A Compilation of

THE ELECTION LAWS

of the
State of Florida

Revised:

September 2014

FLORIDA DEPARTMENT OF STATE
Division of Elections

The following sections of the Florida Election Code were changed from the 2013 version by legislative action during the 2014 Session.

Ch. 2014-17, Laws of Florida (SB 934, effective July 1, 2014):

Section 8. Subsection (2) of section 104.0616, Florida Statutes, is amended to read:

104.0616 Absentee ballots and voting; violations.—

(2) Any person who provides or offers to provide, and any person who accepts, a pecuniary or other benefit in exchange for distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing more than two absentee ballots per election in addition to his or her own ballot or a ballot belonging to an immediate family member, except as provided in ss. 101.6105-101.694 ~~101.6105-101.695~~, commits a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Reviser's note.—Amended to conform to the transfer of s. 101.695 to s. 97.065 by s. 42, ch. 65-380, Laws of Florida, and the further transfer of s. 97.065 to s. 101.665 by s. 17, ch. 94-224, Laws of Florida.

Section 9. Subsection (15) of section 106.011, Florida Statutes, is amended to read:

106.011 Definitions.—As used in this chapter, the following terms have the following meanings unless the context clearly indicates otherwise:

(15) "Political advertisement" means a paid expression in a communications medium ~~media~~ prescribed in subsection (4), whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue. However, political advertisement does not include:

(a) A statement by an organization, in existence before the time during which a candidate qualifies or an issue is placed on the ballot for that election, in support of or opposition to a candidate or issue, in that organization's newsletter, which newsletter is distributed only to the members of that organization.

(b) Editorial endorsements by a newspaper, a radio or television station, or any other recognized news medium.

Reviser's note.—Amended to confirm the editorial substitution of the word "medium" for the word "media" to conform to context.

Section 10. Paragraph (a) of subsection (2) of section 106.0703, Florida Statutes, is amended to read:

106.0703 Electioneering communications organizations; reporting requirements; certification and filing; penalties.—

(2)(a) Except as provided in s. 106.0705, the reports required of an electioneering communications organization shall be filed with the filing officer not later than 5 p.m. of the day designated. However, any report postmarked by the United States Postal Service no later than midnight of the day designated is deemed to have been filed in a timely manner. Any report received by the filing officer within 5 days after the designated due date that was delivered by the United States Postal Service is ~~be~~ deemed timely filed unless it has a postmark that indicates that the report was mailed after the designated due date. A certificate of mailing obtained from and dated by the United States Postal Service at the time of mailing, or a receipt from an established courier company, which bears a date on or before the date on which the report is due, suffices as proof of mailing in a timely manner. Reports other than daily reports must contain information on all previously unreported contributions received and expenditures made as of the preceding Friday, except that the report filed on the Friday immediately preceding the election must contain information on all previously unreported contributions received and expenditures made as of the day preceding the designated due date; daily reports must contain information on all previously unreported contributions received as of the preceding day. All such reports are open to public inspection.

Reviser's note.—Amended to confirm the editorial deletion of the word "be."

Ch. 2014-22, Laws of Florida (CS/CS/CS SB 1632, Effective July 1, 2014):

Section 56. Paragraph (c) of subsection (4) of section 100.011, Florida Statutes, is amended to read:

100.011 Opening and closing of polls, all elections; expenses.—

(4)

(c) The provisions of any special law to the contrary notwithstanding, all independent and dependent special district elections, with the exception of community development district elections, shall be conducted in accordance with the requirements of ss. 189.04 and 189.041 ~~189.405 and 189.4051.~~

Section 57. Paragraph (f) of subsection (1) of section 101.657, Florida Statutes, is amended to read:

101.657 Early voting.—

(1)

(f) Notwithstanding the requirements of s. 189.04 ~~189.405~~, special districts may provide early voting in any district election not held in conjunction with county or state elections. If a special district provides early voting, it may designate as many sites as necessary and shall conduct its activities in accordance with the provisions of paragraphs (a)-(c). The supervisor is not required to conduct early voting if it is provided pursuant to this subsection.

TITLE IX

ELECTORS AND ELECTIONS

CHAPTER 97

QUALIFICATION AND REGISTRATION OF ELECTORS

PART I GENERAL PROVISIONS (ss. 97.011-97.028)

PART II FLORIDA VOTER REGISTRATION ACT (ss. 97.032-97.105)

PART I

GENERAL PROVISIONS

97.011 Short title.
97.0115 Preemption.
97.012 Secretary of State as chief election officer.
97.021 Definitions.
97.023 Procedures on complaints of violations.
97.025 Election Code; copies thereof.
97.026 Forms to be available in alternative formats and via the Internet.
97.028 Procedures on complaints of violations of Title III of the Help America Vote Act of 2002.

97.011 Short title.—Chapters 97-106 inclusive shall be known and may be cited as "The Florida Election Code."

History.—s. 1, ch. 26870, 1951; s. 1, ch. 65-60; s. 1, ch. 77-175.

97.0115 Preemption.—All matters set forth in chapters 97-105 are preempted to the state, except as otherwise specifically authorized by state or federal law. The conduct of municipal elections shall be governed by s. 100.3605.

History.—s. 1, ch. 2010-167.

97.012 Secretary of State as chief election officer.—The Secretary of State is the chief election officer of the state, and it is his or her responsibility to:

(1) Obtain and maintain uniformity in the interpretation and implementation of the election laws. In order to obtain and maintain uniformity in the interpretation and implementation of the election laws, the Department of State may, pursuant to ss. 120.536(1) and 120.54, adopt by rule uniform standards for the proper and equitable interpretation and implementation of the requirements of chapters 97-102 and chapter 105 of the Election Code.

(2) Provide uniform standards for the proper and equitable implementation of the registration laws by administrative rule of the Department of State adopted pursuant to ss. 120.536(1) and 120.54.

(3) Actively seek out and collect the data and statistics necessary to knowledgeably scrutinize the effectiveness of election laws.

(4) Provide technical assistance to the supervisors of elections on voter education and election personnel training services.

(5) Provide technical assistance to the supervisors of elections on voting systems.

(6) Provide voter education assistance to the public.

(7) Coordinate the state's responsibilities under the National Voter Registration Act of 1993.

(8) Provide training to all affected state agencies on the necessary procedures for proper implementation of this chapter.

(9) Ensure that all registration applications and forms prescribed or approved by the department are in compliance with the Voting Rights Act of 1965 and the National Voter Registration Act of 1993.

(10) Coordinate with the United States Department of Defense so that armed forces recruitment offices administer voter registration in a manner consistent with the procedures set forth in this code for voter registration agencies.

(11) Create and administer a statewide voter registration system as required by the Help America Vote Act of 2002. The secretary may delegate voter registration duties and records maintenance activities to voter registration officials. Any responsibilities delegated by the secretary shall be performed in accordance with state and federal law.

(12) Maintain a voter fraud hotline and provide election fraud education to the public.

(13) Designate an office within the department to be responsible for providing information regarding voter registration procedures and absentee ballot procedures to absent uniformed services voters and overseas voters.

(14) Bring and maintain such actions at law or in equity by mandamus or injunction to enforce the performance of any duties of a county supervisor of elections or any official performing duties with respect to chapters 97-102 and chapter 105 or to enforce compliance with a rule of the Department of State adopted to interpret or implement any of those chapters.

(a) Venue for such actions shall be in the Circuit Court of Leon County.

(b) When the secretary files an action under this section and not more than 60 days remain before an election as defined in s. 97.021, or during the time period after the election and before certification of the election pursuant to s. 102.112 or s. 102.121, the court, including an appellate court, shall set an immediate hearing, giving the case priority over other pending cases.

(c) Prior to filing an action to enforce performance of the duties of the supervisor of elections or any official described in this subsection, the secretary or his or her designee first must confer, or must make a good faith attempt to confer, with the supervisor of elections or the official to ensure compliance with chapters 97-102 and chapter 105 or the rules of the Department of State adopted under any of those chapters.

(15) Conduct preliminary investigations into any irregularities or fraud involving voter registration, voting, candidate petition, or issue petition activities and report his or her findings to the statewide prosecutor or the state attorney for the judicial circuit in which the alleged violation occurred for prosecution, if warranted. The Department of State may prescribe by rule requirements for filing an elections-fraud complaint and for investigating any such complaint.

(16) Provide written direction and opinions to the supervisors of elections on the performance of their official duties with respect to the Florida Election Code or rules adopted by the Department of State.

History.—s. 1, ch. 75-98; s. 21, ch. 84-302; s. 2, ch. 89-348; s. 1, ch. 90-315; s. 2, ch. 94-224; s. 1381, ch. 95-147; s. 34, ch. 97-13; s. 1, ch. 98-129; s. 1, ch. 2003-415; s. 1, ch. 2005-277; s. 1, ch. 2005-278; s. 1, ch. 2008-95; s. 1, ch. 2011-40.

97.021 Definitions.—For the purposes of this code, except where the context clearly indicates otherwise, the term:

(1) "Absent elector" means any registered and qualified voter who casts an absentee ballot.

(2) "Absent uniformed services voter" means:

(a) A member of a uniformed service on active duty who, by reason of such active duty, is absent from the place of residence where the member is otherwise qualified to vote;

(b) A member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; or

(c) A spouse or dependent of a member referred to in paragraph (a) or paragraph (b) who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote.

(3) "Alternative formats" has the meaning ascribed in the Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 42 U.S.C. ss. 12101 et seq., including specifically the technical assistance manuals promulgated thereunder, as amended.

(4) "Ballot" or "official ballot" when used in reference to:

(a) "Marksense ballots" means that printed sheet of paper, used in conjunction with an electronic or electromechanical vote tabulation voting system, containing the names of candidates, or a statement of proposed constitutional amendments or other questions or propositions submitted to the electorate at any election, on which sheet of paper an elector casts his or her vote.

(b) "Electronic or electromechanical devices" means a ballot that is voted by the process of electronically designating, including by touchscreen, or marking with a marking device for tabulation by automatic tabulating equipment or data processing equipment.

(5) "Candidate" means any person to whom any one or more of the following applies:

(a) Any person who seeks to qualify for nomination or election by means of the petitioning process.

(b) Any person who seeks to qualify for election as a write-in candidate.

(c) Any person who receives contributions or makes expenditures, or gives his or her consent for any other person to receive contributions or make expenditures, with a view to bringing about his or her nomination or election to, or retention in, public office.

(d) Any person who appoints a treasurer and designates a primary depository.

(e) Any person who files qualification papers and subscribes to a candidate's oath as required by law.

However, this definition does not include any candidate for a political party executive committee.

(6) "Department" means the Department of State.

(7) "Division" means the Division of Elections of the Department of State.

(8) "Early voting" means casting a ballot prior to election day at a location designated by the supervisor of elections and depositing the voted ballot in the tabulation system.

(9) "Early voting area" means the area designated by the supervisor of elections at an early voting site at which early voting activities occur, including, but not limited to, lines of voters waiting to be processed, the area where voters check in and are processed, and the area where voters cast their ballots.

(10) "Early voting site" means those locations specified in s. 101.657 and the building in which early voting occurs.

(11) "Election" means any primary election, special primary election, special election, general election, or presidential preference primary election.

(12) "Election board" means the clerk and inspectors appointed to conduct an election.

(13) "Election costs" shall include, but not be limited to, expenditures for all paper supplies such as envelopes, instructions to voters, affidavits, reports, ballot cards, ballot booklets for absentee voters, postage, notices to voters; advertisements for registration book closings, testing of voting equipment, sample ballots, and polling places; forms used to qualify candidates; polling site rental and equipment delivery and pickup; data processing time and supplies; election records retention; and labor costs, including those costs uniquely associated with absentee ballot preparation, poll workers, and election night canvass.

(14) "Elector" is synonymous with the word "voter" or "qualified elector or voter," except where the word is used to describe presidential electors.

(15) "General election" means an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

(16) "Lists of registered electors" means names and associated information of registered electors maintained by the department in the statewide voter

registration system or generated or derived from the statewide voter registration system. Lists may be produced in printed or electronic format.

(17) "Member of the Merchant Marine" means an individual, other than a member of a uniformed service or an individual employed, enrolled, or maintained on the Great Lakes for the inland waterways, who is:

(a) Employed as an officer or crew member of a vessel documented under the laws of the United States, a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States; or

(b) Enrolled with the United States for employment or training for employment, or maintained by the United States for emergency relief service, as an officer or crew member of such vessel.

(18) "Minor political party" is any group as specified in s. 103.095 which on January 1 preceding a primary election does not have registered as members 5 percent of the total registered electors of the state.

(19) "Newspaper of general circulation" means a newspaper printed in the language most commonly spoken in the area within which it circulates and which is readily available for purchase by all inhabitants in the area of circulation, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper the primary function of which is to carry legal notices, or a newspaper that is given away primarily to distribute advertising.

(20) "Nominal value" means having a retail value of $10 or less.

(21) "Nonpartisan office" means an office for which a candidate is prohibited from campaigning or qualifying for election or retention in office based on party affiliation.

(22) "Office that serves persons with disabilities" means any state office that takes applications either in person or over the telephone from persons with disabilities for any program, service, or benefit primarily related to their disabilities.

(23) "Overseas voter" means:

(a) An absent uniformed services voter who, by reason of active duty or service, is absent from the United States on the date of the election involved;

(b) A person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or

(c) A person who resides outside the United States and, but for such residence, would be qualified to vote in the last place in which the person was domiciled before leaving the United States.

(24) "Overvote" means that the elector marks or designates more names than there are persons to be elected to an office or designates more than one answer to a ballot question, and the tabulator records no vote for the office or question.

(25) "Persons with disabilities" means individuals who have a physical or mental impairment that substantially limits one or more major life activities.

(26) "Polling place" is the building which contains the polling room where ballots are cast.

(27) "Polling room" means the actual room in which ballots are cast on election day and during early voting.

(28) "Primary election" means an election held preceding the general election for the purpose of nominating a party nominee to be voted for in the general election to fill a national, state, county, or district office.

(29) "Provisional ballot" means a conditional ballot, the validity of which is determined by the canvassing board.

(30) "Public assistance" means assistance provided through the food assistance program under the federal Supplemental Nutrition Assistance Program; the Medicaid program; the Special Supplemental Food Program for Women, Infants, and Children; and the Temporary Cash Assistance Program.

(31) "Public office" means any federal, state, county, municipal, school, or other district office or position which is filled by vote of the electors.

(32) "Qualifying educational institution" means any public or private educational institution receiving state financial assistance which has, as its primary mission, the provision of education or training to students who are at least 18 years of age, provided such institution has more than 200 students enrolled in classes with the institution and provided that the recognized student government organization has requested this designation in writing and has filed the request with the office of the supervisor of elections in the county in which the institution is located.

(33) "Special election" is a special election called for the purpose of voting on a party nominee to fill a vacancy in the national, state, county, or district office.

(34) "Special primary election" is a special nomination election designated by the Governor, called for the purpose of nominating a party nominee to be voted on in a general or special election.

(35) "Supervisor" means the supervisor of elections.

(36) "Tactile input device" means a device that provides information to a voting system by means of a voter touching the device, such as a keyboard, and that complies with the requirements of s. 101.56062(1)(k) and (l).

(37) "Third-party registration organization" means any person, entity, or organization soliciting or collecting voter registration applications. A third-party voter registration organization does not include:

(a) A person who seeks only to register to vote or collect voter registration applications from that person's spouse, child, or parent; or

(b) A person engaged in registering to vote or collecting voter registration applications as an employee or agent of the division, supervisor of elections, Department of Highway Safety and Motor Vehicles, or a voter registration agency.

(38) "Undervote" means that the elector does not properly designate any choice for an office or ballot question, and the tabulator records no vote for the office or question.

(39) "Uniformed services" means the Army, Navy, Air Force, Marine Corps, and Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(40) "Voter interface device" means any device that communicates voting instructions and ballot information to a voter and allows the voter to select and vote for candidates and issues.

(41) "Voter registration agency" means any office that provides public assistance, any office that serves persons with disabilities, any center for independent living, or any public library.

(42) "Voter registration official" means any supervisor of elections or individual authorized by the Secretary of State to accept voter registration applications and execute updates to the statewide voter registration system.

(43) "Voting booth" or "booth" means that booth or enclosure wherein an elector casts his or her ballot for tabulation by an electronic or electromechanical device.

(44) "Voting system" means a method of casting and processing votes that functions wholly or partly by use of electromechanical or electronic apparatus or by use of marksense ballots and includes, but is not limited to, the procedures for casting and processing votes and the programs, operating manuals, supplies, printouts, and other software necessary for the system's operation.

History.—s. 2, ch. 6469, 1913; RGS 300; s. 1, ch. 8582, 1921; CGL 356; s. 1, ch. 13761, 1929; s. 1, ch. 18060, 1937; s. 1, ch. 19663, 1939; s. 1, ch. 26870, 1951; s. 1, ch. 28156, 1953; s. 1, ch. 61-370; s. 2, ch. 65-60; s. 1, ch. 67-32; s. 2, ch. 67-142; s. 2, ch. 67-386; s. 1, ch. 69-137; s. 1, ch. 69-280; s. 1, ch. 69-377; s. 1, ch. 70-269; s. 1, ch. 70-439; s. 1, ch. 71-206; s. 1, ch. 73-157; s. 31, ch. 73-333; s. 23, ch. 77-104; s. 1, ch. 77-175; s. 1, ch. 79-157; s. 24, ch. 79-400; s. 1, ch. 81-105; s. 15, ch. 82-143; s. 22, ch. 84-302; s. 1, ch. 87-184; ss. 5, 12, ch. 87-363; s. 1, ch. 89-338; s. 3, ch. 89-348; s. 2, ch. 90-315; s. 3, ch. 94-224; s. 1382, ch. 95-147; s. 1, ch. 96-57; s. 54, ch. 96-175; s. 1, ch. 96-327; s. 35, ch. 97-13; s. 3, ch. 98-129; ss. 2, 34, ch. 2001-40; s. 4, ch. 2002-281; s. 2, ch. 2003-415; s. 9, ch. 2004-252; s. 2, ch. 2005-277; s. 2, ch. 2005-278; s. 2, ch. 2005-286; s. 1, ch. 2007-30; s. 2, ch. 2010-167; s. 1, ch. 2010-209; s. 2, ch. 2011-40.

Note.—Former s. 102.02.

97.023 Procedures on complaints of violations.

(1)(a) Any person who is aggrieved by a violation of either the National Voter Registration Act of 1993 or a voter registration or removal procedure under the Florida Election Code may file a written complaint with the department, which shall serve as notice to the Secretary of State.

(b) A complaint must state the alleged violation and the person or entity responsible, who must be the department, a voter registration agency, a supervisor, the Department of Highway Safety and Motor Vehicles, or an Armed Forces Recruitment Center. If the department determines that a complaint fails to allege both a violation and a person or entity responsible for the violation, the department shall inform the complainant that he or she has not given sufficient notice and the steps that must be taken in order to give proper notice.

(c) For the purposes of this section, a violation of either the National Voter Registration Act of 1993 or a voter registration or removal procedure under the Florida Election Code is the failure to perform an act required or the performance of an act prohibited by either the National Voter Registration Act of 1993 or a voter registration or removal procedure under the Florida Election Code.

(d) The department has primary jurisdiction over complaints filed under the provisions of this section.

(2) When a complaint is filed with the department, the parties to the complaint must be given the opportunity to resolve the complaint through an informal dispute resolution process to be established by the department. This process must provide for:

(a) A time limitation of 30 days on the process, unless the alleged violation occurred within 120 days before the date of an election, in which case there must be a time limitation of 20 days;

(b) A mediator provided by the department, who may be a department employee unless the department is alleged to be responsible for the violation, in which case the Governor must appoint a mediator who is not a department employee;

(c) Notice to a complainant;

(d) Notice to a respondent of the allegations filed against him or her in the complaint;

(e) An opportunity for the parties to submit written statements, present oral argument either in person or by telephone, and present evidence; and

(f) A written statement by the mediator to the department stating the outcome of the dispute resolution process.

(3) If an alleged violation occurred within 30 days before the date of a state or federal election and the alleged violation will affect the registrant's right to vote in that election, the complainant may immediately bring an action in the circuit court in the county where the alleged violation occurred. Otherwise, the following are conditions precedent for a complainant to bring an action for declaratory or injunctive relief in the circuit court in the county where the alleged violation occurred:

(a) The complainant gave proper written notice of the alleged violation to the Secretary of State;

(b) The complainant participated in the informal dispute resolution process; and

(c) An agreement is not reached or an alleged violation is not corrected within 90 days after receipt of notice or 20 days after receipt of notice if the alleged violation occurred within 120 days before the date of an election.

History.—s. 4, ch. 94-224; s. 1383, ch. 95-147.

97.025 Election Code; copies thereof.—A pamphlet of a reprint of the Election Code, adequately indexed, shall be prepared by the Department of State. The pamphlet shall be made available to each candidate who qualifies with the department. The pamphlet shall be made available to each supervisor, prior to the first day of qualifying, so that each candidate who qualifies with the supervisor and each clerk of elections have access to the pamphlet. The cost of making the pamphlets available shall be paid out of funds appropriated for conducting elections.

History.—s. 38, ch. 3879, 1889; RS 192; s. 69, ch. 4328, 1895; GS 253; RGS 297; CGL 353; s. 2, ch. 26870, 1951; s. 17, ch. 65-134; ss. 10, 35, ch. 69-106; s. 5, ch. 77-175; s. 2, ch. 79-365; s. 5, ch. 94-224; s. 3, ch. 2011-40.

Note.—Former s. 99.54; s. 98.251.

97.026 Forms to be available in alternative formats and via the Internet.—It is the intent of the Legislature that all forms required to be used in chapters 97-106 shall be made available upon request, in alternative formats. Such forms shall include absentee ballots as alternative formats for such ballots become available and the Division of Elections is able to certify systems that provide them. Whenever possible, such

forms, with the exception of absentee ballots, shall be made available by the Department of State via the Internet. Sections that contain such forms include, but are not limited to, ss. 97.051, 97.052, 97.053, 97.057, 97.058, 97.0583, 97.071, 97.073, 97.1031, 98.075, 99.021, 100.361, 100.371, 101.045, 101.171, 101.20, 101.6103, 101.62, 101.64, 101.65, 101.657, 105.031, 106.023, and 106.087.

History.—s. 5, ch. 2002-281; s. 3, ch. 2005-278; s. 24, ch. 2012-116.

97.028 Procedures on complaints of violations of Title III of the Help America Vote Act of 2002.—

(1)(a) Any person who believes that a violation of Title III of the Help America Vote Act of 2002 has occurred, is occurring, or is about to occur may file a complaint with the department.

(b) The complaint must be in writing and must be signed and sworn to before a notary by the person filing the complaint. Further, the complaint must state the alleged violation and the person or entity responsible for the violation. The department shall prescribe the form for complaints filed under this section. If the department determines that the complaint fails to allege both a violation and a person or entity responsible for the violation, or that the complaint is not properly executed, the department shall inform the complainant in writing that the complaint is legally insufficient.

(c) For purposes of this section, a violation of Title III of the Help America Vote Act of 2002 is the failure to perform an act required or the performance of an act prohibited by Title III of the Help America Vote Act of 2002 by a covered person or entity.

(d) The department shall have sole jurisdiction over complaints filed under the provisions of this section.

(e) This section provides the sole avenue of redress for alleged violations of Title III of the Help America Vote Act of 2002 and does not give rise to any other cause of action.

(f) The department may consolidate complaints filed under this section.

(g) All proceedings under this section are exempt from chapter 120.

(2)(a) When a legally sufficient complaint is filed with the department, the agency head shall designate a hearing officer who shall:

1. Provide the subject of the complaint with a copy of the complaint. The subject of the complaint shall, within 10 days after receipt of the complaint, file with the department a written, sworn response to the complaint.

2. Upon receipt of the response, the hearing officer shall review both sworn filings to determine whether a violation of Title III of the Help America Vote Act of 2002 has occurred, is occurring, or is about to occur. The complaint and the response shall constitute the official hearing record to be considered by the hearing officer. The hearing officer shall provide the complainant with a copy of the response.

3. At the hearing officer's discretion, the complainant and the respondent may be ordered by the hearing officer to provide additional sworn oral or written statements or additional documents to assist the hearing officer in making his or her determination. Further, other relevant witnesses may also be ordered by the hearing officer to give sworn testimony or to provide relevant documents to assist the hearing officer in making his or her determination. Any such statements or documents received by the hearing officer shall also become part of the official hearing record. For purposes of this section, the hearing officer is authorized to administer oaths and to issue subpoenas.

4. The hearing officer shall advise both the complainant and respondent in writing of their determination. If the hearing officer determines that no violation has occurred, is occurring, or is about to occur, the department shall dismiss the complaint and publish its determination. If the hearing officer determines that a violation of Title III of the Help America Vote Act has occurred, is occurring, or is about to occur, the department shall issue and deliver an order directing the appropriate remedy to persons responsible for effecting such remedy. The issuance of an order does not constitute agency action for which a hearing under s. 120.569 or s. 120.57 may be sought. For purposes of enforcing the order, the department may initiate a proceeding in the name of the state seeking issuance of an injunction, a writ of mandamus, or other equitable remedy against any person who violates any provision of such order.

5. The department shall make a final determination with respect to the complaint within 90 days after the date that the complaint was filed, unless the complainant consents to a longer period for making such a determination.

(b) If the department fails to meet the deadline established in subparagraph (a)5., the complaint shall be forwarded to mediation. Mediation shall occur within 60 days after the department's failure to make a determination within the timeframe established in subparagraph (a)5. The record created under this section shall be made available for use in the mediation.

History.—s. 5, ch. 2003-415.

PART II

FLORIDA VOTER REGISTRATION ACT

97.032 Short title.
97.041 Qualifications to register or vote.
97.051 Oath upon registering.
97.052 Uniform statewide voter registration application.
97.053 Acceptance of voter registration applications.
97.0535 Special requirements for certain applicants.
97.055 Registration books; when closed for an election.
97.0555 Late registration.
97.057 Voter registration by the Department of Highway Safety and Motor Vehicles.
97.0575 Third-party voter registrations.
97.058 Voter registration agencies.
97.0583 Voter registration at qualifying educational institutions.
97.05831 Voter registration applications made available to the Fish and Wildlife Conservation Commission.

97.0585 Public records exemption; information regarding voters and voter registration; confidentiality.
97.061 Special registration for electors requiring assistance.
97.071 Voter information card.
97.073 Disposition of voter registration applications; cancellation notice.
97.1031 Notice of change of residence, change of name, or change of party affiliation.
97.105 Permanent single registration system established.

97.032 Short title.—This part may be cited as the "Florida Voter Registration Act."
History.—s. 7, ch. 94-224.

97.041 Qualifications to register or vote.—
(1)(a) A person may become a registered voter only if that person:
1. Is at least 18 years of age;
2. Is a citizen of the United States;
3. Is a legal resident of the State of Florida;
4. Is a legal resident of the county in which that person seeks to be registered; and
5. Registers pursuant to the Florida Election Code.
(b) A person who is otherwise qualified may preregister on or after that person's 16th birthday and may vote in any election occurring on or after that person's 18th birthday.
(2) The following persons, who might be otherwise qualified, are not entitled to register or vote:
(a) A person who has been adjudicated mentally incapacitated with respect to voting in this or any other state and who has not had his or her right to vote restored pursuant to law.
(b) A person who has been convicted of any felony by any court of record and who has not had his or her right to vote restored pursuant to law.
(3) A person who is not registered may not vote.
History.—ss. 1, chs. 3850, 3879, 1889; RS 154; s. 1, ch. 4328, 1895; GS 170; RGS 215; s. 1, ch. 8583, 1921; CGL 248; s. 1, ch. 26870, 1951; s. 2, ch. 28156, 1953; s. 1, ch. 63-408; s. 3, ch. 65-60; s. 1, ch. 67-67; ss. 1, 4, ch. 71-108; s. 1, ch. 72-197; s. 2, ch. 73-157; s. 31, ch. 73-333; s. 1, ch. 74-5; s. 1, ch. 77-175; s. 2, ch. 89-338; s. 8, ch. 94-224; s. 12, ch. 2007-30; s. 2, ch. 2008-95.
Note.—Former s. 98.01.

97.051 Oath upon registering.—A person registering to vote must subscribe to the following oath: "I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and the Constitution of the State of Florida, that I am qualified to register as an elector under the Constitution and laws of the State of Florida, and that all information provided in this application is true."
History.—s. 7, ch. 3879, 1889; RS 161; s. 8, ch. 4328, 1895; GS 178; RGS 222; CGL 257; s. 4, ch. 25383, 1949; s. 1, ch. 26870, 1951; s. 3, ch. 69-280; ss. 2, 4, ch. 71-108; s. 1, ch. 72-63; s. 2, ch. 77-175; s. 1, ch. 81-304; s. 9, ch. 94-224; s. 3, ch. 2005-277; s. 4, ch. 2005-278.
Note.—Former s. 98.11.

97.052 Uniform statewide voter registration application.—
(1) The department shall prescribe by rule a uniform statewide voter registration application for use in this state.
(a) The uniform statewide voter registration application must be accepted for any one or more of the following purposes:
1. Initial registration.
2. Change of address.
3. Change of party affiliation.
4. Change of name.
5. Replacement of a voter information card.
6. Signature update.
(b) The department is responsible for printing the uniform statewide voter registration application and the voter registration application form prescribed by the Election Assistance Commission pursuant to federal law. The applications and forms must be distributed, upon request, to the following:
1. Individuals seeking to register to vote or update a voter registration record.
2. Individuals or groups conducting voter registration programs. A charge of 1 cent per application shall be assessed on requests for 10,000 or more applications.
3. The Department of Highway Safety and Motor Vehicles.
4. Voter registration agencies.
5. Armed forces recruitment offices.
6. Qualifying educational institutions.
7. Supervisors, who must make the applications and forms available in the following manner:
a. By distributing the applications and forms in their offices to any individual or group.
b. By distributing the applications and forms at other locations designated by each supervisor.
c. By mailing the applications and forms to applicants upon the request of the applicant.
(c) The uniform statewide voter registration application may be reproduced by any private individual or group, provided the reproduced application is in the same format as the application prescribed by rule under this section.
(2) The uniform statewide voter registration application must be designed to elicit the following information from the applicant:
(a) Last, first, and middle name, including any suffix.
(b) Date of birth.
(c) Address of legal residence.
(d) Mailing address, if different.
(e) E-mail address and whether the applicant wishes to receive sample ballots by e-mail.
(f) County of legal residence.
(g) Race or ethnicity that best describes the applicant:
1. American Indian or Alaskan Native.
2. Asian or Pacific Islander.
3. Black, not Hispanic.
4. White, not Hispanic.
5. Hispanic.
(h) State or country of birth.
(i) Sex.
(j) Party affiliation.
(k) Whether the applicant needs assistance in voting.
(l) Name and address where last registered.

(m) Last four digits of the applicant's social security number.

(n) Florida driver license number or the identification number from a Florida identification card issued under s. 322.051.

(o) An indication, if applicable, that the applicant has not been issued a Florida driver license, a Florida identification card, or a social security number.

(p) Telephone number (optional).

(q) Signature of applicant under penalty for false swearing pursuant to s. 104.011, by which the person subscribes to the oath required by s. 3, Art. VI of the State Constitution and s. 97.051, and swears or affirms that the information contained in the registration application is true.

(r) Whether the application is being used for initial registration, to update a voter registration record, or to request a replacement voter information card.

(s) Whether the applicant is a citizen of the United States by asking the question "Are you a citizen of the United States of America?" and providing boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

(t) Whether the applicant has been convicted of a felony, and, if convicted, has had his or her civil rights restored by including the statement "I affirm I am not a convicted felon, or, if I am, my rights relating to voting have been restored." and providing a box for the applicant to check to affirm the statement.

(u) Whether the applicant has been adjudicated mentally incapacitated with respect to voting or, if so adjudicated, has had his or her right to vote restored by including the statement "I affirm I have not been adjudicated mentally incapacitated with respect to voting, or, if I have, my competency has been restored." and providing a box for the applicant to check to affirm the statement.

The registration application must be in plain language and designed so that convicted felons whose civil rights have been restored and persons who have been adjudicated mentally incapacitated and have had their voting rights restored are not required to reveal their prior conviction or adjudication.

(3) The uniform statewide voter registration application must also contain:

(a) The oath required by s. 3, Art. VI of the State Constitution and s. 97.051.

(b) A statement specifying each eligibility requirement under s. 97.041.

