

CS/HB 1339

2012

1                   A bill to be entitled  
2           An act relating to envelopes used to conceal the  
3           voter's choices; amending s. 101.5603, F.S.; defining  
4           the term "security-enhanced envelope" for purposes of  
5           the Electronic Voting Systems Act; amending s.  
6           101.6103, F.S.; revising mail ballot election  
7           procedures to include the use of a security-enhanced  
8           envelope; amending s. 101.6104, F.S.; making  
9           conforming changes to procedures for the challenge of  
10          votes; amending s. 101.64, F.S.; revising procedures  
11          for the delivery of absentee ballots to include the  
12          use of a security-enhanced envelope; amending s.  
13          101.65, F.S.; making conforming changes to the  
14          instructions to absent electors; amending s. 101.68,  
15          F.S.; making conforming changes to the procedures for  
16          the canvassing of absentee ballots; amending s.  
17          101.69, F.S.; making conforming changes to procedures  
18          for voting in person after returning an absentee  
19          ballot; amending s. 101.6921, F.S.; making conforming  
20          changes to procedures for the delivery of special  
21          absentee ballots to certain first-time voters;  
22          amending s. 101.6923, F.S.; making conforming changes  
23          to special absentee ballot instructions for certain  
24          first-time voters; providing an effective date.

25  
26   Be It Enacted by the Legislature of the State of Florida:

27  
28          Section 1.   Subsections (7) and (8) of section 101.5603,

CS/HB 1339

2012

29 Florida Statutes, are renumbered as subsections (8) and (9),  
30 respectively, and a new subsection (7) is added to that section  
31 to read:

32 101.5603 Definitions relating to Electronic Voting Systems  
33 Act.—As used in this act, the term:

34 (7) "Security-enhanced envelope" means a device with a  
35 tinted pattern on the inside, used in lieu of a secrecy envelope  
36 for enclosing a marked ballot, which conceals the voter's  
37 choices.

38 Section 2. Subsections (1), (2), (3), (5), and (7) of  
39 section 101.6103, Florida Statutes, are amended to read:

40 101.6103 Mail ballot election procedure.—

41 (1) Except as otherwise provided in subsection (7), the  
42 supervisor of elections shall mail all official ballots with  
43 either a secrecy envelope and, a return mailing envelope or a  
44 security-enhanced envelope, and instructions sufficient to  
45 describe the voting process to each elector entitled to vote in  
46 the election not sooner than the 20th day before the election  
47 and not later than the 10th day before the date of the election.  
48 All such ballots shall be mailed by first-class mail. Ballots  
49 shall be addressed to each elector at the address appearing in  
50 the registration records and placed in an envelope which is  
51 prominently marked "Do Not Forward."

52 (2) (a) In any county in which secrecy envelopes and return  
53 mailing envelopes are used, upon receipt of the ballot the  
54 elector shall mark the ballot, place it in the secrecy envelope,  
55 sign the return mailing envelope supplied with the ballot, and  
56 comply with the instructions provided with the ballot.

57           (b) In any county in which security-enhanced envelopes are  
 58 used, upon receipt of the ballot the elector shall mark the  
 59 ballot, place it in the security-enhanced envelope, sign the  
 60 security-enhanced envelope supplied with the ballot, and comply  
 61 with the instructions provided with the ballot.

62           (c) The elector shall mail, deliver, or have delivered the  
 63 marked ballot so that it reaches the supervisor of elections no  
 64 later than 7 p.m. on the day of the election. The ballot must be  
 65 returned in the return mailing envelope or security-enhanced  
 66 envelope.

67           (3) The return mailing envelope or security-enhanced  
 68 envelope shall contain a statement in substantially the  
 69 following form:

VOTER'S CERTIFICATE

71           I, ...(Print Name)..., do solemnly swear (or affirm) that I  
 72 am a qualified voter in this election and that I have not and  
 73 will not vote more than one ballot in this election.

