

HB 109

2015

1 A bill to be entitled
2 An act relating to the federal write-in absentee
3 ballot; amending s. 101.6952, F.S.; authorizing absent
4 uniformed services voters and overseas voters to use
5 the federal write-in absentee ballot in any state or
6 local election; authorizing an elector to vote on any
7 ballot measure in an election using the federal write-
8 in absentee ballot under certain circumstances;
9 specifying that a vote cast in a judicial merit
10 retention election is treated in the same manner as a
11 vote on certain ballot measures; allowing for
12 abbreviations, misspellings, and other minor
13 variations in the name of a ballot measure;
14 prohibiting the supervisor of elections from
15 canvassing federal write-in absentee ballots from
16 overseas voters in certain elections until a specified
17 period after the date of the election; making
18 technical changes; amending s. 102.166, F.S.; revising
19 minimum requirements for Department of State rules
20 used to determine what constitutes a valid vote on a
21 federal write-in absentee ballot; providing an
22 effective date.

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

25
26 Section 1. Subsection (2), paragraph (b) of subsection

27 (3), and subsection (5) of section 101.6952, Florida Statutes,
28 is amended to read:

29 101.6952 Absentee ballots for absent uniformed services
30 and overseas voters.—

31 (2) (a) An absent uniformed services voter or an overseas
32 voter who makes timely application for but does not receive an
33 official absentee ballot may use the federal write-in absentee
34 ballot to vote in any federal, election and any state, or local
35 election ~~involving two or more candidates.~~

36 (b)1. In an election for federal office, an elector may
37 designate a candidate by writing the name of a candidate on the
38 ballot. Except for a primary or special primary election, the
39 elector may alternatively designate a candidate by writing the
40 name of a political party on the ballot. A written designation
41 of the political party shall be counted as a vote for the
42 candidate of that party if there is such a party candidate in
43 the race.

44 2. In ~~an election for~~ a state or local election ~~office,~~ an
45 elector may vote in the section of the federal write-in absentee
46 ballot designated for nonfederal races by writing on the ballot
47 the title of each office and by writing on the ballot the name
48 of the candidate for whom the elector is voting. Except for a
49 primary, special primary, or nonpartisan election, the elector
50 may alternatively designate a candidate by writing the name of a
51 political party on the ballot. A written designation of the
52 political party shall be counted as a vote for the candidate of

53 that party if there is such a party candidate in the race. In
54 addition, the elector may vote on any ballot measure presented
55 in such election by identifying the ballot measure on which he
56 or she desires to vote and specifying his or her vote on the
57 measure. For purposes of this section, a vote cast in a judicial
58 merit retention election shall be treated in the same manner as
59 a ballot measure in which the only allowable responses are "Yes"
60 or "No."

61 (c) In the case of a joint candidacy, such as for the
62 offices of President/Vice President or Governor/Lieutenant
63 Governor, a valid vote for one or both qualified candidates on
64 the same ticket shall constitute a vote for the joint candidacy.

65 (d) For purposes of this subsection and except when ~~where~~
66 the context clearly indicates otherwise, such as when ~~where~~ a
67 candidate in the election is affiliated with a political party
68 whose name includes the word "Independent," "Independence," or a
69 similar term, a voter designation of "No Party Affiliation" or
70 "Independent," or any minor variation, misspelling, or
71 abbreviation thereof, shall be considered a designation for the
72 candidate, other than a write-in candidate, who qualified to run
73 in the race with no party affiliation. If more than one
74 candidate qualifies to run as a candidate with no party
75 affiliation, the designation may ~~shall~~ not count for any
76 candidate unless there is a valid, additional designation of the
77 candidate's name.

78 (e) Any abbreviation, misspelling, or other minor

79 variation in the form of the name of an office, the name of a
80 candidate, the ballot measure, or the name of a political party
81 must be disregarded in determining the validity of the ballot.