(c) The penalties provided in s. 104.011 for false swearing in connection with voter registration.

(d) A statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and may be used only for voter registration purposes.

(e) A statement that informs the applicant who chooses to register to vote or update a voter registration record that the office at which the applicant submits a voter registration application or updates a voter registration record will remain confidential and may be used only for voter registration purposes.

(f) A statement informing an applicant who has not been issued a Florida driver license, a Florida identification card, or a social security number that if the application is submitted by mail and the applicant is registering for the first time in this state, the applicant will be required to provide identification prior to voting the first time.

(4) A supervisor may produce a voter registration application that has the supervisor's direct mailing address if the department has reviewed the application and determined that it is substantially the same as the uniform statewide voter registration application.

(5) The voter registration application form prescribed by the Election Assistance Commission pursuant to federal law or the federal postcard application must be accepted as an application for registration in this state if the completed application or postcard application contains the information required by the constitution and laws of this state.

(6) If a voter registration applicant fails to provide any of the required information on the voter registration application form, the supervisor shall notify the applicant of the failure by mail within 5 business days after the supervisor has the information available in the voter registration system. The applicant shall have an opportunity to complete the application form to vote in the next election up until the book closing for that next election.

History.—s. 5, ch. 25391, 1949; s. 2, ch. 26870, 1951; s. 1, ch. 59-231; s. 8, ch. 65-134; s. 1, ch. 67-170; s. 8, ch. 69-377; ss. 10, 35, ch. 69-106; s. 2, ch. 72-63; s. 5, ch. 77-175; s. 23, ch. 84-302; s. 6, ch. 89-338; s. 10, ch. 94-224; s. 2, ch. 96-327; s. 26, ch. 97-13; s. 4, ch. 98-129; ss. 1, 7, ch. 2002-189; s. 3, ch. 2003-415; s. 4, ch. 2005-277; s. 5, ch. 2005-278; s. 1, ch. 2013-192.

Note.—Former s. 97.05; s. 98.111.

97.053 Acceptance of voter registration applications.—

(1) Voter registration applications, changes in registration, and requests for a replacement voter information card must be accepted in the office of any supervisor, the division, a driver license office, a voter registration agency, or an armed forces recruitment office when hand delivered by the applicant or a third party during the hours that office is open or when mailed.

(2) A voter registration application is complete and becomes the official voter registration record of that applicant when all information necessary to establish the applicant's eligibility pursuant to s. 97.041 is received by a voter registration official and verified pursuant to subsection (6). If the applicant fails to complete his or her voter registration application prior to the date of book closing for an election, then such applicant shall not be eligible to vote in that election.

(3) The registration date for a valid initial voter registration application that has been hand delivered is the date that the application is received by a driver license office, a voter registration agency, an armed forces recruitment office, the division, or the office of any supervisor in the state.

(4) The registration date for a valid initial voter registration application that has been mailed to a driver license office, a voter registration agency, an armed forces recruitment office, the division, or the office of any supervisor in the state and bears a clear postmark is the date of that postmark. If an initial voter registration

application that has been mailed does not bear a postmark or if the postmark is unclear, the registration date is the date the application is received by any supervisor or the division, unless it is received within 5 days after the closing of the books for an election, excluding Saturdays, Sundays, and legal holidays, in which case the registration date is the book-closing date.

(5)(a) A voter registration application is complete if it contains the following information necessary to establish the applicant's eligibility pursuant to s. 97.041, including:

1. The applicant's name.
2. The applicant's legal residence address.
3. The applicant's date of birth.
4. A mark in the checkbox affirming that the applicant is a citizen of the United States.

5.a. The applicant's current and valid Florida driver license number or the identification number from a Florida identification card issued under s. 322.051, or

b. If the applicant has not been issued a current and valid Florida driver license or a Florida identification card, the last four digits of the applicant's social security number.

In case an applicant has not been issued a current and valid Florida driver license, Florida identification card, or social security number, the applicant shall affirm this fact in the manner prescribed in the uniform statewide voter registration application.

6. A mark in the checkbox affirming that the applicant has not been convicted of a felony or that, if convicted, has had his or her civil rights restored.
7. A mark in the checkbox affirming that the applicant has not been adjudicated mentally incapacitated with respect to voting or that, if so adjudicated, has had his or her right to vote restored.
8. The original signature or a digital signature transmitted by the Department of Highway Safety and Motor Vehicles of the applicant swearing or affirming under the penalty for false swearing pursuant to s. 104.011 that the information contained in the registration application is true and subscribing to the oath required by s. 3, Art. VI of the State Constitution and s. 97.051.

(b) An applicant who fails to designate party affiliation must be registered without party affiliation. The supervisor must notify the voter by mail that the voter has been registered without party affiliation and that the voter may change party affiliation as provided in s. 97.1031.

(6) A voter registration application may be accepted as valid only after the department has verified the authenticity or nonexistence of the driver license number, the Florida identification card number, or the last four digits of the social security number provided by the applicant. If a completed voter registration application has been received by the book-closing deadline but the driver license number, the Florida identification card number, or the last four digits of the social security number provided by the applicant cannot be verified, the applicant shall be notified that the number cannot be verified and that the applicant must provide evidence to the supervisor sufficient to verify the authenticity of the applicant's driver license number, Florida identification card number, or last four digits of the social security number. If the applicant provides the necessary evidence, the supervisor shall place the applicant's name on the registration rolls as an active voter. If the applicant has not provided the necessary evidence or the number has not otherwise been verified prior to the applicant presenting himself or herself to vote, the applicant shall be provided a provisional ballot. The provisional ballot shall be counted only if the number is verified by the end of the canvassing period or if the applicant presents evidence to the supervisor of elections sufficient to verify the authenticity of the applicant's driver license number, Florida identification card number, or last four digits of the social security number no later than 5 p.m. of the second day following the election.

(7) All voter registration applications received by a voter registration official shall be entered into the statewide voter registration system within 13 days after receipt. Once entered, the application shall be immediately forwarded to the appropriate supervisor of elections.

History.—s. 11, ch. 94-224; s. 27, ch. 97-13; s. 5, ch. 98-129; s. 4, ch. 2003-415; s. 5, ch. 2005-277; s. 6, ch. 2005-278; s. 13, ch. 2007-30; s. 3, ch. 2008-95.

97.0535 Special requirements for certain applicants.—

(1) Each applicant who registers by mail and who has never previously voted in the state and who the department has verified has not been issued a current and valid Florida driver license, Florida identification card, or social security number shall be required to provide a copy of a current and valid identification, as provided in subsection (3), or indicate that he or she is exempt from the requirements prior to voting. Such identification or indication may be provided at the time of registering, or at any time prior to voting for the first time in the state. If the voter registration application clearly provides information from which a voter registration official can determine that the applicant meets at least one of the exemptions in subsection (4), the voter registration official shall make the notation on the registration records of the statewide voter registration system and the applicant shall not be required to provide the identification required by this section.

(2) The voter registration official shall, upon accepting the voter registration application submitted pursuant to subsection (1), determine if the applicant provided the required identification at the time of registering. If the required identification was not provided, the supervisor shall notify the applicant that he or she must provide the identification prior to voting the first time in the state.

(3)(a) The following forms of identification shall be considered current and valid if they contain the name and photograph of the applicant and have not expired:

1. United States passport.
2. Debit or credit card.
3. Military identification.
4. Student identification.
5. Retirement center identification.
6. Neighborhood association identification.
7. Public assistance identification.

(b) The following forms of identification shall be considered current and valid if they contain the name and current residence address of the applicant:

1. Utility bill.
2. Bank statement.
3. Government check.
4. Paycheck.
5. Other government document (excluding voter identification card).

(4) The following persons are exempt from the identification requirements of this section:

(a) Persons 65 years of age or older.

(b) Persons with a temporary or permanent physical disability.

(c) Members of the uniformed service on active duty who, by reason of such active duty, are absent from the county on election day.

(d) Members of the Merchant Marine who, by reason of service in the Merchant Marine, are absent from the county on election day.

(e) The spouse or dependent of a member referred to in paragraph (c) or paragraph (d) who, by reason of the active duty or service of the member, is absent from the county on election day.

(f) Persons currently residing outside the United States who are eligible to vote in Florida.

History.—s. 6, ch. 2003-415; s. 7, ch. 2005-278; s. 4, ch. 2008-95.

97.055 Registration books; when closed for an election.—

(1)(a) The registration books must be closed on the 29th day before each election and must remain closed until after that election. If an election is called and there are fewer than 29 days before that election, the registration books must be closed immediately.

(b) Except as provided in paragraph (c), when the registration books are closed for an election, updates to a voter's name, address, and signature pursuant to ss. 98.077 and 101.045 shall be the only changes permitted for purposes of the upcoming election. New voter registration applications must be accepted but only for the purpose of subsequent elections.

(c) When the registration books are closed for an upcoming election, an update or change to a voter's party affiliation made pursuant to s. 97.1031 shall be permitted for that upcoming election unless such election is for the purpose of nominating a political party nominee, in which case the update or change shall be permitted only for the purpose of subsequent elections.

(2) In computing the 29-day period for the closing of the registration books, the day of the election is excluded and all other days are included. If the 29th day preceding an election falls on a Sunday or a legal holiday, the registration books must be closed on the next day that is not a Sunday or a legal holiday.

History.—s. 2, ch. 25391, 1949; s. 2, ch. 26870, 1951; s. 5, ch. 29934, s. 1, ch. 29761, 1955; s. 3, ch. 65-134; s. 2, ch. 67-530; s. 1, ch. 71-124; ss. 7, 8, ch. 72-63; s. 4, ch. 74-5; s. 1, ch. 77-174; s. 5, ch. 77-175; s. 7, ch. 80-292; s. 5, ch. 81-304; s. 1, ch. 83-25; s. 27, ch. 84-302; s. 11, ch. 85-80; s. 6, ch. 89-338; s. 12, ch. 94-224; s. 6, ch. 2005-277; s. 8, ch. 2005-278; s. 3, ch. 2005-286; s. 5, ch. 2008-95.

Note.—Former s. 97.02; s. 98.051.

97.0555 Late registration.—An individual or accompanying family member who has been discharged or separated from the uniformed services or the United States Merchant Marine, has returned from a military deployment or activation, or has separated from employment outside the territorial limits of the United States, after the book-closing date for an election pursuant to s. 97.055 and who is otherwise qualified may register to vote in such election until 5 p.m. on the Friday before that election in the office of the supervisor of elections. Such persons must produce sufficient documentation showing evidence of qualifying for late registration pursuant to this section.

History.—s. 47, ch. 2001-40; s. 1, ch. 2002-17; s. 25, ch. 2012-116; s. 1, ch. 2013-57.

97.057 Voter registration by the Department of Highway Safety and Motor Vehicles.—

(1) The Department of Highway Safety and Motor Vehicles shall provide the opportunity to register to vote or to update a voter registration record to each individual who comes to an office of that department to:

(a) Apply for or renew a driver license;

(b) Apply for or renew an identification card pursuant to chapter 322; or

(c) Change an address on an existing driver license or identification card.

(2) The Department of Highway Safety and Motor Vehicles shall:

(a) Notify each individual, orally or in writing, that:

1. Information gathered for the completion of a driver license or identification card application, renewal, or change of address can be automatically transferred to a voter registration application;

2. If additional information and a signature are provided, the voter registration application will be completed and sent to the proper election authority;

3. Information provided can also be used to update a voter registration record;

4. All declinations will remain confidential and may be used only for voter registration purposes; and

5. The particular driver license office in which the person applies to register to vote or updates a voter registration record will remain confidential and may be used only for voter registration purposes.

(b) Require a driver license examiner to inquire orally or, if the applicant is hearing impaired, inquire in writing whether the applicant wishes to register to vote or update a voter registration record during the completion of a driver license or identification card application, renewal, or change of address.

1. If the applicant chooses to register to vote or to update a voter registration record:

a. All applicable information received by the Department of Highway Safety and Motor Vehicles in the course of filling out the forms necessary under subsection (1) must be transferred to a voter registration application.

b. The additional necessary information must be obtained by the driver license examiner and must not duplicate any information already obtained while completing the forms required under subsection (1).

c. A voter registration application with all of the applicant's voter registration information required to establish the applicant's eligibility pursuant to s. 97.041 must be presented to the applicant to review and verify

the voter registration information received and provide an electronic signature affirming the accuracy of the information provided.

2. If the applicant declines to register to vote, update the applicant's voter registration record, or change the applicant's address by either orally declining or by failing to sign the voter registration application, the Department of Highway Safety and Motor Vehicles must note such declination on its records and shall forward the declination to the statewide voter registration system.

(3) For the purpose of this section, the Department of Highway Safety and Motor Vehicles, with the approval of the Department of State, shall prescribe:

(a) A voter registration application that is the same in content, format, and size as the uniform statewide voter registration application prescribed under s. 97.052; and

(b) A form that will inform applicants under subsection (1) of the information contained in paragraph (2)(a).

(4) The Department of Highway Safety and Motor Vehicles must electronically transmit completed voter registration applications within 24 hours after receipt to the statewide voter registration system. Completed paper voter registration applications received by the Department of Highway Safety and Motor Vehicles shall be forwarded within 5 days after receipt to the supervisor of the county where the office that processed or received that application is located.

(5) The Department of Highway Safety and Motor Vehicles must send, with each driver license renewal extension application authorized pursuant to s. 322.18(8), a uniform statewide voter registration application, the voter registration application prescribed under paragraph (3)(a), or a voter registration application developed especially for the purposes of this subsection by the Department of Highway Safety and Motor Vehicles, with the approval of the Department of State, which must meet the requirements of s. 97.052.

(6) A person providing voter registration services for a driver license office may not:

(a) Seek to influence an applicant's political preference or party registration;

(b) Display any political preference or party allegiance;

(c) Make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(d) Disclose any applicant's voter registration information except as needed for the administration of voter registration.

(7) The Department of Highway Safety and Motor Vehicles shall collect data determined necessary by the Department of State for program evaluation and reporting to the Election Assistance Commission pursuant to federal law.

(8) The Department of Highway Safety and Motor Vehicles must ensure that all voter registration services provided by driver license offices are in compliance with the Voting Rights Act of 1965.

(9) The Department of Highway Safety and Motor Vehicles shall retain complete records of voter registration information received, processed, and submitted to the statewide voter registration system by the Department of Highway Safety and Motor Vehicles. These records shall be for the explicit purpose of supporting audit and accounting controls established to ensure accurate and complete electronic transmission of records between the statewide voter registration system and the Department of Highway Safety and Motor Vehicles.

(10) The department shall provide the Department of Highway Safety and Motor Vehicles with an electronic database of street addresses valid for use as the legal residence address as required in s. 97.053(5). The Department of Highway Safety and Motor Vehicles shall compare the address provided by the applicant against the database of valid street addresses. If the address provided by the applicant does not match a valid street address in the database, the applicant will be asked to verify the address provided. The Department of Highway Safety and Motor Vehicles shall not reject any application for voter registration for which a valid match cannot be made.

(11) The Department of Highway Safety and Motor Vehicles shall enter into an agreement with the department to match information in the statewide voter registration system with information in the database of the Department of Highway Safety and Motor Vehicles to the extent required to verify the accuracy of the driver license number, Florida identification number, or last four digits of the social security number provided on applications for voter registration as required in s. 97.053.

(12) The Department of Highway Safety and Motor Vehicles shall enter into an agreement with the Commissioner of Social Security as required by the Help America Vote Act of 2002 to verify the last four digits of the social security number provided in applications for voter registration as required in s. 97.053.

History.—s. 13, ch. 94-224; s. 2, ch. 2002-189; s. 9, ch. 2005-278.

97.0575 Third-party voter registrations.—

(1) Before engaging in any voter registration activities, a third-party voter registration organization must register and provide to the division, in an electronic format, the following information:

(a) The names of the officers of the organization and the name and permanent address of the organization.

(b) The name and address of the organization's registered agent in the state.

(c) The names, permanent addresses, and temporary addresses, if any, of each registration agent registering persons to vote in this state on behalf of the organization.

(d) A sworn statement from each registration agent employed by or volunteering for the organization stating that the agent will obey all state laws and rules regarding the registration of voters. Such statement must be on a form containing notice of applicable penalties for false registration.

(2) The division or the supervisor of elections shall make voter registration forms available to third-party voter registration organizations. All such forms must contain information identifying the organization to which

the forms are provided. The division shall maintain a database of all third-party voter registration organizations and the voter registration forms assigned to the third-party voter registration organization. Each supervisor of elections shall provide to the division information on voter registration forms assigned to and received from third-party voter registration organizations. The information must be provided in a format and at times as required by the division by rule. The division must update information on third-party voter registrations daily and make the information publicly available.

(3)(a) A third-party voter registration organization that collects voter registration applications serves as a fiduciary to the applicant, ensuring that any voter registration application entrusted to the organization, irrespective of party affiliation, race, ethnicity, or gender, shall be promptly delivered to the division or the supervisor of elections within 48 hours after the applicant completes it or the next business day if the appropriate office is closed for that 48-hour period. If a voter registration application collected by any third-party voter registration organization is not promptly delivered to the division or supervisor of elections, the third-party voter registration organization is liable for the following fines:

1. A fine in the amount of $50 for each application received by the division or the supervisor of elections more than 48 hours after the applicant delivered the completed voter registration application to the third-party voter registration organization or any person, entity, or agent acting on its behalf or the next business day, if the office is closed. A fine in the amount of $250 for each application received if the third-party voter registration organization or person, entity, or agency acting on its behalf acted willfully.

2. A fine in the amount of $100 for each application collected by a third-party voter registration organization or any person, entity, or agent acting on its behalf, before book closing for any given election for federal or state office and received by the division or the supervisor of elections after the book-closing deadline for such election. A fine in the amount of $500 for each application received if the third-party registration organization or person, entity, or agency acting on its behalf acted willfully.

3. A fine in the amount of $500 for each application collected by a third-party voter registration organization or any person, entity, or agent acting on its behalf, which is not submitted to the division or supervisor of elections. A fine in the amount of $1,000 for any application not submitted if the third-party voter registration organization or person, entity, or agency acting on its behalf acted willfully.

The aggregate fine pursuant to this paragraph which may be assessed against a third-party voter registration organization, including affiliate organizations, for violations committed in a calendar year is $1,000.

(b) A showing by the third-party voter registration organization that the failure to deliver the voter registration application within the required timeframe is based upon force majeure or impossibility of performance shall be an affirmative defense to a violation of this subsection. The secretary may waive the fines described in this subsection upon a showing that the failure to deliver the voter registration application promptly is based upon force majeure or impossibility of performance.

(4) If the Secretary of State reasonably believes that a person has committed a violation of this section, the secretary may refer the matter to the Attorney General for enforcement. The Attorney General may institute a civil action for a violation of this section or to prevent a violation of this section. An action for relief may include a permanent or temporary injunction, a restraining order, or any other appropriate order.

(5) The division shall adopt by rule a form to elicit specific information concerning the facts and circumstances from a person who claims to have been registered to vote by a third-party voter registration organization but who does not appear as an active voter on the voter registration rolls. The division shall also adopt rules to ensure the integrity of the registration process, including rules requiring third-party voter registration organizations to account for all state and federal registration forms used by their registration agents. Such rules may require an organization to provide organization and form specific identification information on each form as determined by the department as needed to assist in the accounting of state and federal registration forms.

(6) The date on which an applicant signs a voter registration application is presumed to be the date on which the third-party voter registration organization received or collected the voter registration application.

(7) The requirements of this section are retroactive for any third-party voter registration organization registered with the department on the effective date of this act, and must be complied with within 90 days after the department provides notice to the third-party voter registration organization of the requirements contained in this section. Failure of the third-party voter registration organization to comply with the requirements within 90 days after receipt of the notice shall automatically result in the cancellation of the third-party voter registration organization's registration.

History.—s. 7, ch. 2005-277; s. 2, ch. 2007-30; s. 4, ch. 2011-40.

97.058 Voter registration agencies.—

(1) Each voter registration agency must provide each applicant the opportunity to register to vote or to update a voter registration record, at the time the applicant applies for services or assistance from that agency, for renewal of such services or assistance, or for a change of address required with respect to the services or assistance.

(2) Each voter registration agency, other than a public library, must develop and provide each applicant with a form approved by the department containing all of the following:

(a) The questions:

1. "If you are not registered to vote where you live now, would you like to apply to register to vote today?"

2. "If you are registered to vote where you live now, would you like to update your voter registration record?"

(b) For agencies providing public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency."

(c) Boxes for the applicant to check which indicate that:

1. The applicant would like to register to vote or update a current voter registration;

2. The applicant would like to decline to register to vote; or

3. The applicant is already registered to vote and does not need to update the voter registration,

together with the statement, "If you do not check any box, you will be considered to have decided not to register to vote or update a voter registration at this time."

(d) The statement, "If you would like help in filling out the voter registration application, we will help you. The decision whether to seek or accept help is yours. You may fill out the voter registration application in private."

(e) The statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the Secretary of State."

(f) The address and telephone number of the appropriate office in the department where a complaint may be filed.

(g) A statement that all declinations will remain confidential and may be used only for voter registration purposes.

(h) A statement that informs the applicant who chooses to register to vote or update a voter registration record that the office at which the applicant submits a voter registration application or updates a voter registration record will remain confidential and may be used only for voter registration purposes.

(3)(a) A voter registration agency may use the uniform statewide voter registration application or may create and use a voter registration application that meets the requirements of s. 97.052, with the approval of the department.

(b) A voter registration agency must provide to each applicant under subsection (1) the voter registration application that the agency decides to use pursuant to paragraph (a). An applicant who indicates a desire to register to vote or update a voter registration record must be provided the same degree of assistance with regard to the completion of that voter registration application as is provided by the agency with regard to the completion of its own forms, unless the applicant refuses that assistance.

(4) If a voter registration agency provides services to a person with a disability at the person's home, the agency must also provide voter registration services at the person's home.

(5) A voter registration agency must establish procedures for providing voter registration services to applicants who apply by telephone.

(6) A voter registration agency must forward all completed and incomplete voter registration applications within 5 days after receipt to the supervisor of the county where the agency that processed or received that application is located.

(7) A voter registration agency must retain declinations for a period of 2 years, during which time the declinations are not considered a record of the client pursuant to the laws governing the agency's records.

(8) A person providing voter registration services for a voter registration agency may not:

(a) Seek to influence an applicant's political preference or party registration;

(b) Display any political preference or party allegiance;

(c) Make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits;

(d) Make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(e) Disclose any applicant's voter registration information except as needed for the administration of voter registrations.

(9) A voter registration agency must collect data determined necessary by the department, as provided by rule, for program evaluation and reporting to the Election Assistance Commission pursuant to federal law.

(10) Each state agency which contracts with a private provider that is also a voter registration agency as defined in s. 97.021 is responsible for contracting for voter registration services with that provider and for ensuring that the private provider complies with the provisions of this section.

(11) Each voter registration agency must ensure that all voter registration services provided by its offices are in compliance with the Voting Rights Act of 1965.

History.—s. 14, ch. 94-224; s. 3, ch. 2002-189; s. 10, ch. 2005-278.

97.0583 Voter registration at qualifying educational institutions.—Each qualifying educational institution shall provide each student enrolled in that institution the opportunity to register to vote or to update a voter registration record on each campus at least once a year. Qualifying educational institutions are also encouraged to provide voter registration services at other times and places, such as upon application for financial aid, during admissions, at registration, upon issuance of student identifications, and at new-student orientation.

History.—s. 3, ch. 96-327.

97.05831 Voter registration applications made available to the Fish and Wildlife Conservation Commission.—As required in s. 379.352, each supervisor of elections shall supply voter registration applications to the Fish and Wildlife Conservation Commission and its subagents, as needed.

History.—s. 1, ch. 2006-95; s. 183, ch. 2008-247.

97.0585 Public records exemption; information regarding voters and voter registration; confidentiality.—

(1) The following information held by an agency as defined in s. 119.011 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution and may be used only for purposes of voter registration:

(a) All declinations to register to vote made pursuant to ss. 97.057 and 97.058.

(b) Information relating to the place where a person registered to vote or where a person updated a voter registration.

(c) The social security number, driver license number, and Florida identification number of a voter registration applicant or voter.

(2) The signature of a voter registration applicant or a voter is exempt from the copying requirements of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(3) The names, addresses, and telephone numbers of persons who are victims of stalking or aggravated stalking are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution in the same manner that the names, addresses, and telephone numbers of participants in the Address Confidentiality Program for Victims of Domestic Violence which are held by the Attorney General under s. 741.465 are exempt from disclosure, provided that the victim files a sworn statement of stalking with the Office of the Attorney General and otherwise complies with the procedures in ss. 741.401-741.409.

(4) This section applies to information held by an agency before, on, or after the effective date of this exemption.

(5) Subsection (3) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2015, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—ss. 1, 2, ch. 94-345; s. 24, ch. 96-406; ss. 1, 3, ch. 2005-279; s. 1, ch. 2010-42; ss. 1, 2, ch. 2010-115; s. 11, ch. 2013-15.

97.061 Special registration for electors requiring assistance.—

(1) Any person who is eligible to register and who is unable to read or write or who, because of some disability, needs assistance in voting shall upon that person's request be registered under the procedure prescribed by this section and shall be entitled to receive assistance at the polls under the conditions prescribed by this section.

(2) If a person is qualified to register pursuant to this section, the voter registration official shall note in that person's registration record that the person needs assistance in voting.

(3) The precinct register generated by the supervisor shall contain a notation that such person is eligible for assistance in voting, and the supervisor may make a notation on the voter information card that such person is eligible for assistance in voting. Such person shall be entitled to receive the assistance of two election officials or some other person of his or her own choice, other than the person's employer, the agent of the person's employer, or an officer or agent of the person's union, without the necessity of executing the "Declaration to Secure Assistance" prescribed in s. 101.051. Such person shall notify the supervisor of any change in his or her condition which makes it unnecessary for him or her to receive assistance in voting.

History.—s. 14, ch. 6469, 1913; RGS 318; CGL 375; s. 3, ch. 25388, 1949; s. 6, ch. 25391, 1949; s. 1, ch. 26870, 1951; s. 3, ch. 28156, 1953; s. 1, ch. 59-446; s. 1, ch. 61-358; s. 4, ch. 65-60; s. 3, ch. 77-175; s. 1, ch. 79-366; s. 2, ch. 81-304; s. 1, ch. 84-302; s. 15, ch. 94-224; s. 1384, ch. 95-147; s. 11, ch. 2005-278; s. 26, ch. 2012-116.

Note.—Former ss. 97.06 and 102.21.

97.071 Voter information card.—

(1) A voter information card shall be furnished by the supervisor to all registered voters residing in the supervisor's county. The card must contain:

(a) Voter's registration number.

(b) Date of registration.

(c) Full name.

(d) Party affiliation.

(e) Date of birth.

(f) Address of legal residence.

(g) Precinct number.

(h) Polling place address.

(i) Name of supervisor and contact information of supervisor.

(j) Other information deemed necessary by the supervisor.

(2) A voter may receive a replacement voter information card by providing a signed, written request for a replacement card to a voter registration official. Upon verification of registration, the supervisor shall issue the voter a duplicate card without charge.

(3) In the case of a change of name, address of legal residence, polling place address, or party affiliation, the supervisor shall issue the voter a new voter information card.

History.—s. 13, ch. 3879, 1889; RS 167; s. 15, ch. 4328, 1895; GS 191, 192; RGS 235, 236; CGL 288, 289; s. 4, ch. 24203, 1947; s. 11, ch. 25035, 1949; s. 1, ch. 26870, 1951; s. 10, ch. 27991, 1953; s. 6, ch. 65-60; s. 8, ch. 69-377; ss. 10, 35, ch. 69-106; s. 18, ch. 94-224; s. 28, ch. 97-13; s. 7, ch. 98-129; s. 2, ch. 2000-250; s. 4, ch. 2002-189; s. 8, ch. 2005-277; s. 12, ch. 2005-278; s. 4, ch. 2005-286; s. 5, ch. 2011-40.

Note.—Former ss. 98.31 and 98.32.

97.073 Disposition of voter registration applications; cancellation notice.—

(1) The supervisor must notify each applicant of the disposition of the applicant's voter registration application within 5 business days after voter registration information is entered into the statewide voter registration system. The notice must inform the applicant that the application has been approved, is incomplete, has been denied, or is a duplicate of a current registration. A voter information card sent to an applicant constitutes notice of approval of registration. If the application is incomplete, the supervisor must request that the applicant supply the missing information using a voter registration application signed by the applicant. A notice of denial must inform the applicant of the reason the application was denied.

(2) Within 2 weeks after approval of a voter registration application that indicates that the applicant was previously registered in another state, the department must notify the registration official in the prior state that the applicant is now registered in this state.

History.—s. 19, ch. 94-224; s. 62, ch. 2001-40; s. 13, ch. 2005-278; s. 7, ch. 2011-40.

97.1031 Notice of change of residence, change of name, or change of party affiliation.—

(1)(a) When an elector changes his or her residence address, the elector must notify the supervisor of elections. Except as provided in paragraph (b), an address change must be submitted using a voter registration application.

(b) If the address change is within the state and notice is provided to the supervisor of elections of the county where the elector has moved, the elector may do so by:

1. Contacting the supervisor of elections via telephone or electronic means, in which case the elector must provide his or her date of birth; or

2. Submitting the change on a voter registration application or other signed written notice.

(2) When an elector seeks to change party affiliation, the elector shall notify his or her supervisor of elections or other voter registration official by using a signed written notice that contains the elector's date of birth or voter registration number. When an elector changes his or her name by marriage or other legal process, the elector shall notify his or her supervisor of elections or other voter registration official by using a signed written notice that contains the elector's date of birth or voter's registration number.

(3) The voter registration official shall make the necessary changes in the elector's records as soon as practical upon receipt of such notice of a change of address of legal residence, name, or party affiliation. The supervisor of elections shall issue the new voter information card.

History.—s. 7, ch. 78-403; s. 5, ch. 80-292; s. 21, ch. 94-224; s. 29, ch. 97-13; s. 31, ch. 99-2; s. 3, ch. 2000-250; s. 5, ch. 2002-189; s. 14, ch. 2005-278; s. 5, ch. 2005-286; s. 8, ch. 2011-40.

97.105 Permanent single registration system established.—A permanent single registration system for the registration of electors to qualify them to vote in all elections is provided for the several counties and municipalities. This system shall be put into use by all municipalities and shall be in lieu of any other system of municipal registration. Electors shall be registered pursuant to this system by a voter registration official, and electors registered shall not thereafter be required to register or reregister except as provided by law.

History.—s. 1, ch. 25391, 1949; s. 2, ch. 26870, 1951; s. 1, ch. 59-237; s. 2, ch. 69-377; s. 1, ch. 73-155; s. 32, ch. 73-333; s. 5, ch. 77-175; s. 23, ch. 94-224; s. 15, ch. 2005-278.

Note.—Former s. 97.01; s. 98.041.

CHAPTER 98

REGISTRATION OFFICE, OFFICERS, AND PROCEDURES

98.015 Supervisor of elections; election, tenure of office, compensation, custody of registration-related documents, office hours, successor, seal; appointment of deputy supervisors; duties.
98.035 Statewide voter registration system; implementation, operation, and maintenance.
98.045 Administration of voter registration.
98.065 Registration list maintenance programs.
98.0655 Registration list maintenance forms.
98.075 Registration records maintenance activities; ineligibility determinations.
98.0755 Appeal of determination of ineligibility.
98.077 Update of voter signature.
98.081 Names removed from the statewide voter registration system; restrictions on reregistering; recordkeeping; restoration of erroneously or illegally removed names.
98.093 Duty of officials to furnish information relating to deceased persons, persons adjudicated mentally incapacitated, and persons convicted of a felony.
98.0981 Reports; voting history; statewide voter registration system information; precinct-level election results; book closing statistics.
98.212 Department and supervisors to furnish statistical and other information.
98.255 Voter education programs.
98.461 Registration application, precinct register; contents.

98.015 Supervisor of elections; election, tenure of office, compensation, custody of registration-related documents, office hours, successor, seal; appointment of deputy supervisors; duties.—

(1) A supervisor of elections shall be elected in each county at the general election in each year the number of which is a multiple of four for a 4-year term commencing on the first Tuesday after the first Monday in January succeeding his or her election. Each supervisor shall, before performing any of his or her duties, take the oath prescribed in s. 5, Art. II of the State Constitution.

(2) The supervisor's compensation shall be paid by the board of county commissioners.