74           I understand that failure to sign this certificate and give  
 75 my residence address will invalidate my ballot.

...(Signature)...

...(Residence Address)...

78           (5) A ballot shall be counted only if:

79           (a) It is returned in the return mailing envelope or  
 80 security-enhanced envelope;

81           (b) The elector's signature has been verified as provided  
 82 in this subsection; and

83           (c) It is received by the supervisor of elections not  
 84 later than 7 p.m. on the day of the election.

85  
86 The supervisor of elections shall verify the signature of each  
87 elector on the return mailing envelope or security-enhanced  
88 envelope with the signature on the elector's registration  
89 records. Such verification may commence at any time prior to the  
90 canvass of votes. The supervisor of elections shall safely keep  
91 the ballot unopened in his or her office until the county  
92 canvassing board canvasses the vote. If the supervisor of  
93 elections determines that an elector to whom a replacement  
94 ballot has been issued under subsection (4) has voted more than  
95 once, the canvassing board shall determine which ballot, if any,  
96 is to be counted.

97 (7) With respect to absent electors overseas entitled to  
98 vote in the election, the supervisor of elections shall mail an  
99 official ballot with either a secrecy envelope ~~and,~~ a return  
100 mailing envelope or a security-enhanced envelope, and  
101 instructions sufficient to describe the voting process to each  
102 such elector on a date sufficient to allow such elector time to  
103 vote in the election and to have his or her marked ballot reach  
104 the supervisor by 7 p.m. on the day of the election.

105 Section 3. Section 101.6104, Florida Statutes, is amended  
106 to read:

107 101.6104 Challenge of votes.—If any elector present for  
108 the canvass of votes believes that any ballot is illegal due to  
109 any defect apparent on the voter's certificate, the elector may,  
110 at any time before the ballot is removed from the envelope, file  
111 with the canvassing board a protest against the canvass of such  
112 ballot, specifying the reason he or she believes the ballot to

113 | be illegal. ~~A No~~ challenge based upon any defect on the voter's  
 114 | certificate may not ~~shall~~ be accepted after the ballot has been  
 115 | removed from the return mailing envelope or security-enhanced  
 116 | envelope.

117 | Section 4. Subsections (1) and (2) of section 101.64,  
 118 | Florida Statutes, are amended to read:

119 | 101.64 Delivery of absentee ballots; envelopes; form.—

120 | (1) (a) The supervisor may: ~~shall~~

121 | 1. Enclose with each absentee ballot two envelopes: a  
 122 | secrecy envelope, into which the absent elector shall enclose  
 123 | his or her marked ballot, ~~;~~ and a return mailing envelope, into  
 124 | which the absent elector shall then place the secrecy envelope;  
 125 | or

126 | 2. Enclose with each absentee ballot a security-enhanced  
 127 | envelope, into which the absent elector shall enclose his or her  
 128 | marked ballot.

129 | (b) Return mailing envelopes and security-enhanced  
 130 | envelopes ~~which~~ shall be addressed to the supervisor and shall  
 131 | also bear on the back side a certificate in substantially the  
 132 | following form:

133 | Note: Please Read Instructions Carefully Before  
 134 | Marking Ballot and Completing Voter's Certificate.

135 | VOTER'S CERTIFICATE

136 | I, ....., do solemnly swear or affirm that I am a qualified  
 137 | and registered voter of .... County, Florida, and that I have  
 138 | not and will not vote more than one ballot in this election. I  
 139 | understand that if I commit or attempt to commit any fraud in  
 140 | connection with voting, vote a fraudulent ballot, or vote more

CS/HB 1339

2012

141 than once in an election, I can be convicted of a felony of the  
 142 third degree and fined up to \$5,000 and/or imprisoned for up to  
 143 5 years. I also understand that failure to sign this certificate  
 144 will invalidate my ballot.