82 (3)

83 (b) A federal write-in absentee ballot may not be
84 canvassed until 7 p.m. on the day of the election. A federal
85 write-in absentee ballot from an overseas voter in a
86 presidential preference primary or general election may not be
87 canvassed until the conclusion of the 10-day period specified in
88 subsection (5). Each federal write-in absentee ballot received
89 by 7 p.m. on the day of the election shall be canvassed pursuant
90 to ss. 101.5614(5) and 101.68, unless the elector's official
91 absentee ballot is received by 7 p.m. on election day. Each
92 federal write-in absentee ballot from an overseas voter in a
93 presidential preference primary or general election received by
94 10 days after the date of the election shall be canvassed
95 pursuant to ss. 101.5614(5) and 101.68, unless the overseas
96 voter's official absentee ballot is received by 10 days after
97 the date of the election. If the elector's official absentee
98 ballot is received by 7 p.m. on election day, or, for an
99 overseas voter in a presidential preference primary or general
100 election, no later than 10 days after the date of the election,
101 the federal write-in absentee ballot is invalid and the official
102 absentee ballot shall be canvassed. The time shall be regulated
103 by the customary time in standard use in the county seat of the
104 locality.

105 (5) An absentee ballot from an overseas voter in any
106 presidential preference primary or general election which is
107 postmarked or dated no later than the date of the election and
108 is received by the supervisor of elections of the county in
109 which the overseas voter is registered no later than 10 days
110 after the date of the election shall be counted as long as the
111 absentee ballot is otherwise proper.

112 Section 2. Subsection (4) of section 102.166, Florida
113 Statutes, is amended to read:

114 102.166 Manual recounts of overvotes and undervotes.—

115 (4) (a) A vote for a candidate or ballot measure shall be
116 counted if there is a clear indication on the ballot that the
117 voter has made a definite choice.

118 (b) The Department of State shall adopt specific rules for
119 the federal write-in absentee ballot and for each certified
120 voting system prescribing what constitutes a "clear indication
121 on the ballot that the voter has made a definite choice." The
122 rules shall be consistent, to the extent practicable, and may
123 not:

124 1. Exclusively provide that the voter must properly mark
125 or designate his or her choice on the ballot; or

126 2. Contain a catch-all provision that fails to identify
127 specific standards, such as "any other mark or indication
128 clearly indicating that the voter has made a definite choice."

129 (c) The rule for the federal write-in absentee ballot must
130 address, at a minimum, the following issues:

131 1. The appropriate lines or spaces for designating a
132 candidate choice and, for state and local races, the office or
133 ballot measure to be voted, including the proximity of each to
134 the other and the effect of intervening blank lines.

135 2. The sufficiency of designating a candidate's first or
136 last name when no other candidate in the race has the same or a
137 similar name.

138 3. The sufficiency of designating a candidate's first or
139 last name when an opposing candidate has the same or a similar
140 name, notwithstanding generational suffixes and titles such as
141 "Jr.," "Sr.," or "III." The rule should contemplate the
142 sufficiency of additional first names and first initials, middle
143 names and middle initials, generational suffixes and titles,
144 nicknames, and, in general elections, the name or abbreviation
145 of a political party.

146 4. Candidate designations containing both a qualified
147 candidate's name and a political party, including those in which
148 ~~where~~ the party designated is the candidate's party, is not the
149 candidate's party, has an opposing candidate in the race, or
150 does not have an opposing candidate in the race.

151 5. Situations where the abbreviation or name of a
152 candidate is the same as the abbreviation or name of a political
153 party to which the candidate does not belong, including those in
154 which ~~where~~ the party designated has another candidate in the
155 race or does not have a candidate in the race.

156 6. The use of marks, symbols, or language, such as arrows,

157 quotation marks, or the word "same" or "ditto," to indicate that
158 the same political party designation applies to all listed
159 offices or the elector's approval or disapproval of all listed
160 ballot measures.

161 7. Situations in which ~~where~~ an elector designates the
162 name of a qualified candidate for an incorrect office.

163 8. Situations in which ~~where~~ an elector designates an
164 otherwise correct office name that includes an incorrect
165 district number.

166 Section 3. This act shall take effect July 1, 2015.