(3) The supervisor shall update voter registration information, enter new voter registrations into the statewide voter registration system, and act as the official custodian of documents received by the supervisor related to the registration of electors and changes in voter registration status of electors of the supervisor's county.

(4) At a minimum, the office of the supervisor must be open Monday through Friday, excluding legal holidays, for a period of not less than 8 hours per day, beginning no later than 9 a.m.

(5) The supervisor shall preserve statements and other information required to be filed with the supervisor's office pursuant to chapter 106 for a period of 10 years from date of receipt.

(6) The supervisor shall, upon leaving office, deliver to his or her successor immediately all records belonging to the office.

(7) Each supervisor is authorized to obtain for the office an impression seal approved by the department. An impression of the seal with a description thereof shall be filed with the department. The supervisor is empowered to attach an impression of the seal upon official documents and certificates executed over the supervisor's signature and take oaths and acknowledgments under the supervisor's seal in matters pertaining to the office. However, said seal need not be affixed to registration certificates.

(8) Each supervisor may select and appoint, subject to removal by the supervisor, as many deputy supervisors as are necessary, whose compensation must be paid by the supervisor and who shall have the same powers and whose acts shall have the same effect as the acts of the supervisor; except that the supervisor shall limit the power to appoint deputy supervisors to designated deputy supervisors. Each deputy supervisor shall, before entering office, take an oath in writing that he or she will faithfully perform the duties of the deputy supervisor's office, which oath must be acknowledged by the supervisor or a designated deputy supervisor and must be filed in the office of the supervisor.

(9) Each supervisor must make training in the proper implementation of voter registration procedures available to any individual, group, center for independent living, or public library in the supervisor's county.

(10) Each supervisor shall ensure that all voter registration and list maintenance procedures conducted by such supervisor are in compliance with any applicable requirements prescribed by rule of the department through the statewide voter registration system or prescribed by the Voting Rights Act of 1965, the National Voter Registration Act of 1993, or the Help America Vote Act of 2002.

(11) Each supervisor shall ensure that any voter registration system used by the supervisor for administering his or her duties as a voter registration official complies with the specifications and procedures established by rule of the department and the statewide voter registration system.

(12) Each supervisor shall maintain a list of valid residential street addresses for purposes of verifying the legal addresses of voters residing in the supervisor's county. The supervisor shall make all reasonable efforts to coordinate with county 911 service providers, property appraisers, the United States Postal Service, or other agencies as necessary to ensure the continued accuracy of such list. The supervisor shall provide the list of valid residential addresses to the statewide voter registration system in the manner and frequency specified by rule of the department.

History.—chs. 3700, 3704, 1887; s. 8, ch. 3879, 1889; RS 162; s. 9, ch. 4328, 1895; GS 179, 180; s. 1, ch. 5614, 1907; s. 1, ch. 9271, 1923; RGS 223, 224; CGL 258, 259; ss. 1, 2, ch. 22759, 1945; s. 2, ch. 26870, 1951; s. 10, ch. 65-134; ss. 10,

11, 35, ch. 69-106; s. 33, ch. 69-216; s. 5, ch. 77-175; s. 25, ch. 94-224; s. 1385, ch. 95-147; s. 17, ch. 98-34; s. 2, ch. 98-129; s. 16, ch. 2005-278.
Note.—Former ss. 98.13, 98.14, 98.17; s. 98.161.

98.035 Statewide voter registration system; implementation, operation, and maintenance.—

(1) The Secretary of State, as chief election officer of the state, shall be responsible for implementing, operating, and maintaining, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive, computerized statewide voter registration system as required by the Help America Vote Act of 2002. The department may adopt rules to administer this section.

(2) The statewide voter registration system must contain the name and registration information of every legally registered voter in the state. All voters shall be assigned a unique identifier. The system shall be the official list of registered voters in the state and shall provide secured access by authorized voter registration officials. The system shall enable voter registration officials to provide, access, and update voter registration information.

(3) The department may not contract with any other entity for the operation of the statewide voter registration system.

(4) The implementation of the statewide voter registration system shall not prevent any supervisor of elections from acquiring, maintaining, or using any hardware or software necessary or desirable to carry out the supervisor's responsibilities related to the use of voter registration information or the conduct of elections, provided that such hardware or software does not conflict with the operation of the statewide voter registration system.

(5) The department may adopt rules governing the access, use, and operation of the statewide voter registration system to ensure security, uniformity, and integrity of the system.
History.—s. 17, ch. 2005-278.

98.045 Administration of voter registration.—

(1) ELIGIBILITY OF APPLICANT.—The supervisor must ensure that any eligible applicant for voter registration is registered to vote and that each application for voter registration is processed in accordance with law. The supervisor shall determine whether a voter registration applicant is ineligible based on any of the following:

(a) The failure to complete a voter registration application as specified in s. 97.053.

(b) The applicant is deceased.

(c) The applicant has been convicted of a felony for which his or her civil rights have not been restored.

(d) The applicant has been adjudicated mentally incapacitated with respect to the right to vote and such right has not been restored.

(e) The applicant does not meet the age requirement pursuant to s. 97.041.

(f) The applicant is not a United States citizen.

(g) The applicant is a fictitious person.

(h) The applicant has provided an address of legal residence that is not his or her legal residence.

(i) The applicant has provided a driver license number, Florida identification card number, or the last four digits of a social security number that is not verifiable by the department.

(2) REMOVAL OF REGISTERED VOTERS.—

(a) Once a voter is registered, the name of that voter may not be removed from the statewide voter registration system except at the written request of the voter, by reason of the voter's conviction of a felony or adjudication as mentally incapacitated with respect to voting, by death of the voter, or pursuant to a registration list maintenance activity conducted pursuant to s. 98.065 or s. 98.075.

(b) Information received by a voter registration official from an election official in another state indicating that a registered voter in this state has registered to vote in that other state shall be considered as a written request from the voter to have the voter's name removed from the statewide voter registration system.

(3) PUBLIC RECORDS ACCESS AND RETENTION.—Each supervisor shall maintain for at least 2 years, and make available for public inspection and copying, all records concerning implementation of registration list maintenance programs and activities conducted pursuant to ss. 98.065 and 98.075. The records must include lists of the name and address of each person to whom a notice was sent and information as to whether each such person responded to the mailing, but may not include any information that is confidential or exempt from public records requirements under this code.

(4) STATEWIDE ELECTRONIC DATABASE OF VALID RESIDENTIAL STREET ADDRESSES.—

(a) The department shall compile and maintain a statewide electronic database of valid residential street addresses from the information provided by the supervisors of elections pursuant to s. 98.015. The department shall evaluate the information provided by the supervisors of elections to identify any duplicate addresses and any address that may overlap county boundaries.

(b) The department shall make the statewide database of valid street addresses available to the Department of Highway Safety and Motor Vehicles as provided in s. 97.057(10). The Department of Highway Safety and Motor Vehicles shall use the database for purposes of validating the legal residential addresses provided in voter registration applications received by the Department of Highway Safety and Motor Vehicles.

(5) FORMS.—The department may prescribe by rule forms necessary to conduct maintenance of records in the statewide voter registration system.
History.—s. 26, ch. 94-224; s. 36, ch. 97-13; s. 2, ch. 2002-17; s. 7, ch. 2003-415; s. 9, ch. 2005-277; s. 18, ch. 2005-278.

98.065 Registration list maintenance programs.

(1) The supervisor must conduct a general registration list maintenance program to protect the integrity of the electoral process by ensuring the maintenance of accurate and current voter registration records in the statewide voter registration system. The program must be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965, the National Voter Registration Act of 1993, and the Help America Vote

Act of 2002. As used in this subsection, the term "nondiscriminatory" applies to and includes persons with disabilities.

(2) A supervisor must incorporate one or more of the following procedures in the supervisor's biennial registration list maintenance program under which:

(a) Change-of-address information supplied by the United States Postal Service through its licensees is used to identify registered voters whose addresses might have changed;

(b) Change-of-address information is identified from returned nonforwardable return-if-undeliverable mail sent to all registered voters in the county; or

(c) Change-of-address information is identified from returned nonforwardable return-if-undeliverable address confirmation requests mailed to all registered voters who have not voted in the last 2 years and who did not make a written request that their registration records be updated during that time.

(3) A registration list maintenance program must be conducted by each supervisor, at a minimum, in each odd-numbered year and must be completed not later than 90 days prior to the date of any federal election. All list maintenance actions associated with each voter must be entered, tracked, and maintained in the statewide voter registration system.

(4)(a) If the supervisor receives change-of-address information pursuant to the activities conducted in subsection (2), from jury notices signed by the voter and returned to the courts, from the Department of Highway Safety and Motor Vehicles, or from other sources which indicates that a registered voter's legal residence might have changed to another location within the state, the supervisor must change the registration records to reflect the new address and must send the voter an address change notice as provided in s. 98.0655(2).

(b) If the supervisor of elections receives change-of-address information pursuant to the activities conducted in subsection (2), from jury notices signed by the voter and returned to the courts, or from other sources which indicates that a registered voter's legal residence might have changed to a location outside the state, the supervisor of elections shall send an address confirmation final notice to the voter as provided in s. 98.0655(3).

(c) The supervisor must designate as inactive all voters who have been sent an address confirmation final notice and who have not returned the postage prepaid, preaddressed return form within 30 days or for which the final notice has been returned as undeliverable. Names on the inactive list may not be used to calculate the number of signatures needed on any petition. A voter on the inactive list may be restored to the active list of voters upon the voter updating his or her registration, requesting an absentee ballot, or appearing to vote. However, if the voter does not update his or her voter registration information, request an absentee ballot, or vote by the second general election after being placed on the inactive list, the voter's name shall be removed from the statewide voter registration system and the voter shall be required to reregister to have his or her name restored to the statewide voter registration system.

(5) A notice may not be issued pursuant to this section and a voter's name may not be removed from the statewide voter registration system later than 90 days prior to the date of a federal election. However, this section does not preclude the removal of the name of a voter from the statewide voter registration system at any time upon the voter's written request, by reason of the voter's death, or upon a determination of the voter's ineligibility as provided in s. 98.075(7).

(6)(a) No later than July 31 and January 31 of each year, the supervisor must certify to the department the list maintenance activities conducted during the first 6 months and the second 6 months of the year, respectively, including the number of address confirmation requests sent, the number of voters designated as inactive, and the number of voters removed from the statewide voter registration system.

(b) If, based on the certification provided pursuant to paragraph (a), the department determines that a supervisor has not conducted the list maintenance activities required by this section, the department shall conduct the appropriate list maintenance activities for that county. Failure to conduct list maintenance activities as required in this section constitutes a violation of s. 104.051.

History.—s. 28, ch. 94-224; s. 6, ch. 2002-281; s. 19, ch. 2005-278; s. 6, ch. 2008-95.

98.0655 Registration list maintenance forms.—The department shall prescribe registration list maintenance forms to be used by the supervisors which must include:

(1) An address confirmation request that must contain:

(a) The voter's name and address of legal residence as shown on the voter registration record; and

(b) A request that the voter notify the supervisor if either the voter's name or address of legal residence is incorrect.

(2) An address change notice that must be sent to the newly recorded address of legal residence by forwardable mail, including a postage prepaid, preaddressed return form with which the voter may verify or correct the voter's new address information.

(3) An address confirmation final notice that must be sent to the newly recorded address of legal residence by forwardable mail and must contain a postage prepaid, preaddressed return form and a statement that:

(a) If the voter has not changed his or her legal residence or has changed his or her legal residence within the state, the voter should return the form within 30 days after the date on which the notice was sent to the voter.

(b) If the voter has changed his or her legal residence to a location outside the state:

1. The voter shall return the form, which serves as a request to be removed from the registration books; and

2. The voter shall be provided with information on how to register in the new jurisdiction in order to be eligible to vote.

(c) If the return form is not returned, the voter's name shall be designated as inactive in the statewide voter registration system.

History.—s. 7, ch. 2008-95.

98.075 Registration records maintenance activities; ineligibility determinations.—

(1) MAINTENANCE OF RECORDS.—The department shall protect the integrity of the electoral process by ensuring the maintenance of accurate and current voter registration records. List maintenance activities must be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965, the National Voter Registration Act of 1993, and the Help America Vote Act of 2002. The department may adopt by rule uniform standards and procedures to interpret and administer this section.

(2) DUPLICATE REGISTRATION.—The department shall identify those voters who are registered more than once or those applicants whose registration applications would result in duplicate registrations. The most recent application shall be deemed an update to the voter registration record.

(3) DECEASED PERSONS.—

(a)1. The department shall identify those registered voters who are deceased by comparing information received from either:

a. The Department of Health as provided in s. 98.093; or

b. The United States Social Security Administration, including, but not limited to, any master death file or index compiled by the United States Social Security Administration.

2. Within 7 days after receipt of such information through the statewide voter registration system, the supervisor shall remove the name of the registered voter.

(b) The supervisor shall remove the name of a deceased registered voter from the statewide voter registration system upon receipt of a copy of a death certificate issued by a governmental agency authorized to issue death certificates.

(4) ADJUDICATION OF MENTAL INCAPACITY. The department shall identify those registered voters who have been adjudicated mentally incapacitated with respect to voting and who have not had their voting rights restored by comparing information received from the clerk of the circuit court as provided in s. 98.093. The department shall review such information and make an initial determination as to whether the information is credible and reliable. If the department determines that the information is credible and reliable, the department shall notify the supervisor and provide a copy of the supporting documentation indicating the potential ineligibility of the voter to be registered. Upon receipt of the notice that the department has made a determination of initial credibility and reliability, the supervisor shall adhere to the procedures set forth in subsection (7) prior to the removal of a registered voter from the statewide voter registration system.

(5) FELONY CONVICTION.—The department shall identify those registered voters who have been convicted of a felony and whose rights have not been restored by comparing information received from, but not limited to, a clerk of the circuit court, the Board of Executive Clemency, the Department of Corrections, the Department of Law Enforcement, or a United States Attorney's Office, as provided in s. 98.093. The department shall review such information and make an initial determination as to whether the information is credible and reliable. If the department determines that the information is credible and reliable, the department shall notify the supervisor and provide a copy of the supporting documentation indicating the potential ineligibility of the voter to be registered. Upon receipt of the notice that the department has made a determination of initial credibility and reliability, the supervisor shall adhere to the procedures set forth in subsection (7) prior to the removal of a registered voter's name from the statewide voter registration system.

(6) OTHER BASES FOR INELIGIBILITY.—If the department or supervisor receives information from sources other than those identified in subsections (2)-(5) that a registered voter is ineligible because he or she is deceased, adjudicated a convicted felon without having had his or her civil rights restored, adjudicated mentally incapacitated without having had his or her voting rights restored, does not meet the age requirement pursuant to s. 97.041, is not a United States citizen, is a fictitious person, or has listed a residence that is not his or her legal residence, the supervisor must adhere to the procedures set forth in subsection (7) prior to the removal of a registered voter's name from the statewide voter registration system.

(7) PROCEDURES FOR REMOVAL.—

(a) If the supervisor receives notice or information pursuant to subsections (4)-(6), the supervisor of the county in which the voter is registered shall:

1. Notify the registered voter of his or her potential ineligibility by mail within 7 days after receipt of notice or information. The notice shall include:

a. A statement of the basis for the registered voter's potential ineligibility and a copy of any documentation upon which the potential ineligibility is based.

b. A statement that failure to respond within 30 days after receipt of the notice may result in a determination of ineligibility and in removal of the registered voter's name from the statewide voter registration system.

c. A return form that requires the registered voter to admit or deny the accuracy of the information underlying the potential ineligibility for purposes of a final determination by the supervisor.

d. A statement that, if the voter is denying the accuracy of the information underlying the potential ineligibility, the voter has a right to request a hearing for the purpose of determining eligibility.

e. Instructions for the registered voter to contact the supervisor of elections of the county in which the voter is registered if assistance is needed in resolving the matter.

f. Instructions for seeking restoration of civil rights following a felony conviction, if applicable.

2. If the mailed notice is returned as undeliverable, the supervisor shall publish notice once in a newspaper of general circulation in the county in which the voter

was last registered. The notice shall contain the following:

a. The voter's name and address.

b. A statement that the voter is potentially ineligible to be registered to vote.

c. A statement that failure to respond within 30 days after the notice is published may result in a determination of ineligibility by the supervisor and removal of the registered voter's name from the statewide voter registration system.

d. An instruction for the voter to contact the supervisor no later than 30 days after the date of the published notice to receive information regarding the basis for the potential ineligibility and the procedure to resolve the matter.

e. An instruction to the voter that, if further assistance is needed, the voter should contact the supervisor of elections of the county in which the voter is registered.

3. If a registered voter fails to respond to a notice pursuant to subparagraph 1. or subparagraph 2., the supervisor shall make a final determination of the voter's eligibility. If the supervisor determines that the voter is ineligible, the supervisor shall remove the name of the registered voter from the statewide voter registration system. The supervisor shall notify the registered voter of the supervisor's determination and action.

4. If a registered voter responds to the notice pursuant to subparagraph 1. or subparagraph 2. and admits the accuracy of the information underlying the potential ineligibility, the supervisor shall make a final determination of ineligibility and shall remove the voter's name from the statewide voter registration system. The supervisor shall notify the registered voter of the supervisor's determination and action.

5. If a registered voter responds to the notice issued pursuant to subparagraph 1. or subparagraph 2. and denies the accuracy of the information underlying the potential ineligibility but does not request a hearing, the supervisor shall review the evidence and make a final determination of eligibility. If such registered voter requests a hearing, the supervisor shall send notice to the registered voter to attend a hearing at a time and place specified in the notice. Upon hearing all evidence presented at the hearing, the supervisor shall make a determination of eligibility. If the supervisor determines that the registered voter is ineligible, the supervisor shall remove the voter's name from the statewide voter registration system and notify the registered voter of the supervisor's determination and action.

(b) The following shall apply to this subsection:

1. All determinations of eligibility shall be based on a preponderance of the evidence.

2. All proceedings are exempt from the provisions of chapter 120.

3. Any notice shall be sent to the registered voter by certified mail, return receipt requested, or other means that provides a verification of receipt or shall be published in a newspaper of general circulation where the voter was last registered, whichever is applicable.

4. The supervisor shall remove the name of any registered voter from the statewide voter registration system only after the supervisor makes a final determination that the voter is ineligible to vote.

5. Any voter whose name has been removed from the statewide voter registration system pursuant to a determination of ineligibility may appeal that determination under the provisions of s. 98.0755.

6. Any voter whose name was removed from the statewide voter registration system on the basis of a determination of ineligibility who subsequently becomes eligible to vote must reregister in order to have his or her name restored to the statewide voter registration system.

(8) CERTIFICATION.—

(a) No later than July 31 and January 31 of each year, the supervisor shall certify to the department the activities conducted pursuant to this section during the first 6 months and the second 6 months of the year, respectively. The certification shall include the number of persons to whom notices were sent pursuant to subsection (7), the number of persons who responded to the notices, the number of notices returned as undeliverable, the number of notices published in the newspaper, the number of hearings conducted, and the number of persons removed from the statewide voter registration systems and the reasons for such removals.

(b) If, based on the certification provided pursuant to paragraph (a), the department determines that a supervisor has not satisfied the requirements of this section, the department shall satisfy the appropriate requirements for that county. Failure to satisfy the requirements of this section shall constitute a violation of s. 104.051.

History.—s. 29, ch. 94-224; s. 1386, ch. 95-147; s. 20, ch. 2005-278; s. 9, ch. 2011-40.

98.0755 Appeal of determination of ineligibility. Appeal of the supervisor's determination of ineligibility pursuant to s. 98.075(7) may be taken to the circuit court in and for the county where the person was registered. Notice of appeal must be filed within the time and in the manner provided by the Florida Rules of Appellate Procedure and acts as supersedeas. Trial in the circuit court is de novo and governed by the rules of that court. Unless the person can show that his or her name was erroneously or illegally removed from the statewide voter registration system, or that he or she is indigent, the person must bear the costs of the trial in the circuit court. Otherwise, the cost of the appeal must be paid by the supervisor of elections.

History.—s. 21, ch. 2005-278.

98.077 Update of voter signature.—

(1) A registered voter may update his or her signature on file in the statewide voter registration system at any time using a voter registration application submitted to a voter registration official.

(2) The department and supervisors of elections shall include in any correspondence, other than postcard notifications and notices relating to eligibility, sent to a registered voter information regarding when, where, and how to update the voter's signature and shall provide the voter information on how to obtain a voter registration application from a voter registration official which can be returned to update the signature.

(3) At least once during each general election year, the supervisor shall publish in a newspaper of general circulation or other newspaper in the county deemed appropriate by the supervisor a notice specifying when, where, or how a voter can update his or her signature that is on file and how a voter can obtain a voter registration application from a voter registration official.

(4) All signature updates for use in verifying absentee and provisional ballots must be received by the appropriate supervisor of elections no later than the start of the canvassing of absentee ballots by the canvassing board. The signature on file at the start of the canvass of the absentee ballots is the signature that shall be used in verifying the signature on the absentee and provisional ballot certificates.

History.—s. 8, ch. 2002-189; s. 10, ch. 2005-277; s. 22, ch. 2005-278; s. 8, ch. 2006-1.

98.081 Names removed from the statewide voter registration system; restrictions on reregistering; recordkeeping; restoration of erroneously or illegally removed names.—

(1) When the name of any elector is removed from the statewide voter registration system pursuant to s. 98.065 or s. 98.075, the elector's original registration application shall be retained by the supervisor of elections having custody of the application. As alternatives, registrations removed from the statewide voter registration system may be microfilmed and such microfilms substituted for the original registration applications; or, when voter registration information, including the voter's signature, is maintained digitally or on electronic, magnetic, or optic media, such stored information may be substituted for the original registration application. Such microfilms or stored information shall be retained by the supervisor of elections having custody. In the event the original registration applications are microfilmed or maintained digitally or on electronic or other media, such originals may be destroyed in accordance with the schedule approved by the Bureau of Archives and Records Management of the Division of Library and Information Services of the department.

(2) When the name of any elector has been erroneously or illegally removed from the statewide voter registration system, the name of the elector shall be restored by a voter registration official upon satisfactory proof, even though the registration period for that election is closed.

History.—s. 8, ch. 25391, 1949; s. 2, ch. 26870, 1951; s. 1, ch. 61-86; s. 5, ch. 77-175; s. 1, ch. 78-102; s. 14, ch. 79-365; s. 8, ch. 80-292; s. 45, ch. 81-259; s. 18, ch. 81-304; s. 7, ch. 82-143; s. 3, ch. 90-315; s. 30, ch. 94-224; s. 1387, ch. 95-147; s. 23, ch. 2005-278; s. 6, ch. 2005-286.

Note.—Former s. 97.08.

98.093 Duty of officials to furnish information relating to deceased persons, persons adjudicated mentally incapacitated, and persons convicted of a felony.—

(1) In order to identify ineligible registered voters and maintain accurate and current voter registration records in the statewide voter registration system pursuant to procedures in s. 98.065 or s. 98.075, it is necessary for the department and supervisors of elections to receive or access certain information from state and federal officials and entities in the format prescribed.

(2) To the maximum extent feasible, state and local government agencies shall facilitate provision of information and access to data to the department, including, but not limited to, databases that contain reliable criminal records and records of deceased persons. State and local government agencies that provide such data shall do so without charge if the direct cost incurred by those agencies is not significant.

(a) The Department of Health shall furnish monthly to the department a list containing the name, address, date of birth, date of death, social security number, race, and sex of each deceased person 17 years of age or older.

(b) Each clerk of the circuit court shall furnish monthly to the department a list of those persons who have been adjudicated mentally incapacitated with respect to voting during the preceding calendar month, a list of those persons whose mental capacity with respect to voting has been restored during the preceding calendar month, and a list of those persons who have returned signed jury notices during the preceding months to the clerk of the circuit court indicating a change of address. Each list shall include the name, address, date of birth, race, sex, and, whichever is available, the Florida driver license number, Florida identification card number, or social security number of each such person.

(c) Upon receipt of information from the United States Attorney, listing persons convicted of a felony in federal court, the department shall use such information to identify registered voters or applicants for voter registration who may be potentially ineligible based on information provided in accordance with s. 98.075.

(d) The Department of Law Enforcement shall identify those persons who have been convicted of a felony who appear in the voter registration records supplied by the statewide voter registration system, in a time and manner that enables the department to meet its obligations under state and federal law.

(e) The Florida Commission on Offender Review shall furnish at least bimonthly to the department data, including the identity of those persons granted clemency in the preceding month or any updates to prior records which have occurred in the preceding month. The data shall contain the commission's case number and the person's name, address, date of birth, race, gender, Florida driver license number, Florida identification card number, or the last four digits of the social security number, if available, and references to record identifiers assigned by the Department of Corrections and the Department of Law Enforcement, a unique identifier of each clemency case, and the effective date of clemency of each person.

(f) The Department of Corrections shall identify those persons who have been convicted of a felony and committed to its custody or placed on community supervision. The information must be provided to the department at a time and in a manner that enables the department to identify registered voters who are convicted felons and to meet its obligations under state and federal law.

(g) The Department of Highway Safety and Motor Vehicles shall furnish monthly to the department a list of those persons whose names have been removed from the driver license database because they have been licensed in another state. The list shall contain the name, address, date of birth, sex, social security number, and driver license number of each such person.

(3) This section does not limit or restrict the supervisor in his or her duty to remove the names of persons from the statewide voter registration system pursuant to s. 98.075(7) based upon information received from other sources.

History.—s. 3, ch. 14730, 1931; CGL 1936 Supp. 302(1); s. 10, ch. 24203, 1947; s. 11, ch. 25035, 1949; s. 2, ch. 26870, 1951; s. 1, ch. 29917; s. 9, ch. 29934, 1955; s. 33, ch. 73-333; s. 27, ch. 77-147; s. 5, ch. 77-175; s. 32, ch. 94-224; s. 1388, ch. 95-147; s. 7, ch. 99-8; s. 24, ch. 2005-278; s. 10, ch. 2011-40; s. 4, ch. 2012-5; s. 6, ch. 2014-191.

Note.—Former s. 98.41; s. 98.301.

98.0981 Reports; voting history; statewide voter registration system information; precinct-level election results; book closing statistics.—

(1) VOTING HISTORY AND STATEWIDE VOTER REGISTRATION SYSTEM INFORMATION.—

(a) Within 30 days after certification by the Elections Canvassing Commission of a presidential preference primary, special election, primary election, or general election, supervisors of elections shall transmit to the department, in a uniform electronic format specified in paragraph (d), completely updated voting history information for each qualified voter who voted.

(b) After receipt of the information in paragraph (a), the department shall prepare a report in electronic format which contains the following information, separately compiled for the primary and general election for all voters qualified to vote in either election:

1. The unique identifier assigned to each qualified voter within the statewide voter registration system;

2. All information provided by each qualified voter on his or her voter registration application pursuant to s. 97.052(2), except that which is confidential or exempt from public records requirements;

3. Each qualified voter's date of registration;

4. Each qualified voter's current state representative district, state senatorial district, and congressional district, assigned by the supervisor of elections;

5. Each qualified voter's current precinct; and

6. Voting history as transmitted under paragraph (a) to include whether the qualified voter voted at a precinct location, voted during the early voting period, voted by absentee ballot, attempted to vote by absentee ballot that was not counted, attempted to vote by provisional ballot that was not counted, or did not vote.

(c) Within 45 days after certification by the Elections Canvassing Commission of a presidential preference primary, special election, primary election, or general election, the department shall send to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader a report in electronic format that includes all information set forth in paragraph (b).

(d) File specifications are as follows:

1. The file shall contain records designated by the categories below for all qualified voters who, regardless of the voter's county of residence or active or inactive registration status at the book closing for the corresponding election that the file is being created for:

a. Voted a regular ballot at a precinct location.

b. Voted at a precinct location using a provisional ballot that was subsequently counted.

c. Voted a regular ballot during the early voting period.

d. Voted during the early voting period using a provisional ballot that was subsequently counted.

e. Voted by absentee ballot.

f. Attempted to vote by absentee ballot, but the ballot was not counted.

g. Attempted to vote by provisional ballot, but the ballot was not counted in that election.

2. Each file shall be created or converted into a tab-delimited format.

3. File names shall adhere to the following convention:

a. Three-character county identifier as established by the department followed by an underscore.

b. Followed by four-character file type identifier of 'VH03' followed by an underscore.

c. Followed by FVRS election ID followed by an underscore.

d. Followed by Date Created followed by an underscore.

e. Date format is YYYYMMDD.

f. Followed by Time Created - HHMMSS.

g. Followed by ".txt".

4. Each record shall contain the following columns: Record Identifier, FVRS Voter ID Number, FVRS Election ID Number, Vote Date, Vote History Code, Precinct, Congressional District, House District, Senate District, County Commission District, and School Board District.

(e) Each supervisor of elections shall reconcile, before submission, the aggregate total of ballots cast in each precinct as reported in the precinct-level election results to the aggregate total number of voters with voter history for the election for each district.

(f) Each supervisor of elections shall submit the results of the data reconciliation as described in paragraph (e) to the department in an electronic format and give a written explanation for any precincts where the reconciliation as described in paragraph (e) results in a discrepancy between the voter history and the election results.

(2) PRECINCT-LEVEL ELECTION RESULTS.—

(a) Within 30 days after certification by the Elections Canvassing Commission of a presidential preference primary election, special election, primary election, or general election, the supervisors of elections shall collect and submit to the department precinct-level election results for the election in a uniform electronic format specified by paragraph (c). The precinct-level election results shall be compiled separately for the primary or special primary election that preceded the general or special general election, respectively. The results shall specifically include for each precinct the total of all ballots cast for each candidate or nominee to fill a national, state, county, or district office or proposed constitutional amendment, with subtotals for each

candidate and ballot type, unless fewer than 10 voters voted a ballot type. "All ballots cast" means ballots cast by voters who cast a ballot whether at a precinct location, by absentee ballot including overseas absentee ballots, during the early voting period, or by provisional ballot.

(b) The department shall make such information available on a searchable, sortable, and downloadable database via its website that also includes the file layout and codes. The database shall be searchable and sortable by county, precinct, and candidate. The database shall be downloadable in a tab-delimited format. The database shall be available for download county-by-county and also as a statewide file. Such report shall also be made available upon request.

(c) The files containing the precinct-level election results shall be created in accordance with the applicable file specification:

1. The precinct-level results file shall be created or converted into a tab-delimited text file.

2. The row immediately before the first data record shall contain the column names of the data elements that make up the data records. There shall be one header record followed by multiple data records.

3. The data records shall include the following columns: County Name, Election Number, Election Date, Unique Precinct Identifier, Precinct Polling Location, Total Registered Voters, Total Registered Republicans, Total Registered Democrats, Total Registered All Other Parties, Contest Name, Candidate/Retention/Issue Name, Candidate Florida Voter Registration System ID Number, Division of Elections Unique Candidate Identifying Number, Candidate Party, District, Undervote Total, Overvote Total, Write-in Total, and Vote Total.

(3) PRECINCT-LEVEL BOOK CLOSING STATISTICS.—After the date of book closing but before the date of an election as defined in s. 97.021 to fill a national, state, county, or district office, or to vote on a proposed constitutional amendment, the department shall compile the following precinct-level statistical data for each county:

(a) Precinct numbers.

(b) Total number of active registered voters by party for each precinct.

(4) REPORTS PUBLICLY AVAILABLE.—The department shall also make publicly available the reports and results required in subsections (1)-(3).

(5) RULEMAKING.—The department shall adopt rules and prescribe forms to carry out the purposes of this section.

History.—s. 25, ch. 2005-278; s. 8, ch. 2008-95; s. 3, ch. 2010-167; s. 11, ch. 2011-40.

98.212 Department and supervisors to furnish statistical and other information.—

(1)(a) Upon written request, the department and any supervisor of the respective counties shall, as promptly as possible, furnish to recognized public or private universities and senior colleges within the state, to state or county governmental agencies, and to recognized political party committees statistical information for the purpose of analyzing election returns and results.

(b) The department and any supervisor may require reimbursement for any part or all of the actual expenses of supplying any information requested under paragraph (a). For the purposes of this subsection, the department and supervisors may use the services of any research and statistical personnel that may be supplied.

(c) Lists of names submitted to the department and any supervisor of the respective counties for indication of registration or nonregistration or of party affiliation shall be processed at any time at cost, except that in no case shall the charge exceed 10 cents for each name on which the information is furnished.

(2) The supervisors shall provide information as requested by the department for program evaluation and reporting to the Election Assistance Commission pursuant to federal law.