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

146 (2) The certificate shall be arranged on the back of the  
 147 return mailing envelope or security-enhanced envelope so that  
 148 the line for the signature of the absent elector is across the  
 149 seal of the envelope; however, no statement may ~~shall~~ appear on  
 150 the envelope which indicates that a signature of the voter must  
 151 cross the seal of the envelope. The absent elector shall execute  
 152 the certificate on the envelope.

153 Section 5. Section 101.65, Florida Statutes, is amended to  
 154 read:

155 101.65 Instructions to absent electors.—The supervisor  
 156 shall enclose with each absentee ballot separate printed  
 157 instructions in substantially the following form:

158 READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT.

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

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

167 3. Mark only the number of candidates or issue choices for  
 168 a race as indicated on the ballot. If you are allowed to "Vote

CS/HB 1339

2012

169 for One" candidate and you vote for more than one candidate,  
170 your vote in that race will not be counted.

171 4. Place your marked ballot in the enclosed secrecy  
172 envelope or security-enhanced envelope, whichever is provided.

173 5. If you received a secrecy envelope, insert the secrecy  
174 envelope into the enclosed return mailing envelope which is  
175 addressed to the supervisor.

176 6. Seal the return mailing envelope or security-enhanced  
177 envelope and completely fill out the Voter's Certificate on the  
178 back of the return mailing envelope or security-enhanced  
179 envelope.

180 7. VERY IMPORTANT. In order for your absentee ballot to be  
181 counted, you must sign your name on the line above (Voter's  
182 Signature). An absentee ballot will be considered illegal and  
183 not be counted if the signature on the voter's certificate does  
184 not match the signature on record. The signature on file at the  
185 start of the canvass of the absentee ballots is the signature  
186 that will be used to verify your signature on the voter's  
187 certificate. If you need to update your signature for this  
188 election, send your signature update on a voter registration  
189 application to your supervisor of elections so that it is  
190 received no later than the start of the canvassing of absentee  
191 ballots, which occurs no earlier than the 15th day before  
192 election day.

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

196 9. Mail, deliver, or have delivered the completed return

CS/HB 1339

2012

197 mailing envelope or security-enhanced envelope. Be sure there is  
198 sufficient postage if mailed.

199 10. FELONY NOTICE. It is a felony under Florida law to  
200 accept any gift, payment, or gratuity in exchange for your vote  
201 for a candidate. It is also a felony under Florida law to vote  
202 in an election using a false identity or false address, or under  
203 any other circumstances making your ballot false or fraudulent.

204 Section 6. Paragraphs (c) and (d) of subsection (2) of  
205 section 101.68, Florida Statutes, are amended to read:

206 101.68 Canvassing of absentee ballot.—

207 (2)

208 (c)1. The canvassing board shall, if the supervisor has  
209 not already done so, compare the signature of the elector on the  
210 voter's certificate with the signature of the elector in the  
211 registration books to see that the elector is duly registered in  
212 the county and to determine the legality of that absentee  
213 ballot. The ballot of an elector who casts an absentee ballot  
214 shall be counted even if the elector dies on or before election  
215 day, as long as, prior to the death of the voter, the ballot was  
216 postmarked by the United States Postal Service, date-stamped  
217 with a verifiable tracking number by common carrier, or already  
218 in the possession of the supervisor of elections. An absentee  
219 ballot shall be considered illegal if it does not include the  
220 signature of the elector, as shown by the registration records.  
221 However, an absentee ballot shall not be considered illegal if  
222 the signature of the elector does not cross the seal of the  
223 return mailing envelope or security-enhanced envelope. If the  
224 canvassing board determines that any ballot is illegal, a member



CS/HB 1339

2012

225 of the board shall, without opening the envelope, mark across  
226 the face of the envelope: "rejected as illegal." The envelope  
227 and the ballot contained therein shall be preserved in the  
228 manner that official ballots voted are preserved.

