorless count shall be made before the automatic tabulating
100 equipment is approved. The test shall be repeated and errorless
101 results achieved immediately before the start of the official
102 count of the ballots and again after the completion of the
103 official count. The programs and ballots used for testing shall
104 be sealed and retained under the custody of the county
105 canvassing board.

106 (4) (a) 1. For electronic or electromechanical voting
107 systems configured to include electronic or electromechanical
108 tabulation devices which are distributed to the precincts, all
109 or a sample of the devices to be used in the election shall be
110 publicly tested. If a sample is to be tested, the sample shall
111 consist of a random selection of at least 5 percent of the
112 devices for an optical scan system or 2 percent of the devices

113 for a touchscreen system or 10 of the devices for either system,
114 as applicable, whichever is greater. The test shall be conducted
115 by processing a group of ballots, causing the device to output
116 results for the ballots processed, and comparing the output of
117 results to the results expected for the ballots processed. If a
118 county intends to use ballot-on-demand equipment in an election,
119 it must also process ballots that have been printed with such
120 equipment. The group of ballots shall be produced so as to
121 record a predetermined number of valid votes for each candidate
122 and on each measure and to include for each office one or more
123 ballots which have activated voting positions in excess of the
124 number allowed by law in order to test the ability of the
125 tabulating device to reject such votes.

126 2. If any tested tabulating device is found to have an
127 error in tabulation, it shall be deemed unsatisfactory. For each
128 device deemed unsatisfactory, the canvassing board shall take
129 steps to determine the cause of the error, shall attempt to
130 identify and test other devices that could reasonably be
131 expected to have the same error, and shall test a number of
132 additional devices sufficient to determine that all devices are
133 satisfactory. Upon deeming any device unsatisfactory, the
134 canvassing board may require all devices to be tested or may
135 declare that all devices are unsatisfactory.

136 3. If the operation or output of any tested tabulation
137 device, such as spelling or the order of candidates on a report,
138 is in error, such problem shall be reported to the canvassing
139 board. The canvassing board shall then determine if the reported
140 problem warrants its deeming the device unsatisfactory.

141 Section 7. Section 101.591, Florida Statutes, is amended
 142 to read:

143 (Substantial rewording of section. See
 144 s. 101.591, F.S., for present text.)
 145 101.591 Voting system audit.--

146 (1) (a) If the second set of unofficial returns filed
 147 pursuant to s. 102.141 reflects that a candidate for any office
 148 in that county was defeated or eliminated by one-half of one
 149 percent or less of the votes cast for such office, that a
 150 candidate for retention to a judicial office was retained or not
 151 retained by one-half of one percent or less of the votes cast on
 152 the question of retention, or that a measure appearing on the
 153 ballot was approved or rejected by one-half of one percent or
 154 less of the votes cast on such measure in that county, each
 155 county canvassing board or local board responsible for
 156 certifying the election shall order an audit of the voting
 157 system used in the election.

158 (b) The audit conducted pursuant to this subsection shall
 159 consist of an evaluation of the voting system used in 4 percent
 160 of the precincts chosen at random by the county canvassing board
 161 or local board responsible for certifying the election to
 162 provide reasonable assurance that the system is properly
 163 controlled, can accurately count votes, provides adequate
 164 safeguards against unauthorized manipulation and fraud, and
 165 complies with the requirements of law and rules of the
 166 Department of State. If 4 percent of the precincts is less than
 167 one entire precinct, the audit shall be conducted in one
 168 precinct chosen at random by the county canvassing board or the

169 local board responsible for certifying the election. Such
 170 precincts shall be selected at a publicly noticed meeting.

171 (2) The board shall post a notice of the audit, including
 172 the date, time, and location of the audit, in four conspicuous
 173 places in the county and on the website of any affected county
 174 supervisor of elections.

175 (3) The audit shall be completed and the results made
 176 public no later than 11:59 p.m. on the 9th day after
 177 certification of the election by the county canvassing board or
 178 the local board responsible for certifying the election.

179 (4) Within 15 days after completing the audit, the county
 180 canvassing board or the board responsible for certifying the
 181 election shall provide a report with the results of the audit to
 182 the Department of State in a standard format prescribed by the
 183 department.

184 (5) The Department of State shall adopt rules prescribing
 185 detailed audit procedures for each voting system, which shall be
 186 uniform to the extent practicable, along with a standard format
 187 to be used for audit reports.

188 Section 8. Section 101.6102, Florida Statutes, is amended
 189 to read:

190 101.6102 Mail ballot elections; limitations.--

191 (1) (a) An election may be conducted by mail ballot if:

192 1. The election is a referendum election at which all or a
 193 portion of the qualified electors of one of the following
 194 subdivisions of government are the only electors eligible to
 195 vote:

196 a. Counties;

197 b. Cities;

198 c. School districts covering no more than one county; or

199 d. Special districts;

200 2. The governing body responsible for calling the election

201 and the supervisor of elections responsible for the conduct of

202 the election authorize the use of mail ballots for the election;

203 and

204 3. The Secretary of State approves a written plan for the

205 conduct of the election, which shall include a written timetable

206 for the conduct of the election, submitted by the supervisor of

207 elections.

208 (b) ~~In addition,~~ An annexation referendum which includes

209 only qualified electors of one county may also be voted on by

210 mail ballot election.

211 (c) A board of county or city commissioners may declare

212 that a county or city election shall be conducted entirely by

213 mail ballot. The board of county or city commissioners shall

214 make that declaration at least 90 days before the date of the

215 scheduled election.

216 (2) The following elections may not be conducted by mail

217 ballot:

218 (a) An election at which any candidate is nominated,

219 elected, retained, or recalled, except a county or city election

220 pursuant to paragraph (1)(c); or

221 (b) An election held on the same date as another election,

222 other than a mail ballot election, in which the qualified

223 electors of that political subdivision are eligible to cast

224 ballots.