History.—s. 2, ch. 57-810; s. 5, ch. 77-175; s. 26, ch. 79-400; s. 34, ch. 94-224; s. 40, ch. 97-13; s. 11, ch. 2003-415; s. 26, ch. 2005-278.

98.255 Voter education programs.—

(1) The Department of State shall adopt rules prescribing minimum standards for nonpartisan voter education. The standards shall, at a minimum, address:

(a) Voter registration;

(b) Balloting procedures, absentee and polling place;

(c) Voter rights and responsibilities;

(d) Distribution of sample ballots; and

(e) Public service announcements.

(2) Each county supervisor shall implement the minimum voter education standards, and shall conduct additional nonpartisan education efforts as necessary to ensure that voters have a working knowledge of the voting process.

(3) By December 15 of each general election year, each supervisor of elections shall report to the Department of State a detailed description of the voter education programs implemented and any other information that may be useful in evaluating the effectiveness of voter education efforts. The department shall reexamine the rules adopted pursuant to subsection (1) and use the findings in these reports as a basis for modifying the rules to incorporate successful voter education programs and techniques, as necessary.

History.—s. 9, ch. 80-292; s. 1, ch. 83-16; s. 530, ch. 95-147; s. 59, ch. 2001-40; s. 35, ch. 2010-102.

98.461 Registration application, precinct register; contents.—

(1) A registration application, approved by the Department of State, containing the information required in s. 97.052 shall be retained by the supervisor of elections of the county of the applicant's registration. However, the registration application may be microfilmed and such microfilm substituted for the original registration application; or, when voter registration information, including the voter's signature, is maintained digitally or on electronic, magnetic, or optic media, such stored information may be substituted for the original registration application. Such microfilms or stored information shall be retained in the custody of the supervisor of elections of the county of the applicant's registration. In the event the original registration

applications are microfilmed or maintained digitally or on electronic or other media, such originals may be destroyed in accordance with the schedule approved by the Bureau of Archives and Records Management of the Division of Library and Information Services of the Department of State.

(2) A computer printout or electronic database shall be used at the polls as a precinct register. The precinct register shall contain the date of the election, the precinct number, and the following information concerning each registered elector: last name, first name, middle name or initial, and suffix; party affiliation; residence address; registration number; date of birth; sex, if provided; race, if provided; whether the voter needs assistance in voting; and such other additional information as to readily identify the elector. The precinct register shall also contain a space for the elector's signature and a space for the initials of the witnessing clerk or inspector or an electronic device may be provided for this purpose.

History.—s. 1, ch. 77-267; s. 1, ch. 86-200; s. 6, ch. 90-315; s. 36, ch. 94-224; s. 30, ch. 97-13; s. 9, ch. 98-129; s. 12, ch. 2003-415; s. 27, ch. 2005-278.

CHAPTER 99

CANDIDATES

99.012 Restrictions on individuals qualifying for public office.
99.021 Form of candidate oath.
99.061 Method of qualifying for nomination or election to federal, state, county, or district office.
99.0615 Write-in candidate residency requirements.
99.063 Candidates for Governor and Lieutenant Governor.
99.081 United States Senators elected in general election.
99.091 Representatives to Congress.
99.092 Qualifying fee of candidate; notification of Department of State.
99.093 Municipal candidates; election assessment.
99.095 Petition process in lieu of a qualifying fee and party assessment.
99.0955 Candidates with no party affiliation; name on general election ballot.
99.096 Minor political party candidates; names on ballot.
99.09651 Signature requirements for ballot position in year of apportionment.
99.097 Verification of signatures on petitions.
99.103 Department of State to remit part of filing fees and party assessments of candidates to state executive committee.
99.121 Department of State to certify nominations to supervisors of elections.

99.012 Restrictions on individuals qualifying for public office.—

(1) As used in this section:

(a) "Officer" means a person, whether elected or appointed, who has the authority to exercise the sovereign power of the state pertaining to an office recognized under the State Constitution or laws of the state. With respect to a municipality, the term "officer" means a person, whether elected or appointed, who has the authority to exercise municipal power as provided by the State Constitution, state laws, or municipal charter.

(b) "Subordinate officer" means a person who has been delegated the authority to exercise the sovereign power of the state by an officer. With respect to a municipality, subordinate officer means a person who has been delegated the authority to exercise municipal power by an officer.

(2) No person may qualify as a candidate for more than one public office, whether federal, state, district, county, or municipal, if the terms or any part thereof run concurrently with each other.

(3)(a) No officer may qualify as a candidate for another state, district, county, or municipal public office if the terms or any part thereof run concurrently with each other without resigning from the office he or she presently holds.

(b) The resignation is irrevocable.

(c) The written resignation must be submitted at least 10 days prior to the first day of qualifying for the office he or she intends to seek.

(d) The resignation must be effective no later than the earlier of the following dates:

1. The date the officer would take office, if elected; or

2. The date the officer's successor is required to take office.

(e)1. An elected district, county, or municipal officer must submit his or her resignation to the officer before whom he or she qualified for the office he or she holds, with a copy to the Governor and the Department of State.

2. An appointed district, county, or municipal officer must submit his or her resignation to the officer or authority which appointed him or her to the office he or she holds, with a copy to the Governor and the Department of State.

3. All other officers must submit their resignations to the Governor with a copy to the Department of State.

(f)1. With regard to an elective office, the resignation creates a vacancy in office to be filled by election. Persons may qualify as candidates for nomination and election as if the public officer's term were otherwise scheduled to expire.

2. With regard to an elective charter county office or elective municipal office, the vacancy created by the officer's resignation may be filled for that portion of the officer's unexpired term in a manner provided by the respective charter. The office is deemed vacant upon the effective date of the resignation submitted by the official in his or her letter of resignation.

(g) Any officer who submits his or her resignation, effective immediately or effective on a date prior to the date of his or her qualifying for office, may then qualify for office as a nonofficeholder, and the provisions of this subsection do not apply.

(4) A person who is a subordinate officer, deputy sheriff, or police officer must resign effective upon qualifying pursuant to this chapter if the person is seeking to qualify for a public office that is currently held by an officer who has authority to appoint, employ, promote, or otherwise supervise that person and who has qualified as a candidate for reelection to that office.

(5) If an order of a court that has become final determines that a person did not comply with this section, the person shall not be qualified as a candidate for election and his or her name may not appear on the ballot.

(6) This section does not apply to:

(a) Political party offices.

(b) Persons serving without salary as members of an appointive board or authority.

(7) Nothing contained in subsection (3) relates to persons holding any federal office or seeking the office of President or Vice President.

History.—s. 1, ch. 63-269; s. 2, ch. 65-378; s. 1, ch. 70-80; s. 10, ch. 71-373; s. 1, ch. 74-76; s. 3, ch. 75-196; s. 1, ch. 79-391; s. 47, ch. 81-259; s. 1, ch. 83-15; s.

28, ch. 84-302; s. 31, ch. 91-107; s. 534, ch. 95-147; s. 1, ch. 99-146; s. 1, ch. 2000-274; s. 14, ch. 2007-30; s. 14, ch. 2008-4; s. 9, ch. 2008-95; s. 12, ch. 2011-40.

99.021 Form of candidate oath.—

(1)(a)1. Each candidate, whether a party candidate, a candidate with no party affiliation, or a write-in candidate, in order to qualify for nomination or election to any office other than a judicial office as defined in chapter 105 or a federal office, shall take and subscribe to an oath or affirmation in writing. A copy of the oath or affirmation shall be made available to the candidate by the officer before whom such candidate seeks to qualify and shall be substantially in the following form:

State of Florida
County of____

Before me, an officer authorized to administer oaths, personally appeared __(please print name as you wish it to appear on the ballot)__, to me well known, who, being sworn, says that he or she is a candidate for the office of ____; that he or she is a qualified elector of ____ County, Florida; that he or she is qualified under the Constitution and the laws of Florida to hold the office to which he or she desires to be nominated or elected; that he or she has qualified for no other public office in the state, the term of which office or any part thereof runs concurrent with that of the office he or she seeks; that he or she has resigned from any office from which he or she is required to resign pursuant to s. 99.012, Florida Statutes; and that he or she will support the Constitution of the United States and the Constitution of the State of Florida.

__(Signature of candidate)__
__(Address)__

Sworn to and subscribed before me this ____ day of ____, __(year)__, at ____ County, Florida.

__(Signature and title of officer administering oath)__

2. Each candidate for federal office, whether a party candidate, a candidate with no party affiliation, or a write-in candidate, in order to qualify for nomination or election to office shall take and subscribe to an oath or affirmation in writing. A copy of the oath or affirmation shall be made available to the candidate by the officer before whom such candidate seeks to qualify and shall be substantially in the following form:

State of Florida
County of ____

Before me, an officer authorized to administer oaths, personally appeared __(please print name as you wish it to appear on the ballot)__, to me well known, who, being sworn, says that he or she is a candidate for the office of ____; that he or she is qualified under the Constitution and laws of the United States to hold the office to which he or she desires to be nominated or elected; that he or she has qualified for no other public office in the state, the term of which office or any part thereof runs concurrent with that of the office he or she seeks; and that he or she will support the Constitution of the United States.

__(Signature of candidate)__
__(Address)__

Sworn to and subscribed before me this ____ day of ____, __(year)__, at ____ County, Florida.

__(Signature and title of officer administering oath)__

(b) In addition, any person seeking to qualify for nomination as a candidate of any political party shall, at the time of subscribing to the oath or affirmation, state in writing:

1. The party of which the person is a member.

2. That the person has not been a registered member of any other political party for 365 days before the beginning of qualifying preceding the general election for which the person seeks to qualify.

3. That the person has paid the assessment levied against him or her, if any, as a candidate for said office by the executive committee of the party of which he or she is a member.

(c) The officer before whom such person qualifies shall certify the name of such person to the supervisor of elections in each county affected by such candidacy so that the name of such person may be printed on the ballot. Each person seeking election as a write-in candidate shall subscribe to the oath prescribed in this section in order to be entitled to have write-in ballots cast for him or her counted.

(2) The provisions of subsection (1) relating to the oath required of candidates, and the form of oath prescribed, shall apply with equal force and effect to, and shall be the oath required of, a candidate for election to a political party executive committee office, as provided by law. The requirements set forth in this section shall also apply to any person filling a vacancy on a political party executive committee.

(3) This section does not apply to a person who seeks to qualify for election pursuant to ss. 103.021 and 103.101.

History.—ss. 22, 23, ch. 6469, 1913; RGS 326, 327; CGL 383, 384; s. 3, ch. 19663, 1939; s. 3, ch. 26870, 1951; s. 10, ch. 28156, 1953; s. 1, ch. 57-742; s. 1, ch. 61-128; s. 2, ch. 63-269; s. 1, ch. 63-66; s. 1, ch. 65-376; s. 1, ch. 67-149; s. 2, ch. 70-269; s. 19, ch. 71-355; s. 6, ch. 77-175; s. 3, ch. 79-365; s. 27, ch. 79-400; s. 2, ch. 81-105; s. 3, ch. 86-134; s. 535, ch. 95-147; s. 7, ch. 99-6; s. 8, ch. 99-318; s. 15, ch. 2007-30; s. 10, ch. 2008-95; s. 13, ch. 2011-40.

Note.—Former ss. 102.29, 102.30.

99.061 Method of qualifying for nomination or election to federal, state, county, or district office.

(1) The provisions of any special act to the contrary notwithstanding, each person seeking to qualify for nomination or election to a federal, state, or multicounty district office, other than election to a judicial office as defined in chapter 105 or the office of school board member, shall file his or her qualification papers with, and pay the qualifying fee, which shall consist of the filing fee and election assessment, and party assessment, if any has been levied, to, the Department of State, or qualify by the petition process pursuant to s. 99.095 with the Department of State, at any time after noon of the 1st day for qualifying, which shall be as follows: the 120th day prior to the primary election, but not later than noon of the 116th day prior to the date of the primary election, for persons seeking to qualify for nomination or election to federal office or to the office of the state attorney or the public defender; and noon of the 71st day prior to the primary election, but not later than noon of the 67th day prior to the date of the primary election, for persons seeking to qualify for nomination or election to a state or multicounty district office, other

than the office of the state attorney or the public defender.

(2) The provisions of any special act to the contrary notwithstanding, each person seeking to qualify for nomination or election to a county office, or district office not covered by subsection (1), shall file his or her qualification papers with, and pay the qualifying fee, which shall consist of the filing fee and election assessment, and party assessment, if any has been levied, to, the supervisor of elections of the county, or shall qualify by the petition process pursuant to s. 99.095 with the supervisor of elections, at any time after noon of the 1st day for qualifying, which shall be the 71st day prior to the primary election, but not later than noon of the 67th day prior to the date of the primary election. Within 30 days after the closing of qualifying time, the supervisor of elections shall remit to the secretary of the state executive committee of the political party to which the candidate belongs the amount of the filing fee, two-thirds of which shall be used to promote the candidacy of candidates for county offices and the candidacy of members of the Legislature.

(3) Notwithstanding the provisions of any special act to the contrary, each person seeking to qualify for election to a special district office shall qualify between noon of the 71st day prior to the primary election and noon of the 67th day prior to the date of the primary election. Candidates for single-county special districts shall qualify with the supervisor of elections in the county in which the district is located. If the district is a multicounty district, candidates shall qualify with the Department of State. All special district candidates shall qualify by paying a filing fee of $25 or qualify by the petition process pursuant to s. 99.095. Notwithstanding s. 106.021, a candidate who does not collect contributions and whose only expense is the filing fee or signature verification fee is not required to appoint a campaign treasurer or designate a primary campaign depository.

(4)(a) Each person seeking to qualify for election to office as a write-in candidate shall file his or her qualification papers with the respective qualifying officer at any time after noon of the 1st day for qualifying, but not later than noon of the last day of the qualifying period for the office sought.

(b) Any person who is seeking election as a write-in candidate shall not be required to pay a filing fee, election assessment, or party assessment. A write-in candidate is not entitled to have his or her name printed on any ballot; however, space for the write-in candidate's name to be written in must be provided on the general election ballot. A person may not qualify as a write-in candidate if the person has also otherwise qualified for nomination or election to such office.

(5) At the time of qualifying for office, each candidate for a constitutional office shall file a full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution, which must be verified under oath or affirmation pursuant to s. 92.525(1)(a), and a candidate for any other office, including local elective office, shall file a statement of financial interests pursuant to s. 112.3145.

(6) The Department of State shall certify to the supervisor of elections, within 7 days after the closing date for qualifying, the names of all duly qualified candidates for nomination or election who have qualified with the Department of State.

(7)(a) In order for a candidate to be qualified, the following items must be received by the filing officer by the end of the qualifying period:

1. A properly executed check drawn upon the candidate's campaign account payable to the person or entity as prescribed by the filing officer in an amount not less than the fee required by s. 99.092, unless the candidate obtained the required number of signatures on petitions pursuant to s. 99.095. The filing fee for a special district candidate is not required to be drawn upon the candidate's campaign account. If a candidate's check is returned by the bank for any reason, the filing officer shall immediately notify the candidate and the candidate shall have until the end of qualifying to pay the fee with a cashier's check purchased from funds of the campaign account. Failure to pay the fee as provided in this subparagraph shall disqualify the candidate.

2. The candidate's oath required by s. 99.021, which must contain the name of the candidate as it is to appear on the ballot; the office sought, including the district or group number if applicable; and the signature of the candidate, which must be verified under oath or affirmation pursuant to s. 92.525(1)(a).

3. If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1)(b).

4. The completed form for the appointment of campaign treasurer and designation of campaign depository, as required by s. 106.021.

5. The full and public disclosure or statement of financial interests required by subsection (5). A public officer who has filed the full and public disclosure or statement of financial interests with the Commission on Ethics or the supervisor of elections prior to qualifying for office may file a copy of that disclosure at the time of qualifying.

(b) If the filing officer receives qualifying papers during the qualifying period prescribed in this section which do not include all items as required by paragraph (a) prior to the last day of qualifying, the filing officer shall make a reasonable effort to notify the candidate of the missing or incomplete items and shall inform the candidate that all required items must be received by the close of qualifying. A candidate's name as it is to appear on the ballot may not be changed after the end of qualifying.

(c) The filing officer performs a ministerial function in reviewing qualifying papers. In determining whether a candidate is qualified, the filing officer shall review the qualifying papers to determine whether all items required by paragraph (a) have been properly filed and whether each item is complete on its face, including whether items that must be verified have been properly verified pursuant to s. 92.525(1)(a). The filing officer may not determine whether the contents of the qualifying papers are accurate.

(8) Notwithstanding the qualifying period prescribed in this section, a qualifying office may accept and hold qualifying papers submitted not earlier than 14 days prior to the beginning of the qualifying period, to be processed and filed during the qualifying period.

(9) Notwithstanding the qualifying period prescribed by this section, in each year in which the Legislature apportions the state, the qualifying period for persons seeking to qualify for nomination or election to federal office shall be between noon of the 71st day prior to the primary election, but not later than noon of the 67th day prior to the primary election.

(10) The Department of State may prescribe by rule requirements for filing papers to qualify as a candidate under this section.

(11) The decision of the filing officer concerning whether a candidate is qualified is exempt from the provisions of chapter 120.

History.—ss. 25, 26, ch. 6469, 1913; RGS 329, 330; CGL 386, 387; ss. 4, 5, ch. 13761, 1929; s. 1, ch. 16990, 1935; CGL 1936 Supp. 386; ss. 1, chs. 19007, 19008, 19009, 1939; CGL 1940 Supp. 4769(3); s. 1, ch. 20619, 1941; s. 1, ch. 21851, 1943; s. 1, ch. 23006, 1945; s. 1, ch. 24163, 1947; s. 3, ch. 26870, 1951; s. 11, ch. 28156, 1953; s. 4, ch. 29936, 1955; s. 10, ch. 57-1; s. 1, ch. 59-84; s. 1, ch. 61-373 and s. 4, ch. 61-530; s. 1, ch. 63-502; s. 7, ch. 65-378; s. 2, ch. 67-531; ss. 10, 35, ch. 69-106; s. 5, ch. 69-281; s. 1, ch. 69-300; s. 1, ch. 70-42; s. 1, ch. 70-93; s. 1, ch. 70-439; s. 6, ch. 77-175; s. 1, ch. 78-188; s. 3, ch. 81-105; s. 2, ch. 83-15; s. 2, ch. 83-25; s. 1, ch. 83-251; s. 29, ch. 84-302; s. 1, ch. 86-7; s. 6, ch. 89-338; s. 8, ch. 90-315; s. 32, ch. 91-107; s. 536, ch. 95-147; s. 1, ch. 95-156; s. 9, ch. 99-318; s. 9, ch. 99-326; s. 3, ch. 2001-75; s. 11, ch. 2005-277; s. 51, ch. 2005-278; s. 7, ch. 2005-286; s. 16, ch. 2007-30; s. 14, ch. 2011-40.

Note.—Former ss. 102.32, 102.33, 102.351, 102.36, 102.66, 102.69.

99.0615 Write-in candidate residency requirements.—At the time of qualification, all write-in candidates must reside within the district represented by the office sought.

History.—s. 56, ch. 2007-30.

99.063 Candidates for Governor and Lieutenant Governor.—

(1) No later than 5 p.m. of the 9th day following the primary election, each candidate for Governor shall designate a Lieutenant Governor as a running mate. Such designation must be made in writing to the Department of State.

(2) No later than 5 p.m. of the 9th day following the primary election, each designated candidate for Lieutenant Governor shall file with the Department of State:

(a) The candidate's oath required by s. 99.021, which must contain the name of the candidate as it is to appear on the ballot; the office sought; and the signature of the candidate, which must be verified under oath or affirmation pursuant to s. 92.525(1)(a).

(b) If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1)(b).

(c) The full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution. A public officer who has filed the full and public disclosure with the Commission on Ethics prior to qualifying for office may file a copy of that disclosure at the time of qualifying.

(3) A designated candidate for Lieutenant Governor is not required to pay a separate qualifying fee or obtain signatures on petitions. Ballot position obtained by the candidate for Governor entitles the designated candidate for Lieutenant Governor, upon receipt by the Department of State of the qualifying papers required by subsection (2), to have his or her name placed on the ballot for the joint candidacy.

(4) In order to have the name of the candidate for Lieutenant Governor printed on the primary election ballot, a candidate for Governor participating in the primary must designate the candidate for Lieutenant Governor, and the designated candidate must qualify no later than the end of the qualifying period specified in s. 99.061. If the candidate for Lieutenant Governor has not been designated and has not qualified by the end of the qualifying period specified in s. 99.061, the phrase "Not Yet Designated" must be included in lieu of the candidate's name on the primary election ballot.

(5) Failure of the Lieutenant Governor candidate to be designated and qualified by the time specified in subsection (2) shall result in forfeiture of ballot position for the candidate for Governor for the general election.

History.—s. 1, ch. 99-140; s. 45, ch. 2001-40; s. 12, ch. 2005-277; s. 8, ch. 2005-286; s. 15, ch. 2011-40.

99.081 United States Senators elected in general election.—United States Senators from Florida shall be elected at the general election held preceding the expiration of the present term of office, and such election shall conform as nearly as practicable to the methods provided for the election of state officers.

History.—s. 3, ch. 26870, 1951; s. 6, ch. 77-175; s. 7, ch. 89-338.

Note.—Former s. 106.01.

99.091 Representatives to Congress.—

(1) A Representative to Congress shall be elected in and for each congressional district at each general election.

(2) When Florida is entitled to additional representatives according to the last census, representatives shall be elected from the state at large and at large thereafter until the state is redistricted by the Legislature.

History.—ss. 2, 3, ch. 3879, 1889; RS 157; s. 4, ch. 4328, 1895; s. 3, ch. 4537, 1897; GS 174; RGS 218; CGL 253; s. 2, ch. 25383, 1949; s. 3, ch. 26870, 1951; s. 6, ch. 77-175.

Note.—Former s. 98.07.

99.092 Qualifying fee of candidate; notification of Department of State.—

(1) Each person seeking to qualify for nomination or election to any office, except a person seeking to qualify by the petition process pursuant to s. 99.095 and except a person seeking to qualify as a write-in candidate, shall pay a qualifying fee, which shall consist of a filing fee and election assessment, to the officer with whom the person qualifies, and any party assessment levied, and shall attach the original or signed duplicate of the receipt for his or her party assessment or pay the same, in accordance with the provisions of s. 103.121, at the time of filing his or her other qualifying papers. The amount of the filing fee is 3 percent of the annual salary of the office. The amount of the election assessment is 1 percent of the annual salary of the office sought. The election assessment shall be transferred to the Elections Commission Trust Fund. The amount of the party assessment is 2 percent of the annual salary. The annual salary of the office for purposes of computing the filing fee, election assessment, and party assessment

shall be computed by multiplying 12 times the monthly salary, excluding any special qualification pay, authorized for such office as of July 1 immediately preceding the first day of qualifying. No qualifying fee shall be returned to the candidate unless the candidate withdraws his or her candidacy before the last date to qualify. If a candidate dies prior to an election and has not withdrawn his or her candidacy before the last date to qualify, the candidate's qualifying fee shall be returned to his or her designated beneficiary, and, if the filing fee or any portion thereof has been transferred to the political party of the candidate, the Secretary of State shall direct the party to return that portion to the designated beneficiary of the candidate.

(2) The supervisor of elections shall, immediately after the last day for qualifying, submit to the Department of State a list containing the names, party affiliations, and addresses of all candidates and the offices for which they qualified.

History.—s. 24, ch. 6469, 1913; RGS 328; CGL 385; s. 3, ch. 26870, 1951; s. 12, ch. 29934, 1955; s. 4, ch. 65-378; s. 1, ch. 67-531; ss. 10, 35, ch. 69-106; s. 6, ch. 69-281; s. 1, ch. 74-119; s. 1, ch. 75-123; s. 1, ch. 75-247; s. 6, ch. 77-175; s. 28, ch. 79-400; s. 4, ch. 81-105; s. 1, ch. 83-242; s. 8, ch. 89-338; s. 1, ch. 91-107; s. 537, ch. 95-147; s. 11, ch. 97-13; s. 2, ch. 99-140; s. 10, ch. 99-318; s. 13, ch. 2005-277; s. 2, ch. 2010-16; s. 16, ch. 2011-40.

Note.—Former ss. 102.31, 99.031.

99.093 Municipal candidates; election assessment.—

(1) Each person seeking to qualify for nomination or election to a municipal office shall pay, at the time of qualifying for office, an election assessment. The election assessment shall be an amount equal to 1 percent of the annual salary of the office sought. Within 30 days after the close of qualifying, the qualifying officer shall forward all assessments collected pursuant to this section to the Florida Elections Commission for deposit in the Elections Commission Trust Fund.

(2) Any person seeking to qualify for nomination or election to a municipal office who is unable to pay the election assessment without imposing an undue burden on personal resources or on resources otherwise available to him or her shall, upon written certification of such inability given under oath to the qualifying officer, be exempt from paying the election assessment.

History.—s. 9, ch. 89-338; s. 2, ch. 91-107; s. 538, ch. 95-147; s. 12, ch. 97-13; s. 3, ch. 2010-16; s. 17, ch. 2011-40.

99.095 Petition process in lieu of a qualifying fee and party assessment.—

(1) A person who seeks to qualify as a candidate for any office and who meets the petition requirements of this section is not required to pay the qualifying fee or party assessment required by this chapter.

(2)(a) Except as provided in paragraph (b), a candidate must obtain the number of signatures of voters in the geographical area represented by the office sought equal to at least 1 percent of the total number of registered voters of that geographical area, as shown by the compilation by the department for the immediately preceding general election. Signatures may not be obtained until the candidate has filed the appointment of campaign treasurer and designation of campaign depository pursuant to s. 106.021 and are valid only for the qualifying period immediately following such filings.

(b) A candidate for a special district office shall obtain 25 signatures of voters in the geographical area represented by the office sought.

(c) The format of the petition shall be prescribed by the division and shall be used by candidates to reproduce petitions for circulation. If the candidate is running for an office that requires a group or district designation, the petition must indicate that designation and, if it does not, the signatures are not valid. A separate petition is required for each candidate.

(d) In a year of apportionment, any candidate for county or district office seeking ballot position by the petition process may obtain the required number of signatures from any registered voter in the respective county, regardless of district boundaries. The candidate shall obtain at least the number of signatures equal to 1 percent of the total number of registered voters, as shown by a compilation by the department for the immediately preceding general election, divided by the total number of districts of the office involved.

(3) Each petition must be submitted before noon of the 28th day preceding the first day of the qualifying period for the office sought to the supervisor of elections of the county in which such petition was circulated. Each supervisor shall check the signatures on the petitions to verify their status as voters in the county, district, or other geographical area represented by the office sought. No later than the 7th day before the first day of the qualifying period, the supervisor shall certify the number of valid signatures.

(4)(a) Certifications for candidates for federal, state, multicounty district, or multicounty special district office shall be submitted to the division no later than the 7th day before the first day of the qualifying period for the office sought. The division shall determine whether the required number of signatures has been obtained and shall notify the candidate.

(b) For candidates for county, district, or special district office not covered by paragraph (a), the supervisor shall determine whether the required number of signatures has been obtained and shall notify the candidate.

(5) If the required number of signatures has been obtained, the candidate is eligible to qualify pursuant to s. 99.061.

History.—s. 2, ch. 74-119; s. 6, ch. 77-175; s. 29, ch. 79-400; s. 10, ch. 89-338; s. 9, ch. 90-315; s. 539, ch. 95-147; s. 3, ch. 99-140; s. 1, ch. 99-318; s. 14, ch. 2005-277; s. 9, ch. 2005-286; s. 17, ch. 2007-30; s. 11, ch. 2008-95; s. 18, ch. 2011-40.

99.0955 Candidates with no party affiliation; name on general election ballot.—

(1) Each person seeking to qualify for election as a candidate with no party affiliation shall file his or her qualifying papers and pay the qualifying fee or qualify by the petition process pursuant to s. 99.095 with the officer and during the times and under the circumstances prescribed in s. 99.061. Upon qualifying, the candidate is entitled to have his or her name placed on the general election ballot.

(2) The qualifying fee for candidates with no party affiliation shall consist of a filing fee and an election assessment as prescribed in s. 99.092. Filing fees paid to the Department of State shall be deposited into the

General Revenue Fund of the state. Filing fees paid to the supervisor of elections shall be deposited into the general revenue fund of the county.

History.—s. 6, ch. 70-269; s. 1, ch. 70-439; s. 3, ch. 74-119; s. 7, ch. 77-175; s. 2, ch. 78-188; s. 11, ch. 89-338; s. 10, ch. 90-315; s. 540, ch. 95-147; s. 13, ch. 95-280; s. 4, ch. 99-140; s. 2, ch. 99-318; s. 15, ch. 2005-277.

Note.—Former s. 99.152.

99.096 Minor political party candidates; names on ballot.—Each person seeking to qualify for election as a candidate of a minor political party shall file his or her qualifying papers with, and pay the qualifying fee and, if one has been levied, the party assessment, or qualify by the petition process pursuant to s. 99.095, with the officer and at the times and under the circumstances provided in s. 99.061.

History.—s. 5, ch. 70-269; s. 1, ch. 70-439; s. 4, ch. 74-119; s. 8, ch. 77-175; s. 3, ch. 78-188; s. 12, ch. 89-338; s. 1, ch. 90-229; s. 11, ch. 90-315; s. 541, ch. 95-147; s. 3, ch. 99-318; s. 16, ch. 2005-277; s. 18, ch. 2007-30.

Note.—Former s. 101.261.

99.09651 Signature requirements for ballot position in year of apportionment.—

(1) In a year of apportionment, any candidate for representative to Congress, state Senate, or state House of Representatives seeking ballot position by the petition process prescribed in s. 99.095 shall obtain at least the number of signatures equal to one-third of 1 percent of the ideal population for the district of the office being sought.

(2) For the purposes of this section, "ideal population" means the total population of the state based upon the most recent decennial census divided by the number of districts for representative to Congress, state Senate, or state House of Representatives. For the purposes of this section, ideal population shall be calculated as of July 1 of the year prior to apportionment. The ideal population for a state Senate district and a state representative district shall be calculated by dividing the total population of the state by 40 for a state Senate district and by dividing by 120 for a state representative district.

(3) Signatures may be obtained from any registered voter in Florida regardless of party affiliation or district boundaries.

(4) Petitions shall state the name of the office the candidate is seeking, but shall not include a district number.

(5) Except as otherwise provided in this section, all requirements and procedures relating to the petition process shall conform to the requirements and procedures in nonapportionment years.

History.—s. 3, ch. 91-107; s. 4, ch. 99-318; s. 17, ch. 2005-277.

99.097 Verification of signatures on petitions.

(1)(a) As determined by each supervisor, based upon local conditions, the checking of names on petitions may be based on the most inexpensive and administratively feasible of either of the following methods of verification:

1. A check of each petition; or

2. A check of a random sample, as provided by the Department of State, of the petitions. The sample must be such that a determination can be made as to whether or not the required number of signatures has been obtained with a reliability of at least 99.5 percent.

(b) Rules and guidelines for petition verification shall be adopted by the Department of State. Rules and guidelines for a random sample method of verification may include a requirement that petitions bear an additional number of names and signatures, not to exceed 15 percent of the names and signatures otherwise required. If the petitions do not meet such criteria or if the petitions are prescribed by s. 100.371, the use of the random sample method of verification is not available to supervisors.

(2) When a petitioner submits petitions which contain at least 15 percent more than the required number of signatures, the petitioner may require that the supervisor of elections use the random sampling verification method in certifying the petition.

(3)(a) If all other requirements for the petition are met, a signature on a petition shall be verified and counted as valid for a registered voter if, after comparing the signature on the petition and the signature of the registered voter in the voter registration system, the supervisor is able to determine that the petition signer is the same as the registered voter, even if the name on the petition is not in substantially the same form as in the voter registration system.

(b) In any situation in which this code requires the form of the petition to be prescribed by the division, no signature shall be counted toward the number of signatures required unless it is on a petition form prescribed by the division.

(c) If a voter signs a petition and lists an address other than the legal residence where the voter is registered, the supervisor shall treat the signature as if the voter had listed the address where the voter is registered.