229 2. If any elector or candidate present believes that an  
230 absentee ballot is illegal due to a defect apparent on the  
231 voter's certificate, he or she may, at any time before the  
232 ballot is removed from the envelope, file with the canvassing  
233 board a protest against the canvass of that ballot, specifying  
234 the precinct, the ballot, and the reason he or she believes the  
235 ballot to be illegal. A challenge based upon a defect in the  
236 voter's certificate may not be accepted after the ballot has  
237 been removed from the return mailing envelope or security-  
238 enhanced envelope.

239 (d)1. The canvassing board shall record the ballot upon  
240 the proper record, unless the ballot has been previously  
241 recorded by the supervisor.

242 2.a. In any county in which secrecy envelopes and mailing  
243 envelopes are used, the return mailing envelopes shall be opened  
244 and the secrecy envelopes shall be mixed so as to make it  
245 impossible to determine which secrecy envelope came out of which  
246 signed return mailing envelope; however, in any county in which  
247 an electronic or electromechanical voting system is used, the  
248 ballots may be sorted by ballot styles and the return mailing  
249 envelopes may be opened and the secrecy envelopes mixed  
250 separately for each ballot style.

251 b. In any county in which security-enhanced envelopes are  
252 used, the supervisor shall separate the marked ballots from the

CS/HB 1339

2012

253 security-enhanced envelopes so as to make it impossible to  
254 determine which ballot came out of which signed security-  
255 enhanced envelope.

256 3. The votes on absentee ballots shall be included in the  
257 total vote of the county.

258 Section 7. Subsection (2) of section 101.69, Florida  
259 Statutes, is amended to read:

260 101.69 Voting in person; return of absentee ballot.—The  
261 provisions of this code shall not be construed to prohibit any  
262 elector from voting in person at the elector's precinct on the  
263 day of an election or at an early voting site, notwithstanding  
264 that the elector has requested an absentee ballot for that  
265 election. An elector who has returned a voted absentee ballot to  
266 the supervisor, however, is deemed to have cast his or her  
267 ballot and is not entitled to vote another ballot or to have a  
268 provisional ballot counted by the county canvassing board. An  
269 elector who has received an absentee ballot and has not returned  
270 the voted ballot to the supervisor, but desires to vote in  
271 person, shall return the ballot, whether voted or not, to the  
272 election board in the elector's precinct or to an early voting  
273 site. The returned ballot shall be marked "canceled" by the  
274 board and placed with other canceled ballots. However, if the  
275 elector does not return the ballot and the election official:

276 (2) Confirms that the supervisor has not received the  
277 elector's absentee ballot, the elector shall be allowed to vote  
278 in person as provided in this code. The elector's absentee  
279 ballot, if subsequently received, shall not be counted and shall  
280 remain in the return mailing envelope or security-enhanced

281 envelope, and the envelope shall be marked "Rejected as  
 282 Illegal."

283 Section 8. Subsection (2) of section 101.6921, Florida  
 284 Statutes, is amended to read:

285 101.6921 Delivery of special absentee ballot to certain  
 286 first-time voters.—

287 (2) (a) In any county in which secrecy envelopes and return  
 288 mailing envelopes are used, the supervisor shall enclose with  
 289 each absentee ballot three envelopes: a secrecy envelope, into  
 290 which the absent elector will enclose his or her marked ballot;  
 291 an envelope containing the Voter's Certificate, into which the  
 292 absent elector shall place the secrecy envelope; and a return  
 293 mailing envelope, which shall be addressed to the supervisor and  
 294 into which the absent elector will place the envelope containing  
 295 the Voter's Certificate and a copy of the required  
 296 identification.

297 (b) In any county in which security-enhanced envelopes are  
 298 used, the supervisor shall enclose with each absentee ballot two  
 299 envelopes: a security-enhanced envelope containing the Voter's  
 300 Certificate, into which the absent elector shall place the  
 301 marked ballot, and a return mailing envelope, which shall be  
 302 addressed to the supervisor and into which the absent elector  
 303 will place the envelope containing the Voter's Certificate and a  
 304 copy of the required identification.