225 (3) The supervisor of elections shall be responsible for
 226 the conduct of any election held under ss. 101.6101-101.6107.

227 (4) The costs of a mail ballot election shall be borne by
 228 the jurisdiction initiating the calling of the election, unless
 229 otherwise provided by law.

230 (5) Nothing in this section shall be construed to prohibit
 231 the use of a mail ballot election in a municipal annexation
 232 referendum requiring separate vote of the registered electors of
 233 the annexing municipality and of the area proposed to be
 234 annexed. If a mail ballot election is authorized for a municipal
 235 annexation referendum, the provisions of ss. 101.6101-101.6107
 236 shall control over any conflicting provisions of s. 171.0413.

237 Section 9. Subsection (6) of section 101.6103, Florida
 238 Statutes, is amended to read:

239 101.6103 Mail ballot election procedure.--

240 (6) The canvassing board may begin the canvassing of mail
 241 ballots at 7 a.m. on the 6th ~~fourth~~ day before the election,
 242 including processing the ballots through the tabulating
 243 equipment. However, results may not be released until after 7
 244 p.m. on election day. Any canvassing board member or election
 245 employee who releases any result before 7 p.m. on election day
 246 commits a felony of the third degree, punishable as provided in
 247 s. 775.082, s. 775.083, or s. 775.084.

248 Section 10. Paragraphs (a) and (c) of subsection (2) of
 249 section 101.68, Florida Statutes, are amended to read:

250 101.68 Canvassing of absentee ballot.--

251 (2)(a) The county canvassing board may begin the
 252 canvassing of absentee ballots at 7 a.m. on the 6th ~~fourth~~ day

253 before the election, but not later than noon on the day after
254 ~~following~~ the election. In addition, for any county using
255 electronic tabulating equipment, the processing of absentee
256 ballots through such tabulating equipment may begin at 7 a.m. on
257 the 6th ~~fourth~~ day before the election. However, notwithstanding
258 any such authorization to begin canvassing or otherwise
259 processing absentee ballots early, no result shall be released
260 until after the closing of the polls in that county on election
261 day. Any supervisor of elections, deputy supervisor of
262 elections, canvassing board member, election board member, or
263 election employee who releases the results of a canvassing or
264 processing of absentee ballots prior to the closing of the polls
265 in that county on election day commits a felony of the third
266 degree, punishable as provided in s. 775.082, s. 775.083, or s.
267 775.084.

268 (c)1. The canvassing board shall, if the supervisor has
269 not already done so, compare the signature of the elector on the
270 voter's certificate with the signature of the elector in the
271 registration books to see that the elector is duly registered in
272 the county and to determine the legality of that absentee
273 ballot. ~~Effective July 1, 2005,~~ The ballot of an elector who
274 casts an absentee ballot shall be counted even if the elector
275 dies on or before election day, as long as, prior to the death
276 of the voter, the ballot was postmarked by the United States
277 Postal Service, date-stamped with a verifiable tracking number
278 by common carrier, or already in the possession of the
279 supervisor of elections. An absentee ballot shall be considered
280 illegal if it does not include the signature of the elector, as

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281 shown by the registration records. However, an absentee ballot
282 shall not be considered illegal if the signature of the elector
283 does not cross the seal of the mailing envelope. If the
284 canvassing board determines that any ballot is illegal, a member
285 of the board shall, without opening the envelope, mark across
286 the face of the envelope: "rejected as illegal." The envelope
287 and the ballot contained therein shall be preserved in the
288 manner that official ballots voted are preserved.

289 2. If any elector or candidate present believes that an
290 absentee ballot is illegal due to a defect apparent on the
291 voter's certificate, he or she may, at any time before the
292 ballot is removed from the envelope, file with the canvassing
293 board a protest against the canvass of that ballot, specifying
294 the precinct, the ballot, and the reason he or she believes the
295 ballot to be illegal. A challenge based upon a defect in the
296 voter's certificate may not be accepted after the ballot has
297 been removed from the mailing envelope.

298 Section 11. Section 104.20, Florida Statutes, is amended
299 to read:

300 104.20 Ballot not to be seen, and other offenses.--Any
301 elector who, except as provided by law, allows his or her ballot
302 to be seen by any person; ~~takes or removes, or attempts to take~~
303 ~~or remove, any ballot from the polling place before the close of~~
304 ~~the polls;~~ places any mark on his or her ballot by which it may
305 be identified; endeavors to induce any elector to show how he or
306 she voted; aids or attempts to aid any elector unlawfully; or
307 prints or procures to be printed, or has in his or her
308 possession, any copies of any ballot prepared to be voted is

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309 guilty of a misdemeanor of the first degree, punishable as
310 provided in s. 775.082 or s. 775.083. Any elector who, except as
311 provided by law, takes or removes, or attempts to take or
312 remove, any ballot from a polling place before the close of the
313 polls commits a felony of the third degree, punishable as
314 provided in s. 775.082, s. 775.083, or s. 775.084.

315 Section 12. The Department of State shall seek funding
316 under the Help America Vote Act of 2002 or other federal source
317 to pay for any costs to implement sections 4 and 5 of this act.

318 Section 13. Sections 4 and 5 of this act shall take effect
319 1 year after the Legislature appropriates funds it determines
320 appropriate to implement requirements for the voting equipment
321 prescribed in those sections or, in the alternative, counties
322 may implement requirements for the voting equipment prescribed
323 in those sections using local funds if a county chooses to do
324 so.

325 Section 14. Except as otherwise expressly provided in this
326 act, this act shall take effect July 1, 2007.