(4) The supervisor shall be paid in advance the sum of 10 cents for each signature checked or the actual cost of checking such signature, whichever is less, by the candidate or, in the case of a petition to have an issue placed on the ballot, by the person or organization submitting the petition. However, if a candidate, person, or organization seeking to have an issue placed upon the ballot cannot pay such charges without imposing an undue burden on personal resources or upon the resources otherwise available to such candidate, person, or organization, such candidate, person, or organization shall, upon written certification of such inability given under oath to the supervisor, be entitled to have the signatures verified at no charge. In the event a candidate, person, or organization submitting a petition to have an issue placed upon the ballot is entitled to have the signatures verified at no charge, the supervisor of elections of each county in which the signatures are verified at no charge shall submit the total number of such signatures checked in the county to the Chief Financial Officer no later than December 1 of the general election year, and the Chief Financial Officer shall cause such supervisor of elections to be reimbursed from the General Revenue Fund in an amount equal to 10 cents for each name checked or the actual cost of checking such signatures, whichever is less. In no event shall such reimbursement of costs be deemed or applied as extra compensation for the supervisor. Petitions shall be retained by the supervisors for a

period of 1 year following the election for which the petitions were circulated.

(5) The results of a verification pursuant to subparagraph (1)(a)2. may be contested in the circuit court by the candidate; an announced opponent; a representative of a designated political committee; or a person, party, or other organization submitting the petition. The contestant shall file a complaint, together with the fees prescribed in chapter 28, with the clerk of the circuit court in the county in which the petition is certified or in Leon County if the petition covers more than one county within 10 days after midnight of the date the petition is certified; and the complaint shall set forth the grounds on which the contestant intends to establish his or her right to require a complete check of the petition pursuant to subparagraph (1)(a)1. In the event the court orders a complete check of the petition and the result is not changed as to the success or lack of success of the petitioner in obtaining the requisite number of valid signatures, then such candidate, unless the candidate has filed the oath stating that he or she is unable to pay such charges; announced opponent; representative of a designated political committee; or party, person, or organization submitting the petition, unless such person or organization has filed the oath stating inability to pay such charges, shall pay to the supervisor of elections of each affected county for the complete check an amount calculated at the rate of 10 cents for each additional signature checked or the actual cost of checking such additional signatures, whichever is less.

(6)(a) If any person is paid to solicit signatures on a petition, an undue burden oath may not subsequently be filed in lieu of paying the fee to have signatures verified for that petition.

(b) If an undue burden oath has been filed and payment is subsequently made to any person to solicit signatures on a petition, the undue burden oath is no longer valid and a fee for all signatures previously submitted to the supervisor of elections and any that are submitted thereafter shall be paid by the candidate, person, or organization that submitted the undue burden oath. If contributions as defined in s. 106.011 are received, any monetary contributions must first be used to reimburse the supervisor of elections for any signature verification fees that were not paid because of the filing of an undue burden oath.

History.—s. 2, ch. 76-233; s. 10, ch. 77-175; s. 2, ch. 80-20; s. 1, ch. 82-141; s. 13, ch. 89-338; s. 2, ch. 90-229; s. 12, ch. 90-315; s. 542, ch. 95-147; s. 21, ch. 97-13; s. 7, ch. 99-318; s. 109, ch. 2003-261; s. 19, ch. 2011-40.

99.103 Department of State to remit part of filing fees and party assessments of candidates to state executive committee.—

(1) If more than three-fourths of the full authorized membership of the state executive committee of any party was elected at the last previous election for such members and if such party is declared by the Department of State to have recorded on the registration books of the counties, as of the first Tuesday after the first Monday in January prior to the primary election in general election years, 5 percent of the total registration of such counties when added together, such committee shall receive, for the purpose of meeting its expenses, all filing fees collected by the Department of State from its candidates less an amount equal to 15 percent of the filing fees, which amount the Department of State shall deposit in the General Revenue Fund of the state.

(2) Not later than 20 days after the close of qualifying in even-numbered years, the Department of State shall remit 95 percent of all filing fees, less the amount deposited in general revenue pursuant to subsection (1), or party assessments that may have been collected by the department to the respective state executive committees of the parties complying with subsection (1). Party assessments collected by the Department of State shall be remitted to the appropriate state executive committee, irrespective of other requirements of this section, provided such committee is duly organized under the provisions of chapter 103. The remainder of filing fees or party assessments collected by the Department of State shall be remitted to the appropriate state executive committees not later than the date of the primary election.

History.—s. 1, ch. 29935, 1955; s. 24, ch. 57-1; s. 1, ch. 57-62; s. 4, ch. 57-166; s. 1, ch. 69-295; ss. 10, 35, ch. 69-106; s. 11, ch. 77-175; s. 2, ch. 83-251; s. 4, ch. 91-107; s. 14, ch. 97-13; s. 10, ch. 2005-286.

99.121 Department of State to certify nominations to supervisors of elections.—The Department of State shall certify to the supervisor of elections of each county affected by a candidacy for office the names of persons nominated to such office. The names of such persons shall be printed by the supervisor of elections upon the ballot in their proper place as provided by law.

History.—s. 30, ch. 4328, 1895; s. 10, ch. 4537, 1897; GS 215, 3824; s. 54, ch. 6469, 1913; RGS 259, 358, 5885; CGL 315, 415, 8148; s. 11, ch. 26329, 1949; s. 3, ch. 26870, 1951; s. 5, ch. 57-166; ss. 10, 35, ch. 69-106; s. 11, ch. 77-175.

Note.—Former ss. 99.13, 102.51.

CHAPTER 100

GENERAL, PRIMARY, SPECIAL, BOND, AND REFERENDUM ELECTIONS

100.011 Opening and closing of polls, all elections; expenses.
100.021 Notice of general election.
100.025 Citizens residing overseas; notice of elections.
100.031 General election.
100.032 Election preparation report; general election.
100.041 Officers chosen at general election.
100.051 Candidate's name on general election ballot.
100.061 Primary election.
100.081 Nomination of county commissioners at primary election.
100.101 Special elections and special primary elections.
100.102 Cost of special elections and special primary elections to be incurred by the state.
100.111 Filling vacancy.
100.141 Notice of special election to fill any vacancy in office.
100.151 Special elections called by local governing bodies, notice.
100.161 Filling vacancy of United States Senators.
100.181 Determination of person elected.
100.191 General election laws applicable to special elections; returns.
100.201 Referendum required before issuing bonds.
100.211 Power to call bond referendum; notice required.
100.221 General election laws to govern bond referenda.
100.241 Freeholder voting; election; penalties for ineligible persons who vote as freeholders.
100.261 Holding bond referenda with other elections.
100.271 Inspectors, clerk, duties; return and canvass of referendum recorded.
100.281 Approval to issue bonds.
100.291 Record results of election prima facie evidence.
100.301 Refunding bonds excluded.
100.311 Local law governs bond election held by municipalities.
100.321 Test suit.
100.331 Referendum for defeated bond issue.
100.341 Bond referendum ballot.
100.342 Notice of special election or referendum.
100.351 Referendum election; certificate of results to Department of State.
100.3605 Conduct of municipal elections.
100.361 Municipal recall.
100.371 Initiatives; procedure for placement on ballot.

100.011 Opening and closing of polls, all elections; expenses.—

(1) The polls shall be open at the voting places at 7:00 a.m., on the day of the election, and shall be kept open until 7:00 p.m., of the same day, and the time shall be regulated by the customary time in standard use in the county seat of the locality. The inspectors shall make public proclamation of the opening and closing of the polls. During the election and canvass of the votes, the ballot box shall not be concealed. Any elector who is in line at the time of the official closing of the polls shall be allowed to cast a vote in the election.

(2) The time of opening and closing of the polls shall be observed in all elections held in this state, including municipal and school elections.

(3) The expenses of holding all elections for county and state offices necessarily incurred shall be paid out of the treasury of the county or state, as the case may be, in the same manner and by the same officers as in general elections.

(4)(a) The provisions of any special law to the contrary notwithstanding, the expenses of holding a special district or community development district election, or the district's proportionate share of regular election costs, as the case may be, shall be paid out of the district's treasury and in the same manner as in general elections. This subsection applies to any district, whether created by or pursuant to special or general law, which is a special district as defined in s. 200.001(8)(c) or a community development district as defined in s. 190.003(6).

(b) The provisions of any special law to the contrary notwithstanding, the supervisor of elections may impose an interest penalty on any amount due and owing to him or her from a special district or community development district if payment is not made within 30 days from receipt of the bill or within 10 working days of the required time authorized by interlocal agreement. The rate of such interest shall be the rate established pursuant to s. 55.03.

(c) The provisions of any special law to the contrary notwithstanding, all independent and dependent special district elections, with the exception of community development district elections, shall be conducted in accordance with the requirements of ss. 189.04 and 189.041.

History.—s. 23, ch. 3879, 1889; RS 177; s. 27, ch. 4328, 1895; GS 209; s. 8, ch. 6469, 1913; RGS 253, 306; CGL 309, 362; ss. 1, 2, ch. 20409, 1941; ss. 1, 2, ch. 22739, 1945; s. 4, ch. 25384, 1949; s. 4, ch. 26870, 1951; s. 12, ch. 77-175; s. 6, ch. 87-363; s. 53, ch. 89-169; s. 543, ch. 95-147; s. 4, ch. 96-327; s. 18, ch. 2005-277; s. 56, ch. 2014-22.

Note.—Former ss. 99.07, 102.08.

100.021 Notice of general election.—The Department of State shall, in any year in which a general election is held, make out a notice stating what offices and vacancies are to be filled at the general election in the state, and in each county and district thereof. During the 30 days prior to the beginning of qualifying, the Department of State shall have the notice published two times in a newspaper of general circulation in each

county; and, in counties in which there is no newspaper of general circulation, it shall send to the sheriff a notice of the offices and vacancies to be filled at such general election by the qualified voters of the sheriff's county or any district thereof, and the sheriff shall have at least five copies of the notice posted in conspicuous places in the county.

History.—s. 5, ch. 3879, 1889; RS 159; s. 6, ch. 4328, 1895; s. 4, ch. 4537, 1897; GS 176; RGS 220; CGL 255; s. 1, ch. 25383, 1949; s. 4, ch. 26870, 1951; ss. 10, 35, ch. 69-106; s. 12, ch. 77-175; s. 3, ch. 83-251; s. 544, ch. 95-147.
Note.—Former s. 98.06.

100.025 Citizens residing overseas; notice of elections.—A citizen of this state who is residing overseas may notify the supervisor of elections in the county where he or she is registered of his or her overseas address; and, thereafter, the supervisor shall notify such citizen at least 90 days prior to regular primary and general elections and when possible prior to any special election so that such citizen may follow the procedures for absentee voting provided by law.

History.—s. 1, ch. 67-454; s. 8, ch. 69-280; s. 3, ch. 77-175; s. 16, ch. 81-304; s. 4, ch. 89-338; s. 16, ch. 94-224; s. 1389, ch. 95-147.
Note.—Former s. 97.0631.

100.031 General election.—A general election shall be held in each county on the first Tuesday after the first Monday in November of each even-numbered year to choose a successor to each elective federal, state, county, and district officer whose term will expire before the next general election and, except as provided in the State Constitution, to fill each vacancy in elective office for the unexpired portion of the term.

History.—s. 2, ch. 3879, 1889; RS 155; s. 2, ch. 4328, 1895; s. 1, ch. 4537, 1897; GS 171; RGS 216; CGL 251; s. 4, ch. 26870, 1951; s. 12, ch. 77-175.
Note.—Former s. 98.04.

100.032 Election preparation report; general election.—Each supervisor of elections must post a report on his or her official website at least 3 months before a general election which outlines preparations for the upcoming general election. The report must include, at a minimum, the following elements: the anticipated staffing levels during the early voting period, on election day and after election day; and the anticipated amount of automatic tabulating equipment at each early voting site and polling place.

History.—s. 2, ch. 2013-57.

100.041 Officers chosen at general election.—

(1) State senators shall be elected for terms of 4 years, those from odd-numbered districts in each year the number of which is a multiple of 4 and those from even-numbered districts in each even-numbered year the number of which is not a multiple of 4. Members of the House of Representatives shall be elected for terms of 2 years in each even-numbered year. In each county, a clerk of the circuit court, sheriff, superintendent of schools, property appraiser, and tax collector shall be chosen by the qualified electors at the general election in each year the number of which is a multiple of 4. The Governor and the administrative officers of the executive branch of the state shall be elected for terms of 4 years in each even-numbered year the number of which is not a multiple of 4. The terms of state offices other than the terms of members of the Legislature shall begin on the first Tuesday after the first Monday in January after said election. The term of office of each member of the Legislature shall begin upon election.

(2)(a) Each county commissioner from an odd-numbered district shall be elected at the general election in each year the number of which is a multiple of 4, for a 4-year term commencing on the second Tuesday following such election, and each county commissioner from an even-numbered district shall be elected at the general election in each even-numbered year the number of which is not a multiple of 4, for a 4-year term commencing on the second Tuesday following such election. A county commissioner is "elected" for purposes of this paragraph on the date that the county canvassing board certifies the results of the election pursuant to s. 102.151.

(b) Notwithstanding paragraph (a), the governing board of a charter county may provide by ordinance, to be approved by referendum, that the terms of its members shall commence on a date later than the second Tuesday following general elections, but in any case the date of commencement shall be uniform for all members and shall be no later than the first Tuesday after the first Monday in January following each member's election.

(3)(a) School board members shall be elected at a general election for terms of 4 years. The term of office of a school board member and of a superintendent of schools shall begin on the second Tuesday following the general election in which such member or superintendent is elected.

(b) In each school district which has five school board members, the terms shall be arranged so that three members are elected at one general election and two members elected at the next ensuing general election.

(4) The term of office of each county and each district officer not otherwise provided by law shall commence on the first Tuesday after the first Monday in January following his or her election.

History.—s. 3, ch. 3879, 1889; RS 156; s. 3, ch. 4328, 1895; s. 2, ch. 4537, 1897; GS 172; s. 10, ch. 7838, 1919; RGS 217; CGL 252; s. 4, ch. 26870, 1951; s. 15, ch. 28156, 1953; s. 1, ch. 59-140; s. 1, ch. 63-479; s. 1, ch. 67-98; s. 1, ch. 67-510; s. 11, ch. 69-216; s. 1, ch. 69-300; (4) formerly s. 14, Art. XVIII of the Constitution of 1885, as amended; converted to statutory law by s. 10, Art. XII of the Constitution as revised in 1968; s. 1, ch. 73-47; s. 18, ch. 73-334; s. 1, ch. 77-102; s. 12, ch. 77-175; s. 1, ch. 78-321; s. 21, ch. 79-164; s. 14, ch. 85-226; s. 1, ch. 88-85; s. 14, ch. 89-338; s. 545, ch. 95-147; s. 11, ch. 98-129; s. 20, ch. 2007-30.
Note.—Former s. 98.05.

100.051 Candidate's name on general election ballot.—The supervisor of elections of each county shall print on ballots to be used in the county at the next general election the names of candidates who have been nominated by a political party and the candidates who have otherwise obtained a position on the general election ballot in compliance with the requirements of this code.

History.—s. 53, ch. 6469, 1913; RGS 357; CGL 414; s. 4, ch. 26870, 1951; s. 3, ch. 70-269; s. 1, ch. 70-439; s. 12, ch. 77-175; s. 21, ch. 2007-30.
Note.—Former s. 102.50.

100.061 Primary election.—In each year in which a general election is held, a primary election for nomination of candidates of political parties shall be held on the Tuesday 10 weeks prior to the general election. The candidate receiving the highest number of

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

History.—s. 5, ch. 6469, 1913; RGS 303; CGL 359; s. 2, ch. 13761, 1929; s. 1, ch. 17897, 1937; s. 7, ch. 26329, 1949; s. 4, ch. 26870, 1951; s. 1, ch. 57-166; s. 1, ch. 59-4; s. 1, ch. 69-1745; s. 4, ch. 83-251; s. 11, ch. 2005-286; s. 22, ch. 2007-30; s. 20, ch. 2011-40; s. 3, ch. 2013-57.

Note.—Former s. 102.05.

100.081 Nomination of county commissioners at primary election.—The primary election shall provide for the nomination of county commissioners by the qualified electors of such county at the time and place set for voting on other county officers.

History.—s. 63, ch. 6469, 1913; s. 10, ch. 6874, 1915; RGS 362; CGL 419; s. 18, ch. 13761, 1929; CGL 1936 Supp. 424(2); s. 4, ch. 26870, 1951; s. 11, ch. 69-216; s. 12, ch. 77-175; s. 12, ch. 2005-286.

Note.—Former s. 102.55.

100.101 Special elections and special primary elections.—A special election or special primary election shall be held in the following cases:

(1) If no person has been elected at a general election to fill an office which was required to be filled by election at such general election.

(2) If a vacancy occurs in the office of state senator or member of the state house of representatives.

(3) If it is necessary to elect presidential electors, by reason of the offices of President and Vice President both having become vacant.

(4) If a vacancy occurs in the office of member from Florida of the House of Representatives of Congress.

History.—s. 4, ch. 3879, 1889; RS 158; s. 5, ch. 4328, 1895; GS 175; RGS 219; CGL 254; s. 4, ch. 26870, 1951; s. 12, ch. 77-175; s. 3, ch. 83-15; s. 19, ch. 2005-277; s. 21, ch. 2011-40.

Note.—Former s. 98.08.

100.102 Cost of special elections and special primary elections to be incurred by the state.—Whenever any special election or special primary election is held as required in s. 100.101, each county incurring expenses resulting from such special election or special primary election shall be reimbursed by the state. Reimbursement shall be based upon actual expenses as filed by the supervisor of elections with the county governing body. The Department of State shall verify the expenses of each special election and each special primary election and authorize payment for reimbursement to each county affected.

History.—s. 2, ch. 74-120; s. 12, ch. 77-175.

100.111 Filling vacancy.—

(1)(a) If any vacancy occurs in any office which is required to be filled pursuant to s. 1(f), Art. IV of the State Constitution and the remainder of the term of such office is 28 months or longer, then at the next general election a person shall be elected to fill the unexpired portion of such term, commencing on the first Tuesday after the first Monday following such general election.

(b) If such a vacancy occurs prior to the first day set by law for qualifying for election to office at such general election, any person seeking nomination or election to the unexpired portion of the term shall qualify within the time prescribed by law for qualifying for other offices to be filled by election at such general election.

(c) If such a vacancy occurs prior to the primary election but on or after the first day set by law for qualifying, the Secretary of State shall set dates for qualifying for the unexpired portion of the term of such office. Any person seeking nomination or election to the unexpired portion of the term shall qualify within the time set by the Secretary of State. If time does not permit party nominations to be made in conjunction with the primary election, the Governor may call a special primary election to select party nominees for the unexpired portion of such term.

(2) Whenever there is a vacancy for which a special election is required pursuant to s. 100.101, the Governor, after consultation with the Secretary of State, shall fix the dates of a special primary election and a special election. Nominees of political parties shall be chosen under the primary laws of this state in the special primary election to become candidates in the special election. Prior to setting the special election dates, the Governor shall consider any upcoming elections in the jurisdiction where the special election will be held. The dates fixed by the Governor shall be specific days certain and shall not be established by the happening of a condition or stated in the alternative. The dates fixed shall provide a minimum of 2 weeks between each election. In the event a vacancy occurs in the office of state senator or member of the House of Representatives when the Legislature is in regular legislative session, the minimum times prescribed by this subsection may be waived upon concurrence of the Governor, the Speaker of the House of Representatives, and the President of the Senate. If a vacancy occurs in the office of state senator and no session of the Legislature is scheduled to be held prior to the next general election, the Governor may fix the dates for the special primary election and for the special election to coincide with the dates of the primary election and general election. If a vacancy in office occurs in any district in the state Senate or House of Representatives or in any congressional district, and no session of the Legislature, or session of Congress if the vacancy is in a congressional district, is scheduled to be held during the unexpired portion of the term, the Governor is not required to call a special election to fill such vacancy.

(a) The dates for candidates to qualify in such special election or special primary election shall be fixed by the Department of State, and candidates shall qualify not later than noon of the last day so fixed. The dates fixed for qualifying shall allow a minimum of 14 days between the last day of qualifying and the special primary election.

(b) The filing of campaign expense statements by candidates in such special elections or special primaries and by committees making contributions or expenditures to influence the results of such special primaries or special elections shall be not later than such dates as shall be fixed by the Department of State, and in fixing such dates the Department of State shall take into consideration and be governed by the practical time limitations.

(c) The dates for a candidate to qualify by the petition process pursuant to s. 99.095 in such special primary or special election shall be fixed by the

Department of State. In fixing such dates the Department of State shall take into consideration and be governed by the practical time limitations. Any candidate seeking to qualify by the petition process in a special primary election shall obtain 25 percent of the signatures required by s. 99.095.

(d) The qualifying fees and party assessments of such candidates as may qualify shall be the same as collected for the same office at the last previous primary for that office. The party assessment shall be paid to the appropriate executive committee of the political party to which the candidate belongs.

(e) Each county canvassing board shall make as speedy a return of the result of such special primary elections and special elections as time will permit, and the Elections Canvassing Commission likewise shall make as speedy a canvass and declaration of the nominees as time will permit.

(3)(a) In the event that death, resignation, withdrawal, or removal should cause a party to have a vacancy in nomination which leaves no candidate for an office from such party, the filing officer before whom the candidate qualified shall notify the chair of the state and county political party executive committee of such party and:

1. If the vacancy in nomination is for a statewide office, the state party chair shall, within 5 days, call a meeting of his or her executive board to consider designation of a nominee to fill the vacancy.

2. If the vacancy in nomination is for the office of United States Representative, state senator, state representative, state attorney, or public defender, the state party chair shall notify the appropriate county chair or chairs and, within 5 days, the appropriate county chair or chairs shall call a meeting of the members of the executive committee in the affected county or counties to consider designation of a nominee to fill the vacancy.

3. If the vacancy in nomination is for a county office, the state party chair shall notify the appropriate county chair and, within 5 days, the appropriate county chair shall call a meeting of his or her executive committee to consider designation of a nominee to fill the vacancy.

The name of any person so designated shall be submitted to the filing officer before whom the candidate qualified within 7 days after notice to the chair in order that the person designated may have his or her name on the ballot of the ensuing general election. If the name of the new nominee is submitted after the certification of results of the preceding primary election, however, the ballots shall not be changed and the former party nominee's name will appear on the ballot. Any ballots cast for the former party nominee will be counted for the person designated by the political party to replace the former party nominee. If there is no opposition to the party nominee, the person designated by the political party to replace the former party nominee will be elected to office at the general election.

(b) When, under the circumstances set forth in the preceding paragraph, vacancies in nomination are required to be filled by committee nominations, such vacancies shall be filled by party rule. In any instance in which a nominee is selected by a committee to fill a vacancy in nomination, such nominee shall pay the same filing fee and take the same oath as the nominee would have taken had he or she regularly qualified for election to such office.

(c) Any person who, at the close of qualifying as prescribed in ss. 99.061 and 105.031, was qualified for nomination or election to or retention in a public office to be filled at the ensuing general election or who attempted to qualify and failed to qualify is prohibited from qualifying as a candidate to fill a vacancy in nomination for any other office to be filled at that general election, even if such person has withdrawn or been eliminated as a candidate for the original office sought. However, this paragraph does not apply to a candidate for the office of Lieutenant Governor who applies to fill a vacancy in nomination for the office of Governor on the same ticket or to a person who has withdrawn or been eliminated as a candidate and who is subsequently designated as a candidate for Lieutenant Governor under s. 99.063.

(4) A vacancy in nomination is not created if an order of a court that has become final determines that a nominee did not properly qualify or did not meet the necessary qualifications to hold the office for which he or she sought to qualify.

(5) In the event of unforeseeable circumstances not contemplated in these general election laws concerning the calling and holding of special primary elections and special elections resulting from court order or other unpredictable circumstances, the Department of State shall have the authority to provide for the conduct of orderly elections.

History.—s. 4, ch. 26870, 1951; s. 16, ch. 28156, 1953; s. 1, ch. 29938, 1955; s. 1, ch. 57-91; s. 1, ch. 59-139; s. 2, ch. 65-240; ss. 10, 35, ch. 69-106; s. 1, ch. 73-191; s. 1, ch. 74-120; s. 12, ch. 77-175; s. 30, ch. 79-400; s. 4, ch. 83-15; s. 1, ch. 83-149; s. 15, ch. 89-338; s. 3, ch. 90-229; s. 13, ch. 90-315; s. 546, ch. 95-147; s. 1, ch. 95-197; s. 5, ch. 99-140; s. 12, ch. 99-318; s. 20, ch. 2005-277; s. 13, ch. 2005-286; s. 23, ch. 2007-30; s. 22, ch. 2011-40.

100.141 Notice of special election to fill any vacancy in office.—

(1) Whenever a special election is required to fill any vacancy in office, the Governor, after consultation with the Secretary of State, shall issue an order declaring on what day the election shall be held and deliver the order to the Department of State.

(2) The Department of State shall prepare a notice stating what offices are to be filled in the special election, the dates set for the special primary election and the special election, the dates fixed for qualifying for office, the dates fixed for qualifying by the petition process pursuant to s. 99.095, and the dates fixed for filing campaign expense statements.

(3) The department shall deliver a copy of such notice to the supervisor of elections of each county in which the special election is to be held. The supervisor shall have the notice published two times in a newspaper of general circulation in the county at least 10 days prior to the first day set for qualifying for office. If such a newspaper is not published within the period set forth, the supervisor shall post at least five copies of the

notice in conspicuous places in the county not less than 10 days prior to the first date set for qualifying.

History.—s. 6, ch. 3879, 1889; RS 160; s. 7, ch. 4328, 1895; GS 177; RGS 221; CGL 256; s. 3, ch. 25383, 1949; s. 1, ch. 26329, 1949; s. 4, ch. 26870, 1951; ss. 10, 35, ch. 69-106; s. 12, ch. 77-175; s. 14, ch. 90-315; s. 13, ch. 99-318; s. 21, ch. 2005-277; s. 14, ch. 2005-286.

Note.—Former s. 98.10.

100.151 Special elections called by local governing bodies, notice.—County commissioners or the governing authority of a municipality shall not call any special election until notice is given to the supervisor of elections and his or her consent obtained as to a date when the registration books can be available.

History.—s. 4, ch. 26870, 1951; s. 2, ch. 65-60; s. 16, ch. 89-338; s. 547, ch. 95-147.

100.161 Filling vacancy of United States Senators.—Should a vacancy happen in the representation of this state in the Senate of the United States, the Governor shall issue a writ of election to fill such vacancy at the next general election; and the Governor may make a temporary appointment until the vacancy is filled by election.

History.—s. 4, ch. 26870, 1951; s. 17, ch. 28156, 1953; s. 12, ch. 77-175.

100.181 Determination of person elected.—The person receiving the highest number of votes cast in a general or special election for an office shall be elected to the office. In case two or more persons receive an equal and highest number of votes for the same office, such persons shall draw lots to determine who shall be elected to the office.

History.—s. 7, ch. 20872, 1941; s. 4, ch. 26329, 1949; s. 4, ch. 26870, 1951; s. 24, ch. 77-104; s. 12, ch. 77-175.

Note.—Former s. 98.49.

100.191 General election laws applicable to special elections; returns.—All laws that are applicable to general elections are applicable to special elections or special primary elections to fill a vacancy in office or nomination. The Elections Canvassing Commission shall immediately, upon receipt of returns from the county in which a special election is held, proceed to canvass the returns and determine and declare the result thereof.

History.—s. 6, ch. 20872, 1941; s. 4, ch. 26870, 1951; ss. 10, 35, ch. 69-106; s. 12, ch. 77-175; s. 24, ch. 2007-30.

Note.—Former s. 98.48.

100.201 Referendum required before issuing bonds.—Whenever any county, district, or municipality is by law given power to issue bonds which are required to be approved by referendum, such bonds shall be issued only after the same have been approved by the majority of votes cast by those persons eligible to vote in such referendum. The election costs of such referendum shall be paid in whole or in part, as the case may be, out of the county, district, or municipal treasury.

History.—s. 1, ch. 14715, 1931; CGL 1936 Supp. 457(1); s. 4, ch. 26870, 1951; s. 3, ch. 69-377; s. 12, ch. 77-175; s. 7, ch. 87-363.

Note.—Former s. 103.01.

100.211 Power to call bond referendum; notice required.—The board of county commissioners or the governing authority of any district or municipality may call a bond referendum under this code. In the event any referendum is called to decide whether a majority of the electors participating are in favor of the issuance of bonds in the county, district, or municipality, the board of county commissioners, or the governing authority of the municipality or district, shall by resolution order the bond referendum to be held in the county, district, or municipality and shall give notice of the election in the manner prescribed by s. 100.342.

History.—s. 2, ch. 14715, 1931; CGL 1936 Supp. 457(2); s. 4, ch. 26870, 1951; s. 4, ch. 69-377; s. 12, ch. 77-175.

Note.—Former s. 103.02.

100.221 General election laws to govern bond referenda.—The laws governing the holding of general elections are applicable to bond referenda, except as provided in ss. 100.201-100.351. A county, district, or municipality is not required to offer early voting for a bond referendum that is not held in conjunction with a county or state election. The places for voting in a bond referendum shall be the same as the places for voting in general elections when a bond referendum is held in the county or district; however, when a bond referendum is held in a municipality, the polling places shall be the same as in other municipal elections.

History.—s. 8, ch. 14715, 1931; CGL 1936 Supp. 457(8); s. 4, ch. 26870, 1951; s. 12, ch. 77-175; s. 12, ch. 2008-95.

Note.—Former s. 103.08.

100.241 Freeholder voting; election; penalties for ineligible persons who vote as freeholders.—

(1) In any election or referendum in which only electors who are freeholders are qualified to vote, the regular registration books covering the precincts located within the geographical area in which the election or referendum is to be held shall be used.

(2) Qualification and registration of electors participating in a freeholder election or referendum subject to this section shall be the same as prescribed for voting in other elections under this code, and, in addition, each such elector shall submit a written declaration, verified pursuant to s. 92.525, affirming that the elector is a freeholder who is a qualified elector residing in the county, district, or municipality in which the election or referendum is to be held.

(3) Each registered elector who submits the written declaration giving a legal description, address, or location of property in the elector's name which is not wholly exempt from taxation is entitled to vote in the election or referendum and is considered a freeholder.

(4) The actual costs of conducting a freeholder election or referendum subject to this section shall be paid by the county, district, or municipality requiring the election or referendum.

(5) A person may not vote in any county, district, or other election or referendum which is limited to a vote of the electors who are freeholders, unless the person is a freeholder and a qualified elector. A person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 9294, 1923; CGL 250; ss. 4, 6, 14, ch. 14715, 1931; CGL 1936 Supp. 457(4), (6), (14); s. 7, ch. 22858, 1945; s. 4, ch. 26870, 1951; s. 1, ch. 61-332; s. 5, ch. 65-240; s. 5, ch. 69-377; s. 12, ch. 77-175; s. 2, ch. 91-224; s. 548, ch. 95-147; s. 1, ch. 2012-156.

Note.—Former ss. 98.03, 103.04, 103.06, 103.14.

100.261 Holding bond referenda with other elections.—Whenever any bond referendum is called, it shall be lawful for any county, district, or municipality to hold such bond referendum on the day of any state, county, or municipal primary or general election, or on the day of any election of such county, district, or municipality for any purpose other than the purpose of voting on such bonds. If such bond referendum is held concurrently with a regularly scheduled election, the county, district, or municipality shall pay only its pro rata share of election costs directly related to the bond referendum. However, nothing in this section shall prohibit the holding of a special or separate bond referendum.

History.—s. 1, ch. 22545, 1945; s. 4, ch. 26870, 1951; s. 19, ch. 28156, 1953; s. 12, ch. 77-175; s. 8, ch. 87-363.

Note.—Former s. 103.21.

100.271 Inspectors, clerk, duties; return and canvass of referendum recorded.—In any bond referendum, unless the referendum is held in connection with a regular or special state, county, or municipal election, at least two inspectors and one clerk shall be appointed and qualified, as in cases of general elections, and they shall canvass the vote cast and make due returns of same without delay. Any bond referendum held in a municipality shall be returned to and canvassed by the governing authority which called the referendum, but in any county or district the returns shall be made to the board of county commissioners. The board of county commissioners or, in the case of a municipality, the governing authority thereof, shall canvass the returns and declare the result and have same recorded in the minutes of the board of county commissioners, or, in the case of a district, the certificate of declaration of result shall be recorded in the minutes of the governing authority of such district, or, in the case of a municipality, the result shall be recorded in the minutes of the governing authority of the municipality. If any bond referendum is held in conjunction with any other election, however, the officials responsible for the canvass of such election shall also canvass the returns of the referendum and certify the same to the proper governing body.

