

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 609 Vote-by-Mail Ballots
SPONSOR(S): Davis
TIED BILLS: IDEN./SIM. **BILLS:** SB 810

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	13 Y, 0 N	Toliver	Harrington
2) Public Integrity & Ethics Committee	15 Y, 2 N, As CS	Poreda	Rubottom

SUMMARY ANALYSIS

Florida law allows an elector to cast his or her ballot at the poll on Election Day, they may vote early at an early voting site in the county which they are registered to vote and by mail. Those ballots, termed "vote-by-mail ballots," are subject to specific requirements and procedures set in statute. Once the elector has completed his or her vote-by-mail ballot, the elector may choose to mail, deliver, or have delivered the completed ballot to the supervisor of elections (supervisor). Early voting allows voters to vote in advance of an upcoming election in specified locations. The supervisor must allow a voter to vote early in his or her main office or in any established branch offices. In addition to those mandatory early voting sites, a supervisor may designate certain additional locations as early voting sites.

Current law allows an elector to take their completed or incomplete vote-by-mail ballot to an early voting site, have it canceled and be allowed to vote in person if that is the intent of the voter. If the elector who has requested a vote-by-mail ballot and does not intend to vote in person at the early voting site, current law does not address if the elector may return their ballot at these early voting sites.

The bill gives local Supervisors of Elections the authority to allow electors to personally deliver his or her vote-by-mail ballot to an early voting site in the county they are registered to vote in during its hours of operation. The Division of Elections within the Department of State must adopt rules for the receipt of these vote-by-mail ballots.

The bill may have an insignificant fiscal impact on the state and local governments. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Vote-by-mail Ballots

Florida law allows an elector to cast his or her ballot by mail.¹ Those ballots, termed "vote-by-mail ballots," are subject to specific requirements and procedures set in statute.² In brief, an elector may request a vote-by-mail ballot from his or her supervisor of elections (supervisor).³ Thereafter, the supervisor must mail the elector a letter containing a ballot, instructions for completing the ballot,⁴ and a secrecy envelope for returning the ballot.⁵ Once the elector has completed the ballot and inserted and sealed the ballot within the secrecy envelope, the elector may choose to "[m]ail, deliver, or have delivered the completed mailing envelope" to the supervisor.⁶

In addition, the law allows an elector who has requested and received a vote-by mail ballot to vote in person at a polling place or early voting site if the elector "desires to vote in person."⁷ Their ballot, whether completed or not, and his marked "canceled". If the elector does not have their vote-by-mail ballot with them at the time they wish to vote in person, statute provides procedures for the Supervisor of Elections to verify if the elector has already voted or not.⁸

Current law does not address if an elector can return their completed vote-by-mail ballots to a polling place or early voting site and their intent is not to vote in person, but deliver their completed ballot to the supervisor of elections.

Early Voting

Early voting allows voters to vote in advance of an upcoming election in specified locations.⁹ The supervisor must allow a voter to vote early in his or her main office or in any established branch offices.¹⁰ In addition to those mandatory early voting sites, a supervisor, at his or her discretion, may designate any of the following locations as early voting sites: city hall; permanent public library facility; fairground; civic center; courthouse; county commission building; stadium; convention center; and government-owned senior center.¹¹

In addition, a supervisor may designate one early voting site per election in an area of the county that does not have any of the sites listed.¹² Each county is required to operate at least as many early voting sites as it did in the 2012 general election.¹³

Each county must begin early voting by the 10th day before an election that contains state or federal races and cannot end early voting prior to the third day before that election.¹⁴ However, at the

¹ Section 101.62, F.S.

² See ss. 101.6105, 101.6106, 101.6107, 101.62, 101.64, 101.65, 101.655, 101.661, 101.662, 101.67, 101.68, 101.69, 101.6921, 101.6923, 101.6925, 101.694, 101.6951, 101.6952, 101.697, and 101.698, F.S.

³ Section 101.62, F.S.

⁴ Section 101.65, F.S.

⁵ Section 101.64(1), F.S. Prior to vote-by-mail ballot being sent to the voter, the envelope must be addressed to the supervisor.

⁶ Section 101.65, F.S.

⁷ Section 101.69, F.S.

⁸ Section 101.69, F.S.

⁹ Section 101.657(1)(a), F.S.

¹⁰ *Id.* Branch offices of the supervisor must be a permanent facility and must have been designated and used as such for at least one year prior to the election.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

supervisor's discretion, early voting may be offered up to 15 days before an election and continue until the second day before that election.¹⁵ Each early voting site must be open at least eight hours per day and may continue operating for up to a maximum of 12 hours per day.¹⁶

Effect of the Bill

The bill allows local Supervisor of Elections to determine if electors can personally deliver his or her vote-by-mail ballot to an early voting site, in the county which they are registered to vote, during its hours of operation. The Division of Elections (Division) within the Department of State is required to adopt rules for the receipt of these vote-by-mail ballots.

B. SECTION DIRECTORY:

Section 1 amends s. 101.64, F.S., relating to the delivery of vote-by-mail ballots.

Section 2 provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may have an insignificant negative fiscal impact on the Division because it requires the Division to adopt rules governing the receipt of the ballots at early voting sites. In addition, the bill may have an insignificant negative fiscal impact on local governments because early voting sites will be required to accept vote-by-mail ballots.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

¹⁴ Section 101.657(1)(d), F.S.

¹⁵ *Id.*

¹⁶ *Id.*

The bill appears to be exempt from the requirements of Art. VII, s. 18 of the Florida Constitution because it is an election law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the Division to adopt uniform rules for the receipt of vote-by-mail ballots at early voting sites.

C. DRAFTING ISSUES OR OTHER COMMENTS:

On line 21, the phrase "Division of Elections of the Department of State" should be changed to "division" as that term is defined in s. 97.021(8), F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 8, 2018 the Public Integrity & Ethics Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment removed the provision to allow immediate family members to also deliver vote-by-mail ballots to early voting sites. The amendment also provided the option for Supervisor of Elections to allow electors to return vote-by-mail ballots to early voting sites in their county.

The analysis is drafted to reflect the committee substitute.