

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: SB 532

INTRODUCER: Senator Gibson

SUBJECT: Provisional Ballots

DATE: February 16, 2016

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fox</u>	<u>Roberts</u>	<u>EE</u>	<b>Favorable</b>
2.	<u>Sneed</u>	<u>Miller</u>	<u>ATD</u>	<b>Recommend: Favorable</b>
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Favorable</b>

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**I. Summary:**

SB 532 allows a voter who casts a provisional ballot but fails to sign his or her name on the Provisional Ballot Voter’s Certificate and Affirmation to “cure” this deficiency by submitting an affidavit by 5 p.m. on the second day following the election.

This bill has no fiscal impact on state government, but may result in minimal expenses for local supervisors of elections.

The bill is effective July 1, 2016.

**II. Present Situation:**

When a poll worker can’t affirmatively confirm the eligibility of a person who presents himself or herself to vote at an early voting location or at a polling precinct on Election Day, the person is entitled to vote a provisional, or “conditional,” ballot.<sup>1</sup>

In such case, the precinct clerk who is in charge of polling place operations generally works with the voter to complete the Provisional Ballot Voter’s Certificate and Affirmation, making sure that all necessary information is filled out correctly including:

- **The voter’s signature;**
- His or her printed name;
- Party registration;
- Residential address;
- Mailing address; and
- Driver’s license number or the last 4 digits of the voter’s social security number.<sup>2</sup>

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<sup>1</sup> Section 101.048(1), F.S.

<sup>2</sup> *Id.* at (3).

The Provisional Ballot Voter's Certificate and Affirmation must be sworn or affirmed before an election official, who must sign the attestation.<sup>3</sup>

The provisional voter is given written instructions about his or her right to provide the supervisor with written evidence of eligibility by 5 p.m. on the second day after the election.<sup>4</sup> The provisional voter is also given a numbered stub and directions on how to access a free system to find out if the provisional ballot was counted in the final tally or not, and if not, the reason why it was not counted.<sup>5</sup> Additional procedures are laid out in the Division of Elections Polling Place Procedures Manual, which is used at every precinct.<sup>6</sup>

There is no cure provision in law for when a person fails to sign the Provisional Ballot Voter's Certificate and Affirmation.

### III. Effect of Proposed Changes:

The bill allows a provisional voter who fails to sign the Provisional Ballot Voter's Certificate and Affirmation but whose identity can otherwise be determined from information on the certificate to "cure" the omission. The omission can be cured by providing identification and submitting a provisional ballot affidavit no later than 5 p.m. on the second day after an election.

The bill prescribes the form of the provisional ballot affidavit, and lays out procedures and requirements for completing and submitting it, including the manner of processing the submission. The form also requires the Department of State and the supervisor of elections to include the provisional ballot affidavit and instructions for completing the affidavit on their respective websites. The mailing address, email address, and fax number must be included on the webpage containing the affidavit instructions.

The voter's eligibility would still have to be determined in order for the ballot to count. The "cure" proposed in the bill would only ensure that the ballot would not be voided for lack of the requisite legal signature. The post-submission "cure" concept in the bill appears to be modeled after the absentee ballot cure process for missing signatures adopted in 2013 (see Section VII. Related Issues).

The bill is effective July 1, 2016.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at (1).

<sup>5</sup> *Id.* at (5) and (6).

<sup>6</sup> See Florida Department of State, Division of Elections, *Polling Place Procedures Manual*, pp.14-16 (June 2014) available at <http://dos.myflorida.com/media/695052/dsde11.pdf> (last visited February 12, 2016).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Department of State, the bill has no fiscal impact on state government but may result in minimal expenses for local supervisors of elections for providing copies of the cure affidavit and instructions to provisional voters who fail to sign the voter's certificate.<sup>7</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

In 2013, the Legislature authorized a similar post-submission affidavit procedure to allow **absentee voters** to cure missing signatures on absentee ballot voter certificates,<sup>8</sup> the distinction being that absentee electors have no election official guiding them through the process of completing the voter's certificate and no counter-signature requirement.

**VIII. Statutes Affected:**

This bill substantially amends section 101.048 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

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<sup>7</sup> Department of State, *2016 Legislative Bill Analysis for SB 532*, (November 6, 2015) (on file in the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).

<sup>8</sup> Section 101.68(4), F.S.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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