History.—s. 10, ch. 14715, 1931; CGL 1936 Supp. 457(10); s. 4, ch. 26870, 1951; s. 12, ch. 77-175.

Note.—Former s. 103.10.

100.281 Approval to issue bonds.—Should a majority of the votes cast in a bond referendum be in favor of the issuance of bonds, then the issuance of said bonds is deemed authorized in accordance with s. 12, Art. VII of the State Constitution. In the event less than a majority of those voting on the issue voted in favor of the issuance of the proposed bonds, then the issuance of those specified bonds shall be deemed to have failed of approval and it is unlawful to issue or attempt to issue said bonds.

History.—s. 12, ch. 14715, 1931; CGL 1936 Supp. 457(12); s. 4, ch. 26870, 1951; s. 15, ch. 69-216; s. 7, ch. 69-377; s. 12, ch. 77-175.

Note.—Former s. 103.12.

100.291 Record results of election prima facie evidence.—Whenever any bond referendum is called and held, and the minutes have been recorded as provided in s. 100.271 and also a separate finding as to the total number of votes cast in the referendum, both in favor and against the approval of bonds, then a duly certified copy of the finding shall be admissible as prima facie evidence in all state courts of the truth, including the regularity, of the call, conduct, and holding of the referendum at the time and place specified.

History.—s. 17, ch. 14715, 1931; CGL 1936 Supp. 457(15); s. 4, ch. 26870, 1951; s. 12, ch. 77-175.

Note.—Former s. 103.17.

100.301 Refunding bonds excluded.—Sections 100.201-100.351 shall not apply to refunding bonds, and wherever the word "bond" or "bonds" is used in these sections it shall be construed to exclude refunding bonds; but if the statute, ordinance, or resolution under which refunding bonds are authorized or are to be issued requires a referendum to determine whether such refunding bonds shall be issued, the referendum may be held as provided by ss. 100.201-100.351.

History.—s. 21½, ch. 14715, 1931; CGL 1936 Supp. 457(19); s. 4, ch. 26870, 1951; s. 12, ch. 77-175.

Note.—Former s. 103.20.

100.311 Local law governs bond election held by municipalities.—No section of this code controlling or regulating bond referenda shall be deemed to repeal or modify any provision contained in any local law relating to bond referenda held by any municipality, but ss. 100.201-100.351 shall be deemed additional and supplementary to any such local law.

History.—s. 21, ch. 14715, 1931; CGL 1936 Supp. 457(18); s. 4, ch. 26870, 1951; s. 12, ch. 77-175.

Note.—Former s. 103.19.

100.321 Test suit.—Any taxpayer of the county, district, or municipality wherein bonds are declared to have been authorized, shall have the right to test the legality of the referendum and of the declaration of the result thereof, by an action in the circuit court of the county in which the referendum was held. The action shall be brought against the county commissioners in the case of a county or district referendum, or against the governing authority of the municipality in the case of a municipal referendum. In case any such referendum or the declaration of results thereof shall be adjudged to be illegal and void in any such suit, the judgment shall have the effect of nullifying the referendum. No suit shall be brought to test the validity of any bond referendum unless the suit shall be instituted within 60 days after the declaration of the results of the referendum. In the event proceedings shall be filed in any court to validate the bonds, which have been voted for, then any such taxpayer shall be bound to intervene in such validation suit and contest the validity of the holding of the referendum or the declaration of the results thereof, in which event the exclusive jurisdiction to determine the legality of such referendum or the declaration of the results thereof shall be vested in the court hearing and determining said validation proceedings. If said bonds in the validation proceedings shall be held valid on final hearing or an intervention by the taxpayer shall be interposed and held not to have been sustained, then the judgment in said validation proceedings shall be final and conclusive as to the legality and validity of the referendum and of the declaration of the results thereof,

and no separate suit to test the same shall be thereafter permissible.

History.—s. 18, ch. 14715, 1931; CGL 1936 Supp. 457(16); s. 4, ch. 26870, 1951; s. 12, ch. 77-175.

Note.—Former s. 103.18.

100.331 Referendum for defeated bond issue. If any bond referendum is called and held for approving the issuance of bonds for a particular purpose and such referendum does not result in the approval of the bonds, then no other referendum for the approval of bonds for the same purpose shall be called for at least 6 months.

History.—s. 13, ch. 14715, 1931; CGL 1936 Supp. 457 (13); s. 4, ch. 26870, 1951; s. 12, ch. 77-175.

Note.—Former s. 103.13.

100.341 Bond referendum ballot.—The ballots used in bond referenda shall include a printed description of the issuance of bonds to be voted on as prescribed by the authority calling the referendum. A separate statement of each issue of bonds to be approved, giving the amount of the bonds and interest rate thereon, together with other details necessary to inform the electors, shall be printed on the ballots in connection with the question "For Bonds" and "Against Bonds."

History.—s. 11, ch. 14715, 1931; CGL 1936 Supp. 457(11); s. 4, ch. 26870, 1951; s. 12, ch. 77-175; s. 4, ch. 2001-40.

Note.—Former s. 103.11.

100.342 Notice of special election or referendum.—In any special election or referendum not otherwise provided for there shall be at least 30 days' notice of the election or referendum by publication in a newspaper of general circulation in the county, district, or municipality, as the case may be. The publication shall be made at least twice, once in the fifth week and once in the third week prior to the week in which the election or referendum is to be held. If there is no newspaper of general circulation in the county, district, or municipality, the notice shall be posted in no less than five places within the territorial limits of the county, district, or municipality.

History.—s. 1, ch. 59-335; s. 2, ch. 65-60; s. 12, ch. 77-175.

100.351 Referendum election; certificate of results to Department of State.—Whenever an election is held under a referendum provision of an act of the Legislature, the election officials of the governmental unit in which the election is held shall certify the results thereof to the Department of State, which shall enter such results upon the official record of the act requiring such election on file in the office of the Department of State.

History.—s. 1, ch. 25438, 1949; s. 4, ch. 26870, 1951; ss. 10, 35, ch. 69-106; s. 12, ch. 77-175.

Note.—Former s. 99.59.

100.3605 Conduct of municipal elections.—

(1) The Florida Election Code, chapters 97-106, shall govern the conduct of a municipality's election in the absence of an applicable special act, charter, or ordinance provision. No charter or ordinance provision shall be adopted which conflicts with or exempts a municipality from any provision in the Florida Election Code that expressly applies to municipalities.

(2) The governing body of a municipality may, by ordinance, change the dates for qualifying and for the election of members of the governing body of the municipality and provide for the orderly transition of office resulting from such date changes.

History.—s. 2, ch. 95-178.

100.361 Municipal recall.—

(1) APPLICATION; DEFINITION.—Any member of the governing body of a municipality or charter county, hereinafter referred to in this section as "municipality," may be removed from office by the electors of the municipality. When the official represents a district and is elected only by electors residing in that district, only electors from that district are eligible to sign the petition to recall that official and are entitled to vote in the recall election. When the official represents a district and is elected at-large by the electors of the municipality, all electors of the municipality are eligible to sign the petition to recall that official and are entitled to vote in the recall election. Where used in this section, the term "district" shall be construed to mean the area or region of a municipality from which a member of the governing body is elected by the electors from such area or region. Members may be removed from office pursuant to the procedures provided in this section. This method of removing members of the governing body of a municipality is in addition to any other method provided by state law.

(2) RECALL PETITION.—

(a) *Petition content.*—A petition shall contain the name of the person sought to be recalled and a statement of grounds for recall. The statement of grounds may not exceed 200 words, and the stated grounds are limited solely to those specified in paragraph (d). If more than one member of the governing body is sought to be recalled, whether such member is elected by the electors of a district or by the electors of the municipality at-large, a separate recall petition shall be prepared for each member sought to be recalled. Upon request, the content of a petition should be, but is not required to be, provided by the proponent in alternative formats.

(b) *Requisite signatures.*—

1. In a municipality or district of fewer than 500 electors, the petition shall be signed by at least 50 electors or by 10 percent of the total number of registered electors of the municipality or district as of the preceding municipal election, whichever is greater.

2. In a municipality or district of 500 or more but fewer than 2,000 registered electors, the petition shall be signed by at least 100 electors or by 10 percent of the total number of registered electors of the municipality or district as of the preceding municipal election, whichever is greater.

3. In a municipality or district of 2,000 or more but fewer than 5,000 registered electors, the petition shall be signed by at least 250 electors or by 10 percent of the total number of registered electors of the municipality or district as of the preceding municipal election, whichever is greater.

4. In a municipality or district of 5,000 or more but fewer than 10,000 registered electors, the petition shall

be signed by at least 500 electors or by 10 percent of the total number of registered electors of the municipality or district as of the preceding municipal election, whichever is greater.

5. In a municipality or district of 10,000 or more but fewer than 25,000 registered electors, the petition shall be signed by at least 1,000 electors or by 10 percent of the total number of registered electors of the municipality or district as of the preceding municipal election, whichever is greater.

6. In a municipality or district of 25,000 or more registered electors, the petition shall be signed by at least 1,000 electors or by 5 percent of the total number of registered electors of the municipality or district as of the preceding municipal election, whichever is greater.

All signatures shall be obtained, as provided in paragraph (e), within a period of 30 days, and all signed and dated petition forms shall be filed at the same time, no later than 30 days after the date on which the first signature is obtained on the petition.

(c) *Recall committee.*—Electors of the municipality or district making charges contained in the statement of grounds for recall, as well as those signing the recall petition, shall be designated as the recall committee. A specific person shall be designated in the petition as chair of the committee, and this person shall act for the committee. The recall committee and the officer being recalled are subject to the provisions of chapter 106.

(d) *Grounds for recall.*—The grounds for removal of elected municipal officials shall, for the purposes of this act, be limited to the following and must be contained in the petition:

1. Malfeasance;
2. Misfeasance;
3. Neglect of duty;
4. Drunkenness;
5. Incompetence;
6. Permanent inability to perform official duties; and
7. Conviction of a felony involving moral turpitude.

(e) *Signature process.*—Only electors of the municipality or district are eligible to sign the petition. Each elector signing a petition shall sign and date his or her name in ink or indelible pencil. Each petition shall contain appropriate lines for each elector's original signature, printed name, street address, city, county, voter registration number or date of birth, and date signed. The form shall also contain lines for an oath, to be executed by a witness who is to verify the fact that the witness saw each person sign the counterpart of the petition, that each signature appearing thereon is the genuine signature of the person it purports to be, and that the petition was signed in the presence of the witness on the date indicated.

(f) *Filing of signed petitions.*—All signed petition forms shall be filed at the same time, no later than 30 days after the date on which the first signature is obtained on the petition. The person designated as chair of the committee shall file the signed petition forms with the auditor or clerk of the municipality or charter county, or his or her equivalent, hereinafter referred to as "clerk." The petition may not be amended after it is filed with the clerk.

(g) *Verification of signatures.*—

1. Immediately after the filing of the petition forms, the clerk shall submit such forms to the county supervisor of elections. No more than 30 days after the date on which all petition forms are submitted to the supervisor by the clerk, the supervisor shall promptly verify the signatures in accordance with s. 99.097, and determine whether the requisite number of valid signatures has been obtained for the petition. The committee seeking verification of the signatures shall pay in advance to the supervisor the sum of 10 cents for each signature checked or the actual cost of checking such signatures, whichever is less.

2. Upon filing with the clerk, the petition and all subsequent papers or forms required or permitted to be filed with the clerk in connection with this section must, upon request, be made available in alternative formats by the clerk.

3. If the supervisor determines that the petition does not contain the requisite number of verified and valid signatures, the clerk shall, upon receipt of such written determination, so certify to the governing body of the municipality or charter county and file the petition without taking further action, and the matter shall be at an end. No additional names may be added to the petition, and the petition shall not be used in any other proceeding.

4. If the supervisor determines that the petition has the requisite number of verified and valid signatures, then the procedures outlined in subsection (3) must be followed.

(3) RECALL PETITION AND DEFENSE.—

(a) *Notice.*—Upon receipt of a written determination that the requisite number of signatures has been obtained, the clerk shall at once serve upon the person sought to be recalled a certified copy of the petition. Within 5 days after service, the person sought to be recalled may file with the clerk a defensive statement of not more than 200 words.

(b) *Content and preparation.*—Within 5 days after the date of receipt of the defensive statement or after the last date a defensive statement could have been filed, the clerk shall prepare a document entitled "Recall Petition and Defense." The "Recall Petition and Defense" shall consist of the recall petition, including copies of the originally signed petitions and counterparts. The "Recall Petition and Defense" must contain lines which conform to the provisions of paragraph (2)(e), and the defensive statement or, if no defensive statement has been filed, a statement to that effect. The clerk shall make copies of the "Recall Petition and Defense" which are sufficient to carry the signatures of 30 percent of the registered electors. Immediately after preparing and making sufficient copies of the "Recall Petition and Defense," the clerk shall deliver the copies to the person designated as chair of the committee and take his or her receipt therefor.

(c) *Requisite signatures.*—Upon receipt of the "Recall Petition and Defense," the committee may circulate them to obtain the signatures of 15 percent of the electors. All signatures shall be obtained and all signed

petition forms filed with the clerk no later than 60 days after delivery of the "Recall Petition and Defense" to the chair of the committee.

(d) *Signed petitions; request for striking name.*—The clerk shall assemble all signed petitions, check to see that each petition is properly verified by the oath of a witness, and submit such petitions to the county supervisor of elections. Any elector who signs a recall petition has the right to demand in writing that his or her name be stricken from the petition. A written demand signed by the elector shall be filed with the clerk, and, upon receipt of the demand, the clerk shall strike the name of the elector from the petition and place his or her initials to the side of the signature stricken. However, a signature may not be stricken after the clerk has delivered the "Recall Petition and Defense" to the supervisor for verification of the signatures.

(e) *Verification of signatures.*—Within 30 days after receipt of the signed "Recall Petition and Defense," the supervisor shall determine the number of valid signatures, purge the names withdrawn, and certify whether 15 percent of the qualified electors of the municipality have signed the petitions. The supervisor shall be paid by the persons or committee seeking verification the sum of 10 cents for each name checked.

(f) *Reporting.*—If the supervisor determines that the requisite number of signatures has not been obtained, the clerk shall, upon receipt of such written determination, certify such determination to the governing body and retain the petitions. The proceedings shall be terminated, and the petitions shall not again be used. If the supervisor determines that at least 15 percent of the qualified electors signed the petition, the clerk shall, immediately upon receipt of such written determination, serve notice of that determination upon the person sought to be recalled and deliver to the governing body a certificate as to the percentage of qualified electors who signed.

(4) RECALL ELECTION.—If the person designated in the petition files with the clerk, within 5 days after the last-mentioned notice, his or her written resignation, the clerk shall at once notify the governing body of that fact, and the resignation shall be irrevocable. The governing body shall then proceed to fill the vacancy according to the provisions of the appropriate law. In the absence of a resignation, the chief judge of the judicial circuit in which the municipality is located shall fix a day for holding a recall election for the removal of those not resigning. Any such election shall be held not less than 30 days or more than 60 days after the expiration of the 5-day period last-mentioned and at the same time as any other general or special election held within the period; but if no such election is to be held within that period, the judge shall call a special recall election to be held within the period aforesaid.

(5) BALLOTS.—The ballots at the recall election shall conform to the following: With respect to each person whose removal is sought, the question shall be submitted: "Shall ____ be removed from the office of ____ by recall?" Immediately following each question there shall be printed on the ballots the two propositions in the order here set forth:

"__(name of person)__ should be removed from office."

"__(name of person)__ should not be removed from office."

(6) FILLING OF VACANCIES; SPECIAL ELECTIONS.—

(a) If an election is held for the recall of members elected only at-large, candidates to succeed them for the unexpired terms shall be voted upon at the same election and shall be elected in the same manner as provided by the appropriate law for the election of candidates at general elections. Candidates shall not be elected to succeed any particular member. If only one member is removed, the candidate receiving the highest number of votes shall be declared elected to fill the vacancy. If more than one member is removed, candidates equal in number to the number of members removed shall be declared elected to fill the vacancies; and, among the successful candidates, those receiving the greatest number of votes shall be declared elected for the longest terms. Cases of ties, and all other matters not herein specially provided for, shall be determined by the rules governing elections generally.

(b) If an election is held for the recall of members elected only from districts, candidates to succeed them for the unexpired terms shall be voted upon at a special election called by the chief judge of the judicial circuit in which the districts are located not less than 30 days or more than 60 days after the expiration of the recall election. The qualifying period, for purposes of this section, shall be established by the chief judge of the judicial circuit after consultation with the clerk. Any candidate seeking election to fill the unexpired term of a recalled district municipal official shall reside in the district represented by the recalled official and qualify for office in the manner required by law. Each candidate receiving the highest number of votes for each office in the special district recall election shall be declared elected to fill the unexpired term of the recalled official. Candidates seeking election to fill a vacancy created by the removal of a municipal official shall be subject to the provisions of chapter 106.

(c) When an election is held for the recall of members of the governing body composed of both members elected at-large and from districts, candidates to succeed them for the unexpired terms shall be voted upon at a special election as provided in paragraph (b).

(d) However, in any recall election held pursuant to paragraph (b) or paragraph (c), if only one member is voted to be removed from office, the vacancy created by the recall shall be filled by the governing body according to the provisions of the appropriate law for filling vacancies.

(7) EFFECT OF RESIGNATIONS.—If the member of the governing body being recalled resigns from office prior to the recall election, the remaining members shall fill the vacancy created according to the appropriate law for filling vacancies. If all of the members of the governing body are sought to be recalled and all of the members resign prior to the recall election, the recall election shall be canceled, and a special election shall be called to fill the unexpired terms of the resigning members. If all of the members of the governing body are sought to be recalled and any of the members resign prior to the recall election, the proceedings for the recall of members not resigning and the election of

successors to fill the unexpired terms shall continue and have the same effect as though there had been no resignation.

(8) WHEN PETITION MAY BE FILED.—No petition to recall any member of the governing body of a municipality shall be filed until the member has served one-fourth of his or her term of office. No person removed by a recall, or resigning after a petition has been filed against him or her, shall be eligible to be appointed to the governing body within a period of 2 years after the date of such recall or resignation.

(9) RETENTION OF PETITION.—The clerk shall preserve in his or her office all papers comprising or connected with a petition for recall for a period of 2 years after they were filed.

(10) OFFENSES RELATING TO PETITIONS.—No person shall impersonate another, purposely write his or her name or residence falsely in the signing of any petition for recall or forge any name thereto, or sign any paper with knowledge that he or she is not a qualified elector of the municipality. No person shall employ or pay another to accept employment or payment for circulating or witnessing a recall petition. Any person violating any of the provisions of this section commits a misdemeanor of the second degree and shall, upon conviction, be punished as provided by law.

(11) INTENT.—It is the intent of the Legislature that the recall procedures provided in this act shall be uniform statewide. Therefore, all municipal charter and special law provisions which are contrary to the provisions of this act are hereby repealed to the extent of this conflict.

(12) PROVISIONS APPLICABLE.—The provisions of this act shall apply to cities and charter counties whether or not they have adopted recall provisions.

History.—ss. 1, 2, ch. 74-130; s. 1, ch. 77-174; s. 12, ch. 77-175; s. 1, ch. 77-279; s. 1, ch. 81-312; s. 20, ch. 83-217; s. 17, ch. 89-338; s. 15, ch. 90-315; s. 549, ch. 95-147; s. 14, ch. 95-280; s. 1, ch. 2000-249; s. 5, ch. 2001-40; s. 8, ch. 2002-281; s. 13, ch. 2008-95.

100.371 Initiatives; procedure for placement on ballot.—

(1) Constitutional amendments proposed by initiative shall be placed on the ballot for the general election, provided the initiative petition has been filed with the Secretary of State no later than February 1 of the year the general election is held. A petition shall be deemed to be filed with the Secretary of State upon the date the secretary determines that valid and verified petition forms have been signed by the constitutionally required number and distribution of electors under this code.

(2) The sponsor of an initiative amendment shall, prior to obtaining any signatures, register as a political committee pursuant to s. 106.03 and submit the text of the proposed amendment to the Secretary of State, with the form on which the signatures will be affixed, and shall obtain the approval of the Secretary of State of such form. The Secretary of State shall adopt rules pursuant to s. 120.54 prescribing the style and requirements of such form. Upon filing with the Secretary of State, the text of the proposed amendment and all forms filed in connection with this section must, upon request, be made available in alternative formats.

(3) An initiative petition form circulated for signature may not be bundled with or attached to any other petition. Each signature shall be dated when made and shall be valid for a period of 2 years following such date, provided all other requirements of law are met. The sponsor shall submit signed and dated forms to the supervisor of elections for the county of residence listed by the person signing the form for verification of the number of valid signatures obtained. If a signature on a petition is from a registered voter in another county, the supervisor shall notify the petition sponsor of the misfiled petition. The supervisor shall promptly verify the signatures within 30 days after receipt of the petition forms and payment of the fee required by s. 99.097. The supervisor shall promptly record, in the manner prescribed by the Secretary of State, the date each form is received by the supervisor, and the date the signature on the form is verified as valid. The supervisor may verify that the signature on a form is valid only if:

(a) The form contains the original signature of the purported elector.

(b) The purported elector has accurately recorded on the form the date on which he or she signed the form.

(c) The form sets forth the purported elector's name, address, city, county, and voter registration number or date of birth.

(d) The purported elector is, at the time he or she signs the form and at the time the form is verified, a duly qualified and registered elector in the state.

The supervisor shall retain the signature forms for at least 1 year following the election in which the issue appeared on the ballot or until the Division of Elections notifies the supervisors of elections that the committee that circulated the petition is no longer seeking to obtain ballot position.

(4) The Secretary of State shall determine from the signatures verified by the supervisors of elections the total number of verified valid signatures and the distribution of such signatures by congressional districts. Upon a determination that the requisite number and distribution of valid signatures have been obtained, the secretary shall issue a certificate of ballot position for that proposed amendment and shall assign a designating number pursuant to s. 101.161.

(5)(a) Within 45 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State, the Financial Impact Estimating Conference shall complete an analysis and financial impact statement to be placed on the ballot of the estimated increase or decrease in any revenues or costs to state or local governments resulting from the proposed initiative. The Financial Impact Estimating Conference shall submit the financial impact statement to the Attorney General and Secretary of State.

(b) The Financial Impact Estimating Conference shall provide an opportunity for any proponents or opponents of the initiative to submit information and may solicit information or analysis from any other entities or agencies, including the Office of Economic and Demographic Research.

(c) All meetings of the Financial Impact Estimating Conference shall be open to the public. The President of the Senate and the Speaker of the House of Representatives, jointly, shall be the sole judge for the interpretation, implementation, and enforcement of this subsection.

1. The Financial Impact Estimating Conference is established to review, analyze, and estimate the financial impact of amendments to or revisions of the State Constitution proposed by initiative. The Financial Impact Estimating Conference shall consist of four principals: one person from the Executive Office of the Governor; the coordinator of the Office of Economic and Demographic Research, or his or her designee; one person from the professional staff of the Senate; and one person from the professional staff of the House of Representatives. Each principal shall have appropriate fiscal expertise in the subject matter of the initiative. A Financial Impact Estimating Conference may be appointed for each initiative.

2. Principals of the Financial Impact Estimating Conference shall reach a consensus or majority concurrence on a clear and unambiguous financial impact statement, no more than 75 words in length, and immediately submit the statement to the Attorney General. Nothing in this subsection prohibits the Financial Impact Estimating Conference from setting forth a range of potential impacts in the financial impact statement. Any financial impact statement that a court finds not to be in accordance with this section shall be remanded solely to the Financial Impact Estimating Conference for redrafting. The Financial Impact Estimating Conference shall redraft the financial impact statement within 15 days.

3. If the members of the Financial Impact Estimating Conference are unable to agree on the statement required by this subsection, or if the Supreme Court has rejected the initial submission by the Financial Impact Estimating Conference and no redraft has been approved by the Supreme Court by 5 p.m. on the 75th day before the election, the following statement shall appear on the ballot pursuant to s. 101.161(1): "The financial impact of this measure, if any, cannot be reasonably determined at this time."

(d) The financial impact statement must be separately contained and be set forth after the ballot summary as required in s. 101.161(1).

(e)1. Any financial impact statement that the Supreme Court finds not to be in accordance with this subsection shall be remanded solely to the Financial Impact Estimating Conference for redrafting, provided the court's advisory opinion is rendered at least 75 days before the election at which the question of ratifying the amendment will be presented. The Financial Impact Estimating Conference shall prepare and adopt a revised financial impact statement no later than 5 p.m. on the 15th day after the date of the court's opinion.

2. If, by 5 p.m. on the 75th day before the election, the Supreme Court has not issued an advisory opinion on the initial financial impact statement prepared by the Financial Impact Estimating Conference for an initiative amendment that otherwise meets the legal requirements for ballot placement, the financial impact statement shall be deemed approved for placement on the ballot.

3. In addition to the financial impact statement required by this subsection, the Financial Impact Estimating Conference shall draft an initiative financial information statement. The initiative financial information statement should describe in greater detail than the financial impact statement any projected increase or decrease in revenues or costs that the state or local governments would likely experience if the ballot measure were approved. If appropriate, the initiative financial information statement may include both estimated dollar amounts and a description placing the estimated dollar amounts into context. The initiative financial information statement must include both a summary of not more than 500 words and additional detailed information that includes the assumptions that were made to develop the financial impacts, workpapers, and any other information deemed relevant by the Financial Impact Estimating Conference.

4. The Department of State shall have printed, and shall furnish to each supervisor of elections, a copy of the summary from the initiative financial information statements. The supervisors shall have the summary from the initiative financial information statements available at each polling place and at the main office of the supervisor of elections upon request.

5. The Secretary of State and the Office of Economic and Demographic Research shall make available on the Internet each initiative financial information statement in its entirety. In addition, each supervisor of elections whose office has a website shall post the summary from each initiative financial information statement on the website. Each supervisor shall include the Internet addresses for the information statements on the Secretary of State's and the Office of Economic and Demographic Research's websites in the publication or mailing required by s. 101.20.

(6) The Department of State may adopt rules in accordance with s. 120.54 to carry out the provisions of subsections (1)-(5).

(7) No provision of this code shall be deemed to prohibit a private person exercising lawful control over privately owned property, including property held open to the public for the purposes of a commercial enterprise, from excluding from such property persons seeking to engage in activity supporting or opposing initiative amendments.

History.—s. 15, ch. 79-365; s. 12, ch. 83-251; s. 30, ch. 84-302; s. 22, ch. 97-13; s. 9, ch. 2002-281; s. 3, ch. 2002-390; s. 3, ch. 2004-33; s. 28, ch. 2005-278; s. 4, ch. 2006-119; s. 25, ch. 2007-30; s. 1, ch. 2007-231; s. 14, ch. 2008-95; s. 23, ch. 2011-40.

CHAPTER 101

VOTING METHODS AND PROCEDURE

101.001 Precincts and polling places; boundaries.
101.002 Use of system by municipalities.
101.015 Standards for voting systems.
101.017 Bureau of Voting Systems Certification.
101.021 Elector to vote the primary ballot of the political party in which he or she is registered.
101.031 Instructions for electors.
101.041 Secret voting.
101.043 Identification required at polls.
101.045 Electors must be registered in precinct; provisions for change of residence or name.
101.048 Provisional ballots.
101.049 Provisional ballots; special circumstances.
101.051 Electors seeking assistance in casting ballots; oath to be executed; forms to be furnished.
101.111 Voter challenges.
101.131 Watchers at polls.
101.151 Specifications for ballots.
101.161 Referenda; ballots.
101.171 Copy of constitutional amendment to be available at voting locations.
101.20 Publication of ballot form; sample ballots.
101.21 Official ballots; number; printing; payment.
101.23 Election inspector to keep list of those voting.
101.24 Ballot boxes and ballots.
101.2512 Candidates' names on general election ballots.
101.2515 Translation of ballot language.
101.252 Candidates entitled to have names printed on certain ballots; exception.
101.254 When nominated names to appear in groups or districts.
101.292 Definitions; ss. 101.292-101.295.
101.293 Competitive sealed bids and proposals required.
101.294 Purchase and sale of voting equipment.
101.295 Penalties for violation.
101.34 Custody of voting system.
101.341 Prohibited activities by voting system custodians and deputy custodians.
101.43 Substitute ballot.
101.49 Procedure of election officers where signatures differ.
101.51 Electors to occupy booth alone.
101.545 Retention and destruction of certain election materials.
101.5601 Short title.
101.5602 Purpose.
101.5603 Definitions relating to Electronic Voting Systems Act.
101.5604 Adoption of system; procurement of equipment; commercial tabulations.
101.56042 Punch card type systems prohibited.
101.5605 Examination and approval of equipment.
101.5606 Requirements for approval of systems.
101.56062 Standards for accessible voting systems.
101.56063 Accessibility of voting systems and polling places; intent; eligibility for federal funding.
101.56064 Application for federal funds under ch. 2002-281.
101.56065 Voting system defects; disclosure; investigations; penalties.
101.5607 Department of State to maintain voting system information; prepare software.
101.56075 Voting methods.
101.5608 Voting by electronic or electromechanical method; procedures.
101.5610 Inspection of ballot by election board.
101.5611 Instructions to electors.
101.5612 Testing of tabulating equipment.
101.5613 Examination of equipment during voting.
101.5614 Canvass of returns.
101.572 Public inspection of ballots.
101.58 Supervising and observing registration and election processes.
101.591 Voting system audit.
101.5911 Rulemaking authority for voting system audit procedures.
101.595 Analysis and reports of voting problems.
101.6101 Short title.
101.6102 Mail ballot elections; limitations.
101.6103 Mail ballot election procedure.
101.6104 Challenge of votes.
101.6105 Absentee voting.
101.6106 Application of other election laws.
101.6107 Department of State to adopt rules.
101.62 Request for absentee ballots.
101.64 Delivery of absentee ballots; envelopes; form.
101.65 Instructions to absent electors.
101.655 Supervised voting by absent electors in certain facilities.
101.657 Early voting.
101.661 Voting absentee ballots.
101.662 Accessibility of absentee ballots.
101.663 Electors; change of residence to another state.
101.665 Administration of oaths; military personnel, federal employees, and other absentee registrants.
101.67 Safekeeping of mailed ballots; deadline for receiving absentee ballots.
101.68 Canvassing of absentee ballot.
101.69 Voting in person; return of absentee ballot.
101.6921 Delivery of special absentee ballot to certain first-time voters.
101.6923 Special absentee ballot instructions for certain first-time voters.
101.6925 Canvassing special absentee ballots.

101.694 Mailing of ballots upon receipt of federal postcard application.
101.6951 State write-in ballot.
101.6952 Absentee ballots for absent uniformed services and overseas voters.
101.697 Electronic transmission of election materials.
101.698 Absentee voting in emergency situations.
101.71 Polling place.
101.715 Accessibility of polling places for people having a disability.
101.731 Short title.
101.732 Definitions relating to Elections Emergency Act.
101.733 Election emergency; purpose; elections emergency contingency plan.
101.74 Temporary change of polling place in case of emergency.
101.75 Municipal elections; change of dates for cause.

101.001 Precincts and polling places; boundaries.—

(1) The board of county commissioners in each county, upon recommendation and approval of the supervisor, shall alter or create precincts for voting in the county. Each precinct shall be numbered and, as nearly as practicable, composed of contiguous and compact areas. The supervisor shall designate a polling place at a suitable location within each precinct. The precinct shall not be changed thereafter except with the consent of the supervisor and a majority of the members of the board of county commissioners. The board of county commissioners and the supervisor may have precinct boundaries conform to municipal boundaries in accordance with the provisions of s. 101.002, but, in any event, the registration books shall be maintained in such a manner that there may be determined therefrom the total number of electors in each municipality.

(2) When in any election there are fewer than 25 registered electors of the only political party having candidates on the ballot at any precinct, such precinct may be combined with other adjoining precincts upon the recommendation of the supervisor and the approval of the county commissioners. Notice of the combination of precincts shall be given in the same manner as provided in s. 101.71(2).

(3)(a) Each supervisor of elections shall maintain a suitable map drawn to a scale no smaller than 3 miles to the inch and clearly delineating all major observable features such as roads, streams, and railway lines and showing the current geographical boundaries of each precinct, representative district, and senatorial district, and other type of district in the county subject to the elections process in this code.

(b) The supervisor shall provide to the department data on all precincts in the county associated with the most recent decennial census blocks within each precinct.