305 Section 9. Subsection (2) of section 101.6923, Florida  
 306 Statutes, is amended to read:

307 101.6923 Special absentee ballot instructions for certain  
 308 first-time voters.—

309 (2) A voter covered by this section shall be provided with  
 310 printed instructions with his or her absentee ballot in  
 311 substantially the following form:

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

315 1. In order to ensure that your absentee ballot will be  
 316 counted, it should be completed and returned as soon as possible  
 317 so that it can reach the supervisor of elections of the county  
 318 in which your precinct is located no later than 7 p.m. on the  
 319 date of the election.

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

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

327 4. Place your marked ballot in the enclosed secrecy  
 328 envelope or security-enhanced envelope, whichever is provided,  
 329 and seal the envelope.

330 5. If you received a secrecy envelope, insert the secrecy  
 331 envelope into the enclosed envelope bearing the Voter's  
 332 Certificate. Seal the envelope and completely fill out the  
 333 Voter's Certificate on the back of the envelope.

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

336 b. If you are an overseas voter, you must include the date

CS/HB 1339

2012

337 | you signed the Voter's Certificate on the line above (Date) or  
338 | your ballot may not be counted.

339 |       c. An absentee ballot will be considered illegal and will  
340 | not be counted if the signature on the Voter's Certificate does  
341 | not match the signature on record. The signature on file at the  
342 | start of the canvass of the absentee ballots is the signature  
343 | that will be used to verify your signature on the Voter's  
344 | Certificate. If you need to update your signature for this  
345 | election, send your signature update on a voter registration  
346 | application to your supervisor of elections so that it is  
347 | received no later than the start of canvassing of absentee  
348 | ballots, which occurs no earlier than the 15th day before  
349 | election day.

350 |       6. Unless you meet one of the exemptions in Item 7., you  
351 | must make a copy of one of the following forms of  
352 | identification:

353 |       a. Identification which must include your name and  
354 | photograph: United States passport; debit or credit card;  
355 | military identification; student identification; retirement  
356 | center identification; neighborhood association identification;  
357 | or public assistance identification; or

358 |       b. Identification which shows your name and current  
359 | residence address: current utility bill, bank statement,  
360 | government check, paycheck, or government document (excluding  
361 | voter identification card).

362 |       7. The identification requirements of Item 6. do not apply  
363 | if you meet one of the following requirements:

364 |       a. You are 65 years of age or older.

- 365           b. You have a temporary or permanent physical disability.
- 366           c. You are a member of a uniformed service on active duty
- 367 who, by reason of such active duty, will be absent from the
- 368 county on election day.
- 369           d. You are a member of the Merchant Marine who, by reason
- 370 of service in the Merchant Marine, will be absent from the
- 371 county on election day.
- 372           e. You are the spouse or dependent of a member referred to
- 373 in paragraph c. or paragraph d. who, by reason of the active
- 374 duty or service of the member, will be absent from the county on
- 375 election day.
- 376           f. You are currently residing outside the United States.
- 377           8. Place the envelope bearing the Voter's Certificate into
- 378 the return mailing envelope addressed to the supervisor. Insert
- 379 a copy of your identification in the return mailing envelope. DO
- 380 NOT PUT YOUR IDENTIFICATION INSIDE THE SECRECY ENVELOPE WITH THE
- 381 BALLOT OR INSIDE THE ENVELOPE WHICH BEARS THE VOTER'S
- 382 CERTIFICATE OR YOUR BALLOT WILL NOT COUNT.
- 383           9. Mail, deliver, or have delivered the completed return
- 384 mailing envelope. Be sure there is sufficient postage if mailed.
- 385           10. FELONY NOTICE. It is a felony under Florida law to
- 386 accept any gift, payment, or gratuity in exchange for your vote
- 387 for a candidate. It is also a felony under Florida law to vote
- 388 in an election using a false identity or false address, or under
- 389 any other circumstances making your ballot false or fraudulent.
- 390           Section 10. This act shall take effect July 1, 2012.