(c) The department shall maintain a searchable database that contains the precincts and the corresponding most recent decennial census blocks within the precincts for each county, including a historical file that allows the census blocks to be traced through the prior decade.

(d) The supervisor of elections shall notify the Secretary of State in writing within 10 days after any reorganization of precincts and shall furnish a copy of the map showing the current geographical boundaries and designation of each new precinct. However, if precincts are composed of whole census blocks, the supervisor may furnish, in lieu of a copy of the map, a list, in an electronic format prescribed by the Department of State, associating each census block in the county with its precinct.

(e) Any precinct established or altered under the provisions of this section shall consist of areas bounded on all sides only by census block boundaries from the most recent United States Census. If the census block boundaries split or conflict with another political boundary listed below, the boundary listed below may be used:

1. Governmental unit boundaries reported in the most recent Boundary and Annexation Survey published by the United States Census Bureau;

2. Visible features that are readily distinguishable upon the ground, such as streets, railroads, tracks, streams, and lakes, and that are indicated upon current census maps, official Department of Transportation maps, official municipal maps, official county maps, or a combination of such maps;

3. Boundaries of public parks, public school grounds, or churches; or

4. Boundaries of counties, incorporated municipalities, or other political subdivisions that meet criteria established by the United States Census Bureau for block boundaries.

(4)(a) Within 10 days after there is any change in the division, number, or boundaries of the precincts, or the location of the polling places, the supervisor of elections shall make in writing an accurate description of any new or altered precincts, setting forth the boundary lines and shall identify the location of each new or altered polling place. A copy of the document describing such changes shall be posted at the supervisor's office.

(b) Any changes in the county precinct data shall be provided to the department within 10 days after a change.

(c) Precinct data shall include all precincts for which precinct-level election results and voting history results are reported.

History.—s. 10, ch. 3879, 1889; RS 164; s. 11, ch. 4328, 1895; GS 184; RGS 228; CGL 281; s. 2, ch. 24203, 1947; s. 6, ch. 25383, 1949; s. 2, ch. 26329, 1949; s. 2, ch. 26870, 1951; s. 4, ch. 29934, 1955; s. 3, ch. 57-166; s. 1, ch. 59-281; s. 1, ch. 67-169; s. 1, ch. 72-25; s. 3, ch. 73-155; s. 1, ch. 76-60; s. 1, ch. 76-121; s. 1, ch. 76-233; s. 4, ch. 77-175; s. 1, ch. 80-189; s. 11, ch. 80-292; s. 4, ch. 81-304; s. 26, ch. 84-302; s. 24, ch. 94-224; s. 1390, ch. 95-147; s. 54, ch. 97-13; s. 29, ch. 2005-278; s. 24, ch. 2011-40.

Note.—Former s. 98.23; s. 98.031.

101.002 Use of system by municipalities.—

(1) The board of county commissioners, with the concurrence of the supervisor of elections, may arrange the boundaries of the precincts in each municipality within the county to conform to the boundaries of the municipality, subject to the concurrence of the governing body of the municipality. All binders, files, and other equipment or materials necessary for the permanent

registration system shall be furnished by the board of county commissioners.

(2) The supervisor of elections shall deliver the records required for a municipal election to the municipal elections boards or other appropriate elections officials before the election and collect them after the election. The municipality shall reimburse the county for the actual costs incurred.

(3) Any person who is a duly registered elector pursuant to this code and who resides within the boundaries of a municipality is qualified to participate in all municipal elections, the provisions of special acts or local charters notwithstanding. Electors who are not registered under the permanent registration system shall not be permitted to vote.

History.—s. 4, ch. 25391, 1949; s. 2, ch. 26870, 1951; s. 10, ch. 27991, 1953; s. 2, ch. 29761, 1955; s. 1, ch. 57-136; s. 1, ch. 63-268; s. 6, ch. 65-134; s. 2, ch. 73-155; s. 5, ch. 77-175; s. 31, ch. 94-224.

Note.—Former s. 97.04; s. 98.091.

101.015 Standards for voting systems.—

(1) The Department of State shall adopt rules which establish minimum standards for hardware and software for electronic and electromechanical voting systems. Such rules shall contain standards for:

(a) Functional requirements;

(b) Performance levels;

(c) Physical and design characteristics;

(d) Documentation requirements; and

(e) Evaluation criteria.

(2) Each odd-numbered year the Department of State shall review the rules governing standards and certification of voting systems to determine the adequacy and effectiveness of such rules in assuring that elections are fair and impartial.

(3) The Department of State shall adopt rules to achieve and maintain the maximum degree of correctness, impartiality, and efficiency of the procedures of voting, including write-in voting, and of counting, tabulating, and recording votes by voting systems used in this state.

(4)(a) The Department of State shall adopt rules establishing minimum security standards for voting systems.

(b) Each supervisor of elections shall establish written procedures to assure accuracy and security in his or her county, including procedures related to early voting pursuant to s. 101.657. Such procedures shall be reviewed in each odd-numbered year by the Department of State.

(c) Each supervisor of elections shall submit any revisions to the security procedures to the Department of State at least 45 days before early voting commences pursuant to s. 101.657 in an election in which they are to take effect.

(5)(a) The Department of State shall adopt rules which establish standards for provisional approval of hardware and software for innovative use of electronic and electromechanical voting systems. Such rules shall contain standards for:

1. Functional requirements;
2. Performance levels;
3. Physical and design characteristics;
4. Documentation requirements;
5. Evaluation criteria;
6. Audit capabilities; and
7. Consideration of prior use of a system.

(b) A voting system shall be provisionally approved for a total of no more than 2 years, and the Department of State has the authority to revoke such approval. Provisional approval of a system shall not be granted by the Department of State to supersede certification requirements of this section.

(c)1. No provisionally approved system may be used in any election, including any municipal election, without the authorization of the Department of State.

2. An application for use of a provisionally approved system shall be submitted at least 120 days prior to the intended use by the supervisor of elections or municipal elections official. Such application shall request authorization for use of the system in a specific election. Each application shall state the election, the number of precincts, and the number of anticipated voters for which the system is requested for use.

3. The Department of State shall authorize or deny authorization of the use of the provisionally approved system for the specific election and shall notify the supervisor of elections or municipal elections official in writing of the authorization or denial of authorization, along with the reasons therefor, within 45 days after receipt of the application.

(d) A contract for the use of a provisionally approved system for a specific election may be entered into with the approval of the Department of State. No contract for title to a provisionally approved system may be entered into.

(e) The use of any provisionally approved system shall be valid for all purposes.

(6) All electronic and electromechanical voting systems purchased on or after January 1, 1990, must meet the minimum standards established under subsection (1). All electronic and electromechanical voting systems in use on or after July 1, 1993, must meet the minimum standards established under subsection (1) or subsection (5).

(7) The Division of Elections shall review the voting systems certification standards and ensure that new technologies are available for selection by boards of county commissioners which meet the requirements for voting systems and meet user standards. The Division of Elections shall continuously review the voting systems certification standards to ensure that new technologies are appropriately certified for all elections in a timely manner. The division shall also develop methods to determine the will of the public with respect to voting systems.

History.—s. 4, ch. 89-348; s. 16, ch. 90-315; s. 551, ch. 95-147; s. 6, ch. 2001-40; s. 10, ch. 2004-252.

101.017 Bureau of Voting Systems Certification. There is created a Bureau of Voting Systems Certification within the Division of Elections of the Department of State which shall provide technical support to the supervisors of elections and which is responsible for voting system standards and certification. The positions

necessary for the bureau to accomplish its duties shall be established through the budgetary process.

History.—s. 16, ch. 89-348; s. 20, ch. 90-315.
Note.—Former s. 102.1691.

101.021 Elector to vote the primary ballot of the political party in which he or she is registered.—In a primary election a qualified elector is entitled to vote the official primary election ballot of the political party designated in the elector's registration, and no other. It is unlawful for any elector to vote in a primary for any candidate running for nomination from a party other than that in which such elector is registered.

History.—s. 41, ch. 6469, 1913; RGS 345; CGL 402; s. 5, ch. 26870, 1951; s. 21, ch. 28156, 1953; s. 13, ch. 77-175; s. 552, ch. 95-147.
Note.—Former s. 102.40.

101.031 Instructions for electors.—

(1) The Department of State, or in case of municipal elections the governing body of the municipality, shall print, in large type on cards, instructions for the electors to use in voting. It shall provide not less than two cards for each voting precinct for each election and furnish such cards to each supervisor upon requisition. Each supervisor of elections shall send a sufficient number of these cards to the precincts prior to an election. The election inspectors shall display the cards in the polling places as information for electors. The cards shall contain information about how to vote and such other information as the Department of State may deem necessary. The cards must also include the list of rights and responsibilities afforded to Florida voters, as described in subsection (2).

(2) The supervisor of elections in each county shall have posted at each polling place in the county the Voter's Bill of Rights and Responsibilities in the following form:

VOTER'S BILL OF RIGHTS

Each registered voter in this state has the right to:

1. Vote and have his or her vote accurately counted.
2. Cast a vote if he or she is in line at the official closing of the polls in that county.
3. Ask for and receive assistance in voting.
4. Receive up to two replacement ballots if he or she makes a mistake prior to the ballot being cast.
5. An explanation if his or her registration or identity is in question.
6. If his or her registration or identity is in question, cast a provisional ballot.
7. Written instructions to use when voting, and, upon request, oral instructions in voting from elections officers.
8. Vote free from coercion or intimidation by elections officers or any other person.
9. Vote on a voting system that is in working condition and that will allow votes to be accurately cast.

VOTER RESPONSIBILITIES

Each registered voter in this state should:

1. Familiarize himself or herself with the candidates and issues.
2. Maintain with the office of the supervisor of elections a current address.
3. Know the location of his or her polling place and its hours of operation.
4. Bring proper identification to the polling station.
5. Familiarize himself or herself with the operation of the voting equipment in his or her precinct.
6. Treat precinct workers with courtesy.
7. Respect the privacy of other voters.
8. Report any problems or violations of election laws to the supervisor of elections.
9. Ask questions, if needed.
10. Make sure that his or her completed ballot is correct before leaving the polling station.

NOTE TO VOTER: Failure to perform any of these responsibilities does not prohibit a voter from voting.

(3) Nothing in this section shall give rise to a legal cause of action.

(4) In case any elector, after entering the voting booth, shall ask for further instructions concerning the manner of voting, two election officers who are not both members of the same political party, if present, or, if not, two election officers who are members of the same political party, shall give such instructions to such elector, but no officer or person assisting an elector shall in any manner request, suggest, or seek to persuade or induce any elector to vote for or against any particular ticket, candidate, amendment, question, or proposition. After giving the elector instructions and before the elector has voted, the officers or persons assisting the elector shall retire, and such elector shall vote in secret.

History.—s. 40, ch. 4328, 1895; s. 12, ch. 4537, 1897; GS 225; RGS 270; CGL 326; s. 1, ch. 25106, 1949; s. 5, ch. 26870, 1951; ss. 10, 35, ch. 69-106; s. 25, ch. 77-104; s. 13, ch. 77-175; s. 31, ch. 79-400; s. 60, ch. 2001-40; s. 5, ch. 2002-17; s. 22, ch. 2005-277.
Note.—Former s. 99.24.

101.041 Secret voting.—In all elections held on any subject which may be submitted to a vote, and for all or any state, county, district, or municipal officers, the voting shall be by secret, official ballot as provided by this code, and no vote shall be received or counted in any election, except as prescribed by this code.

History.—s. 24, ch. 3879, 1889; RS 178; s. 28, ch. 4328, 1895; GS 210; RGS 254; CGL 310; s. 3, ch. 17898, 1937; s. 5, ch. 26870, 1951; s. 13, ch. 77-175; s. 15, ch. 2008-95.
Note.—Former s. 99.08.

101.043 Identification required at polls.—

(1)(a) The precinct register, as prescribed in s. 98.461, shall be used at the polls for the purpose of identifying the elector at the polls before allowing him or her to vote. The clerk or inspector shall require each elector, upon entering the polling place, to present one of the following current and valid picture identifications:

1. Florida driver license.
2. Florida identification card issued by the Department of Highway Safety and Motor Vehicles.
3. United States passport.
4. Debit or credit card.
5. Military identification.
6. Student identification.
7. Retirement center identification.
8. Neighborhood association identification.

9. Public assistance identification.

(b) If the picture identification does not contain the signature of the elector, an additional identification that provides the elector's signature shall be required. The address appearing on the identification presented by the elector may not be used as the basis to confirm an elector's legal residence or otherwise challenge an elector's legal residence. The elector shall sign his or her name in the space provided on the precinct register or on an electronic device provided for recording the elector's signature. The clerk or inspector shall compare the signature with that on the identification provided by the elector and enter his or her initials in the space provided on the precinct register or on an electronic device provided for that purpose and allow the elector to vote if the clerk or inspector is satisfied as to the identity of the elector.

(c) When an elector presents his or her picture identification to the clerk or inspector and the elector's address on the picture identification matches the elector's address in the supervisor's records, the elector may not be asked to provide additional information or to recite his or her home address.

(2) If the elector fails to furnish the required identification, the elector shall be allowed to vote a provisional ballot. The canvassing board shall determine the validity of the ballot pursuant to s. 101.048(2).

History.—s. 1, ch. 77-267; s. 533, ch. 95-147; s. 10, ch. 98-129; s. 3, ch. 2001-40; s. 13, ch. 2003-415; s. 23, ch. 2005-277; s. 30, ch. 2005-278; s. 26, ch. 2007-30; s. 25, ch. 2011-40.

Note.—Former s. 98.471.

101.045 Electors must be registered in precinct; provisions for change of residence or name.—

(1) A person is not permitted to vote in any election precinct or district other than the one in which the person has his or her legal residence and in which the person is registered. However, a person temporarily residing outside the county shall be registered in the precinct in which the main office of the supervisor, as designated by the supervisor, is located when the person has no permanent address in the county and it is the person's intention to remain a resident of Florida and of the county in which he or she is registered to vote. Such persons who are registered in the precinct in which the main office of the supervisor, as designated by the supervisor, is located and who are residing outside the county with no permanent address in the county shall not be registered electors of a municipality and therefore shall not be permitted to vote in any municipal election.

(2)(a) An elector who moves from the precinct in which the elector is registered may vote in the precinct to which he or she has moved his or her legal residence, if the change of residence is within the same county or the precinct to which the elector has moved his or her legal residence is within a county that uses an electronic database as a precinct register at the polling place, and the elector completes an affirmation in substantially the following form:

Change of Legal Residence of Registered Voter

Under penalties for false swearing, I, (Name of voter), swear (or affirm) that the former address of my legal residence was (Address of legal residence) in the municipality of ____, in ____ County, Florida, and I was registered to vote in the ____ precinct of ____ County, Florida; that I have not voted in the precinct of my former registration in this election; that I now reside at (Address of legal residence) in the Municipality of ____, in ____ County, Florida, and am therefore eligible to vote in the ____ precinct of ____ County, Florida; and I further swear (or affirm) that I am otherwise legally registered and entitled to vote.

(Signature of voter whose address of legal residence has changed)

(b) Except for an active uniformed services voter or a member of his or her family and except for an elector who has moved his or her legal residence to a precinct within a county that uses an electronic database as a precinct register at the polling place, an elector whose change of address is from outside the county may not change his or her legal residence at the polling place and must vote a provisional ballot.

(c) An elector whose name changes because of marriage or other legal process may be permitted to vote, provided such elector completes an affirmation in substantially the following form:

Change of Name of Registered Voter

Under penalties for false swearing, I, (New name of voter), swear (or affirm) that my name has been changed because of marriage or other legal process. My former name and address of legal residence appear on the registration records of precinct ____ as follows:

Name _____
Address _____
Municipality _____
County _____
Florida, Zip _____

My present name and address of legal residence are as follows:

Name _____
Address _____
Municipality _____
County _____
Florida, Zip _____

and I further swear (or affirm) that I am otherwise legally registered and entitled to vote.

(Signature of voter whose name has changed)

(d) Instead of the affirmation contained in paragraph (a) or paragraph (c), an elector may complete a voter registration application that indicates the change of name or change of address of legal residence.

(e) Such affirmation or application, when completed and presented at the precinct in which such elector is entitled to vote, and upon verification of the elector's registration, shall entitle such elector to vote as provided in this subsection. If the elector's eligibility to vote

cannot be determined, he or she shall be entitled to vote a provisional ballot, subject to the requirements and procedures in s. 101.048. Upon receipt of an affirmation or application certifying a change in address of legal residence or name, the supervisor shall as soon as practicable make the necessary changes in the statewide voter registration system to indicate the change in address of legal residence or name of such elector.

History.—s. 13, ch. 3879, 1889; RS 167; s. 15, ch. 4328, 1895; GS 192; RGS 236; CGL 289; s. 4, ch. 24203, 1947; s. 11, ch. 25035, 1949; s. 1, ch. 26870, 1951; s. 4, ch. 28156, 1953; s. 7, ch. 65-60; s. 1, ch. 71-307; s. 3, ch. 77-175; s. 6, ch. 78-403; s. 4, ch. 80-292; s. 5, ch. 89-338; s. 20, ch. 94-224; s. 1391, ch. 95-147; s. 36, ch. 2001-40; s. 31, ch. 2005-278; s. 16, ch. 2008-95; s. 26, ch. 2011-40; s. 4, ch. 2013-57.

Note.—Former s. 98.32; s. 97.091.

101.048 Provisional ballots.—

(1) At all elections, a voter claiming to be properly registered in the state and eligible to vote at the precinct in the election but whose eligibility cannot be determined, a person whom an election official asserts is not eligible, and other persons specified in the code shall be entitled to vote a provisional ballot. Once voted, the provisional ballot shall be placed in a secrecy envelope and thereafter sealed in a provisional ballot envelope. The provisional ballot shall be deposited in a ballot box. All provisional ballots shall remain sealed in their envelopes for return to the supervisor of elections. The department shall prescribe the form of the provisional ballot envelope. A person casting a provisional ballot shall have the right to present written evidence supporting his or her eligibility to vote to the supervisor of elections by not later than 5 p.m. on the second day following the election.

(2)(a) The county canvassing board shall examine each Provisional Ballot Voter's Certificate and Affirmation to determine if the person voting that ballot was entitled to vote at the precinct where the person cast a vote in the election and that the person had not already cast a ballot in the election. In determining whether a person casting a provisional ballot is entitled to vote, the county canvassing board shall review the information provided in the Voter's Certificate and Affirmation, written evidence provided by the person pursuant to subsection (1), any other evidence presented by the supervisor of elections, and, in the case of a challenge, any evidence presented by the challenger. A ballot of a person casting a provisional ballot shall be counted unless the canvassing board determines by a preponderance of the evidence that the person was not entitled to vote.

(b)1. If it is determined that the person was registered and entitled to vote at the precinct where the person cast a vote in the election, the canvassing board shall compare the signature on the Provisional Ballot Voter's Certificate and Affirmation with the signature on the voter's registration and, if it matches, shall count the ballot.

2. If it is determined that the person voting the provisional ballot was not registered or entitled to vote at the precinct where the person cast a vote in the election, the provisional ballot shall not be counted and the ballot shall remain in the envelope containing the Provisional Ballot Voter's Certificate and Affirmation and the envelope shall be marked "Rejected as Illegal."

(3) The Provisional Ballot Voter's Certificate and Affirmation shall be in substantially the following form:

STATE OF FLORIDA
COUNTY OF ____

I do solemnly swear (or affirm) that my name is ____; that my date of birth is ____; that I am registered and qualified to vote in ____ County, Florida; that I am registered in the ____ Party; that I am a qualified voter of the county; and that I have not voted in this election. I understand that if I commit any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I can be convicted of a felony of the third degree and fined up to $5,000 and/or imprisoned for up to 5 years.

(Signature of Voter)
(Current Residence Address)
(Current Mailing Address)
(City, State, Zip Code)
(Driver License Number or Last Four Digits of Social Security Number)

Sworn to and subscribed before me this ____ day of _____, (year).
(Election Official)

Precinct # ____ Ballot Style/Party Issued: ____

(4) Notwithstanding the requirements of subsections (1), (2), and (3), the supervisor of elections may, and for persons with disabilities shall, provide the appropriate provisional ballot to the voter by electronic means that meet the requirements of s. 101.56062, as provided for by the certified voting system. Each person casting a provisional ballot by electronic means shall, prior to casting his or her ballot, complete the Provisional Ballot Voter's Certificate and Affirmation as provided in subsection (3).

(5) Each person casting a provisional ballot shall be given written instructions regarding the person's right to provide the supervisor of elections with written evidence of his or her eligibility to vote and regarding the free access system established pursuant to subsection (6). The instructions shall contain information on how to access the system and the information the voter will need to provide to obtain information on his or her particular ballot. The instructions shall also include the following statement: "If this is a primary election, you should contact the supervisor of elections' office immediately to confirm that you are registered and can vote in the general election."

(6) Each supervisor of elections shall establish a free access system that allows each person who casts a provisional ballot to determine whether his or her provisional ballot was counted in the final canvass of votes and, if not, the reasons why. Information regarding provisional ballots shall be available no later than 30 days following the election. The system established must restrict information regarding an individual ballot to the person who cast the ballot.

History.—s. 35, ch. 2001-40; s. 6, ch. 2002-17; s. 15, ch. 2003-415; s. 24, ch. 2005-277; s. 32, ch. 2005-278; s. 27, ch. 2007-30.

101.049 Provisional ballots; special circumstances.—

(1) Any person who votes in an election after the regular poll-closing time pursuant to a court or other order extending the statutory polling hours must vote a provisional ballot. Once voted, the provisional ballot shall be placed in a secrecy envelope and thereafter sealed in a provisional ballot envelope. The election official witnessing the voter's subscription and affirmation on the Provisional Ballot Voter's Certificate shall indicate whether or not the voter met all requirements to vote a regular ballot at the polls. All such provisional ballots shall remain sealed in their envelopes and be transmitted to the supervisor of elections.

(2) Separate and apart from all other ballots, the county canvassing board shall count all late-voted provisional ballots that the canvassing board determines to be valid.

(3) The supervisor shall ensure that late-voted provisional ballots are not commingled with other ballots during the canvassing process or at any other time they are statutorily required to be in the supervisor's possession.

(4) This section shall not apply to voters in line at the poll-closing time provided in s. 100.011 who cast their ballots subsequent to that time.

(5) As an alternative, provisional ballots cast pursuant to this section may, and for persons with disabilities shall, be cast in accordance with the provisions of s. 101.048(4).

History.—s. 16, ch. 2003-415; s. 3, ch. 2004-5; s. 25, ch. 2005-277.

101.051 Electors seeking assistance in casting ballots; oath to be executed; forms to be furnished.

(1) Any elector applying to vote in any election who requires assistance to vote by reason of blindness, disability, or inability to read or write may request the assistance of two election officials or some other person of the elector's own choice, other than the elector's employer, an agent of the employer, or an officer or agent of his or her union, to assist the elector in casting his or her vote. Any such elector, before retiring to the voting booth, may have one of such persons read over to him or her, without suggestion or interference, the titles of the offices to be filled and the candidates therefor and the issues on the ballot. After the elector requests the aid of the two election officials or the person of the elector's choice, they shall retire to the voting booth for the purpose of casting the elector's vote according to the elector's choice.

(2) It is unlawful for any person to be in the voting booth with any elector except as provided in subsection (1). A person at a polling place or early voting site, or within 100 feet of the entrance of a polling place or early voting site, may not solicit any elector in an effort to provide assistance to vote pursuant to subsection (1). Any person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any elector applying to cast an absentee ballot in the office of the supervisor, in any election, who requires assistance to vote by reason of blindness, disability, or inability to read or write may request the assistance of some person of his or her own choice, other than the elector's employer, an agent of the employer, or an officer or agent of his or her union, in casting his or her absentee ballot.

(4) If an elector needs assistance in voting pursuant to the provisions of this section, the clerk or one of the inspectors shall require the elector requesting assistance in voting to take the following oath:

DECLARATION TO SECURE ASSISTANCE

State of Florida
County of ____
Date ____
Precinct ____

I, _(Print name)_, swear or affirm that I am a registered elector and request assistance from _(Print names)_ in voting at the _(name of election)_ held on _(date of election)_.

(Signature of voter)

Sworn and subscribed to before me this ____ day of ____, _(year)_.

(Signature of Official Administering Oath)

(5) If an elector needing assistance requests that a person other than an election official provide him or her with assistance in voting, the clerk or one of the inspectors shall require the person providing assistance to take the following oath:

DECLARATION TO PROVIDE ASSISTANCE

State of Florida
County of ____
Date ____
Precinct ____

I, _(Print name)_, have been requested by _(print name of elector needing assistance)_ to provide him or her with assistance to vote. I swear or affirm that I am not the employer, an agent of the employer, or an officer or agent of the union of the voter and that I have not solicited this voter at the polling place or early voting site or within 100 feet of such locations in an effort to provide assistance.

(Signature of assistor)

Sworn and subscribed to before me this ____ day of ____, _(year)_.

(Signature of Official Administering Oath)

(6) The supervisor of elections shall deliver a sufficient number of these forms to each precinct, along with other election paraphernalia.

History.—s. 3, ch. 22018, 1943; s. 5, ch. 26870, 1951; s. 2, ch. 59-446; s. 2, ch. 65-60; s. 1, ch. 65-380; s. 13, ch. 77-175; s. 2, ch. 79-366; s. 31, ch. 84-302; s. 12, ch. 85-226; s. 553, ch. 95-147; s. 8, ch. 99-6; s. 10, ch. 2002-281; s. 26, ch. 2005-277; s. 9, ch. 2006-1.

Note.—Former s. 100.36.

101.111 Voter challenges.—

(1)(a) Any registered elector or poll watcher of a county may challenge the right of a person to vote in that county. The challenge must be in writing and contain the

following oath, which shall be delivered to the clerk or inspector:

OATH OF PERSON ENTERING CHALLENGE

State of Florida
County of ____

I do solemnly swear or affirm that my name is ____; that I am a member of the ____ Party; that I am a registered voter or pollwatcher; that my residence address is ____, in the municipality of ____; and that I have reason to believe that ____ is attempting to vote illegally and the reasons for my belief are set forth herein to wit: ____

_____

_____

(Signature of person challenging voter)

Sworn and subscribed to before me this ____ day of ____, (year).

(Clerk of election)

(b)1. The clerk or inspector shall immediately deliver to the challenged person a copy of the oath of the person entering the challenge, and the challenged voter shall be allowed to cast a provisional ballot in accordance with s. 101.048, except as provided in subparagraph 2.

2. If the basis for the challenge is that the person's legal residence is not in that precinct, the person shall first be given the opportunity to execute a change of legal residence in order to be able to vote a regular ballot in accordance with s. 101.045(2). If the change of legal residence is such that the person is then properly registered for that precinct, the person shall be allowed to vote a regular ballot. If the change of legal residence places the person in another precinct, the person shall be directed to the proper precinct to vote. If such person insists that he or she is currently in the proper precinct, the person shall be allowed to vote a provisional ballot in accordance with s. 101.048.

(c) Alternatively, a challenge in accordance with this section may be filed in advance with the supervisor of elections no sooner than 30 days before an election. The supervisor shall promptly provide the election board in the challenged voter's precinct with a copy of the oath of the person entering the challenge. The challenged voter shall be allowed to cast a provisional ballot in accordance with s. 101.048, subject to the provisions of subparagraph (b)2.

(2) Any elector or poll watcher filing a frivolous challenge of any person's right to vote commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083; however, electors or poll watchers shall not be subject to liability for any action taken in good faith and in furtherance of any activity or duty permitted of such electors or poll watchers by law. Each instance where any elector or poll watcher files a frivolous challenge of any person's right to vote constitutes a separate offense.

History.—s. 43, ch. 4328, 1895; GS 227; s. 43, ch. 6469, 1913; RGS 272, 347; CGL 328, 404; s. 5, ch. 26870, 1951; s. 10, ch. 27991, 1953; s. 23, ch. 28156, 1953; s. 4, ch. 65-380; s. 13, ch. 77-175; s. 554, ch. 95-147; s. 9, ch. 99-6; s. 17, ch. 2003-415; s. 27, ch. 2005-277; s. 10, ch. 2006-1; s. 17, ch. 2008-95; s. 4, ch. 2010-167.

Note.—Former ss. 99.26, 102.42.

101.131 Watchers at polls.—

(1) Each political party and each candidate may have one watcher in each polling room or early voting area at any one time during the election. A political committee formed for the specific purpose of expressly advocating the passage or defeat of an issue on the ballot may have one watcher for each polling room or early voting area at any one time during the election. No watcher shall be permitted to come closer to the officials' table or the voting booths than is reasonably necessary to properly perform his or her functions, but each shall be allowed within the polling room or early voting area to watch and observe the conduct of electors and officials. The poll watchers shall furnish their own materials and necessities and shall not obstruct the orderly conduct of any election. The poll watchers shall pose any questions regarding polling place procedures directly to the clerk for resolution. They may not interact with voters. Each poll watcher shall be a qualified and registered elector of the county in which he or she serves.

(2) Each party, each political committee, and each candidate requesting to have poll watchers shall designate, in writing to the supervisors of elections, on a form prescribed by the division, before noon of the second Tuesday preceding the election poll watchers for each polling room on election day. Designations of poll watchers for early voting areas shall be submitted in writing to the supervisor of elections, on a form prescribed by the division, before noon at least 14 days before early voting begins. The poll watchers for polling rooms shall be approved by the supervisor of elections on or before the Tuesday before the election. Poll watchers for early voting areas shall be approved by the supervisor of elections no later than 7 days before early voting begins. The supervisor shall furnish to each election board a list of the poll watchers designated and approved for such polling rooms or early voting areas. Designation of poll watchers shall be made by the chair of the county executive committee of a political party, the chair of a political committee, or the candidate requesting to have poll watchers.

(3) No candidate or sheriff, deputy sheriff, police officer, or other law enforcement officer may be designated as a poll watcher.

(4) All poll watchers shall be allowed to enter and watch polls in all polling rooms and early voting areas within the county in which they have been designated if the number of poll watchers at any particular polling place does not exceed the number provided in this section.

(5) The supervisor of elections shall provide to each designated poll watcher, no later than 7 days before early voting begins, a poll watcher identification badge that identifies the poll watcher by name. Each poll watcher must wear his or her identification badge while in the polling room or early voting area.

History.—s. 3-D, ch. 22018, 1943; s. 5, ch. 26870, 1951; s. 18, ch. 29934, 1955; s. 6, ch. 65-380; s. 13, ch. 77-175; s. 3, ch. 87-184; s. 14, ch. 87-363; s. 18, ch. 89-338; s. 555, ch. 95-147; s. 61, ch. 2001-40; s. 28, ch. 2005-277; s. 27, ch. 2011-40.

Note.—Former s. 100.45.

101.151 Specifications for ballots.—

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

(b) Early voting sites may employ a ballot-on-demand production system to print individual marksense ballots, including provisional ballots, for eligible electors pursuant to s. 101.657. Ballot-on-demand technology may be used to produce marksense absentee and election-day ballots.

(2)(a) The ballot must include the following office titles above the names of the candidates for the respective offices in the following order:

1. The office titles of President and Vice President above the names of the candidates for President and Vice President of the United States nominated by the political party that received the highest vote for Governor in the last general election of the Governor in this state, followed by the names of other candidates for President and Vice President of the United States who have been properly nominated.

2. The office titles of United States Senator and Representative in Congress.

3. The office titles of Governor and Lieutenant Governor; Attorney General; Chief Financial Officer; Commissioner of Agriculture; State Attorney, with the applicable judicial circuit; and Public Defender, with the applicable judicial circuit.

4. The office titles of State Senator and State Representative, with the applicable district for the office printed beneath.

5. The office titles of Clerk of the Circuit Court or, when the Clerk of the Circuit Court also serves as the County Comptroller, Clerk of the Circuit Court and Comptroller, when authorized by law; Clerk of the County Court, when authorized by law; Sheriff; Property Appraiser; Tax Collector; District Superintendent of Schools; and Supervisor of Elections.

6. The office titles of Board of County Commissioners, with the applicable district printed beneath each office, and such other county and district offices as are involved in the election, in the order fixed by the Department of State, followed, in the year of their election, by "Party Offices," and thereunder the offices of state and county party executive committee members.

(b) In a general election, in addition to the names printed on the ballot, a blank space shall be provided under each office for which a write-in candidate has qualified. With respect to write-in candidates, if two or more candidates are seeking election to one office, only one blank space shall be provided.

(c) When more than one candidate is nominated for office, the candidates for such office shall qualify and run in a group or district, and the group or district number shall be printed beneath the name of the office. Each nominee of a political party chosen in a primary shall appear on the general election ballot in the same numbered group or district as on the primary election ballot.

(d) If in any election all the offices as set forth in paragraph (a) are not involved, those offices not to be filled shall be omitted and the remaining offices shall be arranged on the ballot in the order named.

(3)(a) The names of the candidates of the party that received the highest number of votes for Governor in the last election in which a Governor was elected shall be placed first for each office on the general election ballot, together with an appropriate abbreviation of the party name; the names of the candidates of the party that received the second highest vote for Governor shall be placed second for each office, together with an appropriate abbreviation of the party name.

(b) Minor political party candidates shall have their names appear on the general election ballot following the names of recognized political parties, in the same order as they were qualified, followed by the names of candidates with no party affiliation, in the order as they were qualified.

(4)(a) The names of candidates for each office shall be arranged alphabetically as to surnames on a primary election ballot.

(b) When two or more candidates running for the same office on a primary election ballot have the same or a similar surname, the word "incumbent" shall appear next to the incumbent's name.

(5) The primary election ballot shall be arranged so that the offices of Governor and Lieutenant Governor are joined in a single voting space to allow each elector to cast a single vote for the joint candidacies for Governor and Lieutenant Governor, if applicable.

(6) The general election ballot shall be arranged so that the offices of President and Vice President are joined in a single voting space to allow each elector to cast a single vote for the joint candidacies for President and Vice President and so that the offices of Governor and Lieutenant Governor are joined in a single voting space to allow each elector to cast a single vote for the joint candidacies for Governor and Lieutenant Governor.

(7) Except for justices or judges seeking retention, the names of unopposed candidates shall not appear on the general election ballot. Each unopposed candidate shall be deemed to have voted for himself or herself.

(8) In counties subject to multi-language ballot requirements, the supervisor may petition the United States Department of Justice for authorization for the supervisor to print and deliver single-language ballots for each minority language required.

(9)(a) The Department of State shall adopt rules prescribing a uniform primary and general election ballot for each certified voting system. The rules shall incorporate the requirements set forth in this section and shall prescribe additional matters and forms that include, without limitation:

1. Clear and unambiguous ballot instructions and directions;

2. Individual race layout; and

3. Overall ballot layout.

(b) The department rules shall graphically depict a sample uniform primary and general election ballot form for each certified voting system.

History.—s. 35, ch. 4328, 1895; GS 219; s. 1, ch. 5612, 1907; RGS 264; CGL 320; s. 5, ch. 17898, 1937; ss. 2, 3, ch. 25187, 1949; s. 5, ch. 26870, 1951; s. 3, ch. 29937, 1955; s. 1, ch. 57-235; s. 2, ch. 59-334; s. 8, ch. 65-380; s. 1, ch. 65-52; s. 2, ch. 65-60; s. 8, ch. 65-380; s. 4, ch. 67-386; ss. 10, 35, ch. 69-106; s. 8, ch. 69-281; s. 1, ch. 69-380; s. 37, ch. 73-333; s. 1, ch. 77-102; s. 13, ch. 77-175; s. 33, ch.

79-400; s. 6, ch. 81-105; s. 11, ch. 81-304; s. 9, ch. 82-143; s. 20, ch. 89-338; s. 556, ch. 95-147; s. 14, ch. 99-318; s. 11, ch. 99-326; s. 14, ch. 99-355; s. 7, ch. 2001-40; s. 7, ch. 2002-17; s. 29, ch. 2005-277; s. 5, ch. 2007-30; s. 28, ch. 2011-40; s. 5, ch. 2013-57; s. 6, ch. 2013-109.

Note.—Former ss. 99.18, 99.171.

101.161 Referenda; ballots.—

(1) Whenever a constitutional amendment or other public measure is submitted to the vote of the people, a ballot summary of such amendment or other public measure shall be printed in clear and unambiguous language on the ballot after the list of candidates, followed by the word "yes" and also by the word "no," and shall be styled in such a manner that a "yes" vote will indicate approval of the proposal and a "no" vote will indicate rejection. The ballot summary of the amendment or other public measure and the ballot title to appear on the ballot shall be embodied in the constitutional revision commission proposal, constitutional convention proposal, taxation and budget reform commission proposal, or enabling resolution or ordinance. The ballot summary of the amendment or other public measure shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. In addition, for every amendment proposed by initiative, the ballot shall include, following the ballot summary, a separate financial impact statement concerning the measure prepared by the Financial Impact Estimating Conference in accordance with s. 100.371(5). The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of. This subsection does not apply to constitutional amendments or revisions proposed by joint resolution.

(2) The ballot summary and ballot title of a constitutional amendment proposed by initiative shall be prepared by the sponsor and approved by the Secretary of State in accordance with rules adopted pursuant to s. 120.54. The Department of State shall give each proposed constitutional amendment a designating number for convenient reference. This number designation shall appear on the ballot. Designating numbers shall be assigned in the order of filing or certification and in accordance with rules adopted by the Department of State. The Department of State shall furnish the designating number, the ballot title, and, unless otherwise specified in a joint resolution, the ballot summary of each amendment to the supervisor of elections of each county in which such amendment is to be voted on.

(3)(a) Each joint resolution that proposes a constitutional amendment or revision shall include one or more ballot statements set forth in order of priority. Each ballot statement shall consist of a ballot title, by which the measure is commonly referred to or spoken of, not exceeding 15 words in length, and a ballot summary that describes the chief purpose of the amendment or revision in clear and unambiguous language. If a joint resolution that proposes a constitutional amendment or revision contains only one ballot statement, the ballot summary may not exceed 75 words in length. If a joint resolution that proposes a constitutional amendment or revision contains more than one ballot statement, the first ballot summary, in order of priority, may not exceed 75 words in length.

(b) The Department of State shall furnish a designating number pursuant to subsection (2) and the appropriate ballot statement to the supervisor of elections of each county. The ballot statement shall be printed on the ballot after the list of candidates, followed by the word "yes" and also by the word "no," and shall be styled in such a manner that a "yes" vote will indicate approval of the amendment or revision and a "no" vote will indicate rejection.

(c)1. Any action for a judicial determination that one or more ballot statements embodied in a joint resolution are defective must be commenced by filing a complaint or petition with the appropriate court within 30 days after the joint resolution is filed with the Secretary of State. The complaint or petition shall assert all grounds for challenge to each ballot statement. Any ground not asserted within 30 days after the joint resolution is filed with the Secretary of State is waived.

2. The court, including any appellate court, shall accord an action described in subparagraph 1. priority over other pending cases and render a decision as expeditiously as possible. If the court finds that all ballot statements embodied in a joint resolution are defective and further appeals are declined, abandoned, or exhausted, unless otherwise provided in the joint resolution, the Attorney General shall, within 10 days, prepare and submit to the Department of State a revised ballot title or ballot summary that corrects the deficiencies identified by the court, and the Department of State shall furnish a designating number and the revised ballot title or ballot summary to the supervisor of elections of each county for placement on the ballot. The revised ballot summary may exceed 75 words in length. The court shall retain jurisdiction over challenges to a revised ballot title or ballot summary prepared by the Attorney General, and any challenge to a revised ballot title or ballot summary must be filed within 10 days after a revised ballot title or ballot summary is submitted to the Department of State.

(4)(a) For any general election in which the Secretary of State, for any circuit, or the supervisor of elections, for any county, has certified the ballot position for an initiative to change the method of selection of judges, the ballot for any circuit must contain the statement in paragraph (b) or paragraph (c) and the ballot for any county must contain the statement in paragraph (d) or paragraph (e).

(b) In any circuit where the initiative is to change the selection of circuit court judges to selection by merit selection and retention, the ballot shall state: "Shall the method of selecting circuit court judges in the _(number of the circuit)_ judicial circuit be changed from election by a vote of the people to selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people?" This statement must be followed by the word "yes" and also by the word "no."

(c) In any circuit where the initiative is to change the selection of circuit court judges to election by the voters, the ballot shall state: "Shall the method of selecting circuit court judges in the _(number of the circuit)_ judicial circuit be changed from selection by the judicial nominating commission and appointment by the

Governor with subsequent terms determined by a retention vote of the people to election by a vote of the people?" This statement must be followed by the word "yes" and also by the word "no."

(d) In any county where the initiative is to change the selection of county court judges to merit selection and retention, the ballot shall state: "Shall the method of selecting county court judges in _(name of county)_ be changed from election by a vote of the people to selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people?" This statement must be followed by the word "yes" and also by the word "no."

(e) In any county where the initiative is to change the selection of county court judges to election by the voters, the ballot shall state: "Shall the method of selecting county court judges in _(name of the county)_ be changed from selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people to election by a vote of the people?" This statement must be followed by the word "yes" and also by the word "no."

History.—s. 34, ch. 4328, 1895; GS 218; RGS 262; CGL 318; ss. 1-11, ch. 16180, 1933; s. 1, ch. 16877, 1935; s. 4, ch. 17898, 1937; s. 1, ch. 22626, 1945; s. 5, ch. 26870, 1951; ss. 10, 35, ch. 69-106; s. 1, ch. 73-7; s. 13, ch. 77-175; s. 16, ch. 79-365; s. 2, ch. 80-305; s. 32, ch. 84-302; s. 11, ch. 90-203; s. 10, ch. 99-355; s. 1, ch. 2000-361; s. 4, ch. 2001-75; s. 5, ch. 2002-390; s. 5, ch. 2004-33; s. 11, ch. 2005-2; s. 33, ch. 2005-278; s. 29, ch. 2011-40; s. 6, ch. 2013-57.

Note.—Former s. 99.16.

101.171 Copy of constitutional amendment to be available at voting locations.—Whenever any amendment to the State Constitution is to be voted upon at any election, the Department of State shall have printed and shall furnish to each supervisor of elections a sufficient number of copies of the amendment either in poster or booklet form, and the supervisor shall have a copy thereof conspicuously posted or available at each polling room or early voting area upon the day of election.

History.—s. 1, ch. 5405, 1905; RGS 263; CGL 319; s. 5, ch. 26870, 1951; ss. 10, 35, ch. 69-106; s. 13, ch. 77-175; s. 30, ch. 2005-277.

Note.—Former s. 99.17.

101.20 Publication of ballot form; sample ballots.—

(1) Two sample ballots shall be furnished to each polling place by the officer whose duty it is to provide official ballots. The sample ballots shall be in the form of the official ballot as it will appear at that polling place on election day. Sample ballots shall be open to inspection by all electors in any election, and a sufficient number of reduced-size ballots may be furnished to election officials so that one may be given to any elector desiring same.

(2) Upon completion of the list of qualified candidates, a sample ballot shall be published by the supervisor of elections in a newspaper of general circulation in the county, before the day of election. A supervisor may send a sample ballot to each registered elector by e-mail at least 7 days before an election if an e-mail address has been provided and the elector has opted to receive a sample ballot by electronic delivery. If an e-mail address has not been provided, or if the elector has not opted for electronic delivery, a sample ballot may be mailed to each registered elector or to each household in which there is a registered elector at least 7 days before an election.

History.—s. 5, ch. 26870, 1951; s. 8, ch. 57-166; s. 9, ch. 65-380; s. 1, ch. 75-174; s. 16, ch. 77-175; s. 2, ch. 2013-192.

101.21 Official ballots; number; printing; payment.—Where applicable, the supervisor of elections shall determine the actual number of ballots to be printed. The printing and delivery of ballots and cards of instruction shall, in a municipal election, be paid for by the municipality, and in all other elections by the county.

History.—ss. 29, 37, ch. 4328, 1895; s. 11, ch. 4537, 1897; GS 211, 222; RGS 255, 267; CGL 311, 323; s. 7, ch. 17898, 1937; s. 2, ch. 24088, 1947; s. 7, ch. 25384, 1949; s. 5, ch. 26870, 1951; s. 10, ch. 65-380; s. 1, ch. 69-281; s. 20, ch. 71-355; s. 16, ch. 77-175; s. 34, ch. 79-400; s. 1, ch. 80-292; s. 48, ch. 81-259; s. 8, ch. 2001-40.

Note.—Former ss. 99.09, 99.21.

101.23 Election inspector to keep list of those voting.—When any person has been admitted to vote, the person's name shall be checked by the clerk or one of the inspectors at the place indicated upon the registration books or voter history form provided by the supervisor. One of the inspectors shall, at the same time, keep a poll list containing names of electors who have voted or a list of registered electors, on which those electors who have voted are indicated. Such lists shall be available for inspection during regular voting hours by poll watchers designated and appointed pursuant to s. 101.131, except that the election inspector may regulate access to the lists so as to ensure that such inspection does not unreasonably interfere with the orderly operation of the polling place.

History.—s. 58, ch. 4328, 1895; GS 236; RGS 281; CGL 337; s. 5, ch. 26870, 1951; s. 24, ch. 28156, 1953; s. 11, ch. 65-380; s. 16, ch. 77-175; s. 559, ch. 95-147; s. 18, ch. 2008-95.

Note.—Former s. 99.37.

101.24 Ballot boxes and ballots.—The supervisor of elections shall prepare for each polling place one ballot box of sufficient size to contain all the ballots of the particular precinct, and the ballot box shall be plainly marked with the name of the precinct for which it is intended. An additional ballot box, if necessary, may be supplied to any precinct. Before each election, the supervisor shall place in the ballot box or ballot transfer container as many ballots as are required in s. 101.21. After securely sealing the ballot box or ballot transfer container, the supervisor shall send the ballot box or ballot transfer container to the clerk or inspector of election of the precinct in which it is to be used. The clerk or inspector shall be placed under oath or affirmation to perform his or her duties faithfully and without favor or prejudice to any political party.

History.—s. 26, ch. 3879, 1889; RS 180; s. 7, ch. 4328, 1895; s. 7, ch. 4537, 1897; GS 203; RGS 247; CGL 303; s. 1, ch. 17898, 1937; s. 1, ch. 24088, 1947; s. 11, ch. 25035, 1949; s. 1, ch. 25384, 1949; s. 5, ch. 26870, 1951; s. 12, ch. 65-380; s. 16, ch. 77-175; s. 2, ch. 86-200; s. 560, ch. 95-147; s. 9, ch. 2001-40.

Note.—Former s. 99.02.

101.2512 Candidates' names on general election ballots.—

(1) The supervisor of elections shall print on the general election ballot the names of candidates nominated by primary election or special primary election or the names of candidates selected by the appropriate

executive committee of any political party pursuant to the requirements of this code.

(2) In addition to the names printed on the ballot as provided in subsection (1), the supervisor of elections shall print on the general election ballot the names of each nonpartisan candidate, minor party candidate, or candidate with no party affiliation who has obtained a position on the general election ballot in compliance with the requirements of this code.

History.—s. 8, ch. 2002-17.

101.2515 Translation of ballot language.—Upon the request of a supervisor of elections made no later than 60 days prior to the date of a general election, the Department of State shall provide a written translation of a statewide ballot issue in the language of any language minority group specified in the provisions of s. 203 of the Voting Rights Act of 1965, as amended, as applicable to this state.

History.—s. 1, ch. 94-300.

101.252 Candidates entitled to have names printed on certain ballots; exception.—

(1) Any candidate for nomination who has qualified as prescribed by law is entitled to have his or her name printed on the official primary election ballot. However, when there is only one candidate of any political party qualified for an office, the name of the candidate shall not be printed on the primary election ballot, and such candidate shall be declared nominated for the office.

(2) Any candidate for party executive committee member who has qualified as prescribed by law is entitled to have his or her name printed on the primary election ballot. However, when there is only one candidate of any political party qualified for such an office, the name of the candidate shall not be printed on the primary election ballot, and such candidate shall be declared elected to the state or county executive committee.

History.—s. 27, ch. 6469, 1913; RGS 331; CGL 388; s. 3, ch. 26870, 1951; s. 1, ch. 63-99; s. 5, ch. 65-378; s. 16, ch. 77-175; s. 21, ch. 89-338; s. 561, ch. 95-147; s. 15, ch. 2005-286.

Note.—Former ss. 102.34, 99.041.

101.254 When nominated names to appear in groups or districts.—When an office requires the nomination of more than one candidate, as many groups or districts shall be numerically designated as there are vacancies to be filled by nomination. Each candidate shall indicate on his or her qualifying papers the group or district in which the candidate desires his or her name to appear on the ballot. In addition, any candidate qualifying by the petition method must indicate on his or her petition prior to circulating such petition, which group or district for which the candidate is attempting to qualify.

History.—s. 52, ch. 6469, 1913; s. 8, ch. 6874, 1915; RGS 356; CGL 413; s. 3, ch. 26870, 1951; s. 6, ch. 65-378; s. 16, ch. 77-175; s. 23, ch. 89-338; s. 563, ch. 95-147.

Note.—Former ss. 102.49, 99.051.

101.292 Definitions; ss. 101.292-101.295.—As used in ss. 101.292-101.295, the following terms shall have the following meanings:

(1) "Governing body" means the board of county commissioners of a county or any other governing body empowered by general or special act or local ordinance to purchase or sell voting equipment.

(2) "Voting equipment" means electronic or electromechanical voting systems, voting devices, and automatic tabulating equipment as defined in s. 101.5603, as well as materials, parts, or other equipment necessary for the operation and maintenance of such systems and devices, the individual or combined retail value of which is in excess of the threshold amount for CATEGORY TWO purchases provided in s. 287.017.

(3) "Purchase" means a contract for the purchase, lease, rental, or other acquisition of voting equipment.

History.—s. 2, ch. 72-303; s. 17, ch. 73-156; s. 16, ch. 77-175; s. 4, ch. 84-302; s. 5, ch. 89-348; s. 32, ch. 90-268; s. 10, ch. 2001-40.

101.293 Competitive sealed bids and proposals required.—

(1) Any purchase of voting equipment, the individual or combined retail value of which is in excess of the threshold amount for CATEGORY TWO purchases provided in s. 287.017, by a governing body shall be by means of competitive sealed bids or competitive sealed proposals from at least two bidders, except under the following conditions:

(a) If a majority of the governing body agrees by vote that an emergency situation exists in regard to the purchase of such equipment to the extent that the potential benefits derived from competitive sealed bids or competitive sealed proposals are outweighed by the detrimental effects of a delay in the acquisition of such equipment; or

(b) If a majority of the governing body finds that there is but a single source from which suitable equipment may be obtained.

If such conditions are found to exist, the chair of the governing body shall certify to the Division of Elections the situation and conditions requiring an exception to the competitive sealed bidding and competitive sealed proposal requirements of this section. Such certification shall be maintained on file by the division.

(2) The Division of Elections of the Department of State shall establish bidding procedures for carrying out the provisions and the intent of ss. 101.292-101.295, and each governing body shall follow the procedures so established.

History.—s. 2, ch. 72-303; s. 18, ch. 73-156; s. 38, ch. 73-333; s. 16, ch. 77-175; s. 5, ch. 84-302; s. 6, ch. 89-348; s. 1, ch. 90-268; s. 566, ch. 95-147.

101.294 Purchase and sale of voting equipment.

(1) The Division of Elections of the Department of State shall adopt uniform rules for the purchase, use, and sale of voting equipment in the state. No governing body shall purchase or cause to be purchased any voting equipment unless such equipment has been certified for use in this state by the Department of State.

(2) Any governing body contemplating the purchase or sale of voting equipment shall notify the Division of Elections of such considerations. The division shall attempt to coordinate the sale of excess or outmoded equipment by one county with purchases of necessary equipment by other counties.

(3) The division shall inform the governing bodies of the various counties of the state of the availability of new

or used voting equipment and of sources available for obtaining such equipment.

(4) A vendor of voting equipment may not provide an uncertified voting system, voting system component, or voting system upgrade to a local governing body or supervisor of elections in this state.

(5) Before or in conjunction with providing a voting system, voting system component, or voting system upgrade, the vendor shall provide the local governing body or supervisor of elections with a sworn certification that the voting system, voting system component, or voting system upgrade being provided has been certified by the Division of Elections.

History.—s. 2, ch. 72-303; s. 19, ch. 73-156; s. 17, ch. 77-175; s. 6, ch. 84-302; s. 31, ch. 2005-277.

101.295 Penalties for violation.—

(1) Any member of a governing body which purchases or sells voting equipment in violation of the provisions of ss. 101.292-101.295, which member knowingly votes to purchase or sell voting equipment in violation of the provisions of ss. 101.292-101.295, is guilty of a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083, and shall be subject to suspension from office on the grounds of malfeasance.

(2) Any vendor, chief executive officer, or vendor representative of voting equipment who provides a voting system, voting system component, or voting system upgrade in violation of this chapter commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 2, ch. 72-303; s. 18, ch. 77-175; s. 32, ch. 2005-277.

101.34 Custody of voting system.—The supervisor of elections shall be the custodian of the voting system in the county, and he or she shall appoint deputies necessary to prepare and supervise the voting system prior to and during elections. The compensation for such deputies shall be paid by the supervisor of elections.

History.—s. 3-A, ch. 22018, 1943; s. 4, ch. 24089, 1947; s. 5, ch. 26870, 1951; s. 16, ch. 65-380; s. 18, ch. 77-175; s. 3, ch. 80-20; s. 567, ch. 95-147; s. 11, ch. 2001-40.

Note.—Former s. 100.42.

101.341 Prohibited activities by voting system custodians and deputy custodians.—

(1) No voting system custodian or deputy custodian or other employee of the supervisor of elections, which employee's duties are primarily involved with the preparation, maintenance, or repair of voting equipment, may accept employment or any form of consideration from any person or business entity involved in the purchase, repair, or sale of voting equipment unless such employment has the prior written approval of the supervisor of elections of the county by which such person is employed.

(2) Any person violating the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083. Such person shall also be subject to immediate discharge from his or her position.

History.—s. 3, ch. 72-303; s. 4, ch. 80-20; s. 568, ch. 95-147; s. 12, ch. 2001-40.

101.43 Substitute ballot.—When the required official ballots for a precinct are not delivered in time to be used on election day, or after delivery, are lost, destroyed or stolen, the clerk or other officials whose duty it is to provide ballots for use at such election, in lieu of the official ballots, shall have substitute ballots prepared, conforming as nearly as possible to the official ballots, and the board of election shall substitute these ballots to be used in the same manner as the official ballots would have been used at the election.

History.—s. 15, ch. 13893, 1929; CGL 1936 Supp. 337(15); s. 5, ch. 26870, 1951; s. 13, ch. 2001-40.

Note.—Former s. 100.15.

101.49 Procedure of election officers where signatures differ.—

(1) Whenever any clerk or inspector, upon a just comparison of the signatures, doubts that the signature on the identification presented by the elector is the same as the signature the elector affixed on the precinct register or early voting certificate, the clerk or inspector shall deliver to the person an affidavit which shall be in substantially the following form:

STATE OF FLORIDA,
COUNTY OF ____

I do solemnly swear (or affirm) that my name is ____; that I am ____ years old; that I was born in the State of ____; that I am registered to vote; that I am a qualified voter of the county and state aforesaid and have not voted in this election.

(Signature of voter)

Sworn to and subscribed before me this ____ day of ____, A. D. _(year)_.

(Clerk or inspector of election)

Precinct No. ____
County of ____

(2) The person shall fill out, in his or her own handwriting or with assistance from a member of the election board, the form and make an affidavit to the facts stated in the filled-in form; such affidavit shall then be sworn to and subscribed before one of the inspectors or clerks of the election who is authorized to administer the oath. Whenever the affidavit is made and filed with the clerk or inspector, the person shall then be admitted to cast his or her vote, but if the person fails or refuses to make out or file such affidavit and asserts his or her eligibility, then he or she shall be entitled to vote a provisional ballot.

History.—s. 2, ch. 18407, 1937; CGL 1940 Supp. 337(28-d); s. 2, ch. 22018, 1943; s. 5, ch. 26870, 1951; s. 18, ch. 77-175; s. 573, ch. 95-147; s. 11, ch. 99-6; s. 14, ch. 2001-40; s. 33, ch. 2005-277.

Note.—Former s. 100.35.

101.51 Electors to occupy booth alone.—

(1) When the elector presents himself or herself to vote, an election official shall permit the elector to enter the booth or compartment to cast his or her vote, allowing only one elector at a time to pass through to vote. An elector, while casting his or her ballot, may not

occupy a booth or compartment already occupied or speak with anyone, except as provided by s. 101.051.

(2) After casting his or her vote, the elector shall at once leave the polling room by the exit opening and shall not be permitted to reenter on any pretext whatever.

History.—ss. 44, 45, ch. 4328, 1895; GS 228, 229; RGS 273, 274; CGL 329, 330; s. 20, ch. 13893, 1929; 1936 Supp. 337(20); s. 5, ch. 26870, 1951; s. 25, ch. 65-380; s. 18, ch. 77-175; s. 574, ch. 95-147; s. 11, ch. 2002-281; s. 34, ch. 2005-277; s. 19, ch. 2008-95.

Note.—Former ss. 99.27, 99.28, 100.20.

101.545 Retention and destruction of certain election materials.—All ballots, forms, and other election materials shall be retained in the custody of the supervisor of elections in accordance with the schedule approved by the Division of Library and Information Services of the Department of State. All unused ballots, forms, and other election materials may, with the approval of the Department of State, be destroyed by the supervisor after the election for which such ballots, forms, or other election materials were to be used.

History.—s. 20, ch. 77-175; s. 15, ch. 2001-60.

101.5601 Short title.—Sections 101.5601-101.5614 may be cited as the "Electronic Voting Systems Act."

History.—s. 1, ch. 73-156; s. 9, ch. 2002-17.

101.5602 Purpose.—The purpose of this act is to authorize the use of electronic and electromechanical voting systems in which votes are registered electronically or are tabulated on automatic tabulating equipment or data processing equipment.

History.—s. 2, ch. 73-156; s. 21, ch. 77-175; s. 7, ch. 84-302.

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

(1) "Automatic tabulating equipment" includes apparatus necessary to automatically examine, count, and record votes.

(2) "Ballot" means the card, tape, or other vehicle upon which the elector's choices are recorded.

(3) "Ballot information" means the material containing the names of offices and candidates and the questions to be voted on.

(4) "Electronic or electromechanical voting system" means a system of casting votes by use of voting devices or marking devices and counting ballots by employing automatic tabulating equipment or data processing equipment, and the term includes touchscreen systems.

(5) "Marking device" means any approved device for marking a ballot with ink or other substance which will enable the ballot to be tabulated by means of automatic tabulating equipment.

(6) "Secrecy envelope" means an opaque device, used for enclosing a marked ballot, which conceals the voter's choices.

(7) "Software" means the programs and routines used to employ and control the capabilities of data processing hardware, including, without limitation, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications, and computer networking programs.

(8) "Voting device" means an apparatus by which votes are registered electronically.

History.—s. 3, ch. 73-156; s. 21, ch. 77-175; s. 8, ch. 84-302; s. 8, ch. 89-348; s. 15, ch. 2001-40.

101.5604 Adoption of system; procurement of equipment; commercial tabulations.—The board of county commissioners of any county, at any regular meeting or a special meeting called for the purpose, may, upon consultation with the supervisor of elections, adopt, purchase or otherwise procure, and provide for the use of any electronic or electromechanical voting system approved by the Department of State in all or a portion of the election precincts of that county. Thereafter the electronic or electromechanical voting system may be used for voting at all elections for public and party offices and on all measures and for receiving, registering, and counting the votes thereof in such election precincts as the governing body directs. A county must use an electronic or electromechanical precinct-count tabulation voting system.

History.—s. 4, ch. 73-156; s. 21, ch. 77-175; s. 16, ch. 2001-40.

101.56042 Punch card type systems prohibited. Effective September 2, 2002, a voting system that uses an apparatus or device for the piercing of ballots by the voter may not be used in this state.

History.—s. 17, ch. 2001-40.

101.5605 Examination and approval of equipment.—

(1) The Department of State shall publicly examine all makes of electronic or electromechanical voting systems submitted to it and determine whether the systems comply with the requirements of s. 101.5606.

(2)(a) Any person owning or interested in an electronic or electromechanical voting system may submit it to the Department of State for examination. The vote counting segment shall be certified after a satisfactory evaluation testing has been performed according to the standards adopted under s. 101.015(1). This testing shall include, but is not limited to, testing of all software required for the voting system's operation; the ballot reader; the rote processor, especially in its logic and memory components; the digital printer; the fail-safe operations; the counting center environmental requirements; and the equipment reliability estimate. For the purpose of assisting in examining the system, the department shall employ or contract for services of at least one individual who is expert in one or more fields of data processing, mechanical engineering, and public administration and shall require from the individual a written report of his or her examination.

(b) The person submitting a system for approval or the board of county commissioners of any county seeking approval of a given system shall reimburse the Department of State in an amount equal to the actual costs incurred by the department in examining the system. Such reimbursement shall be made whether or not the system is approved by the department.

(c) Neither the Secretary of State nor any examiner shall have any pecuniary interest in any voting equipment.

(d) The Department of State shall approve or disapprove any voting system submitted to it within 90 days after the date of its initial submission.

(3)(a) Before the Department of State approves the electronic or electromechanical voting system, the person who submitted it for examination shall provide the department with the name, mailing address, and telephone number of a registered agent, which agent must have and continuously maintain an office in this state. Any change in the name, address, or telephone number of the registered agent shall promptly be made known to the department.

(b) Before entering into a contract for the sale or lease of a voting system approved under this section to any county, the person entering into such contract shall provide the department with the name, mailing address, and telephone number of a registered agent, which agent must have and continuously maintain an office in this state. Any change in the name, address, or telephone number of the registered agent shall promptly be made known to the department.

(c) The department's proof of delivery or attempted delivery to the last mailing address of the registered agent on file with the department at the time of delivery or attempted delivery is valid for all notice purposes.

(d) Within 30 days after completing the examination and upon approval of any electronic or electromechanical voting system, the Department of State shall make and maintain a report on the system, together with a written or printed description and drawings and photographs clearly identifying the system and the operation thereof. As soon as practicable after such filing, the department shall send a notice of certification and, upon request, a copy of the report to the governing bodies of the respective counties of the state. Any voting system that does not receive the approval of the department may not be adopted for or used at any election.

(e) After a voting system has been approved by the Department of State, any change or improvement in the system is required to be approved by the department prior to the adoption of such change or improvement by any county. If any such change or improvement does not comply with the requirements of this act, the department shall suspend all sales of the equipment or system in the state until the equipment or system complies with the requirements of this act.

(4) The Department of State may at any time reexamine any system, or any part thereof, which has previously been approved for the purpose of updating the certification of the system.

History.—s. 5, ch. 73-156; s. 21, ch. 77-175; s. 9, ch. 84-302; s. 12, ch. 85-80; s. 9, ch. 89-348; s. 577, ch. 95-147; s. 31, ch. 2011-40; s. 7, ch. 2013-57.

101.5606 Requirements for approval of systems.—No electronic or electromechanical voting system shall be approved by the Department of State unless it is so constructed that:

(1) It permits and requires voting in secrecy.

(2) It permits each elector to vote at any election for all persons and offices for whom and for which the elector is lawfully entitled to vote, and no others; to vote for as many persons for an office as the elector is entitled to vote for; and to vote for or against any question upon which the elector is entitled to vote.

(3) It immediately rejects a ballot where the number of votes for an office or measure exceeds the number which the voter is entitled to cast or where the tabulating equipment reads the ballot as a ballot with no votes cast.

(4) For systems using marksense ballots, it accepts a rejected ballot pursuant to subsection (3) if a voter chooses to cast the ballot, but records no vote for any office that has been overvoted or undervoted.

(5) It is capable of correctly counting votes.

(6) It permits each voter at a primary election to vote only for the candidates seeking nomination by the political party in which such voter is registered, for any candidate for nonpartisan office, and for any question upon which the voter is entitled to vote.

(7) At presidential elections it permits each elector, by one operation, to vote for all presidential electors of a party or for all presidential electors of candidates for President and Vice President with no party affiliation.

(8) It provides a method for write-in voting.

(9) It is capable of accumulating a count of the specific number of ballots tallied for a precinct, accumulating total votes by candidate for each office, and accumulating total votes for and against each question and issue of the ballots tallied for a precinct.

(10) It is capable of tallying votes from ballots of different political parties from the same precinct, in the case of a primary election.

(11) It is capable of automatically producing precinct totals in printed form.

(12) If it is of a type which registers votes electronically, it will permit each voter to change his or her vote for any candidate or upon any question appearing on the official ballot up to the time that the voter takes the final step to register his or her vote and to have the vote computed.

(13) It is capable of providing records from which the operation of the voting system may be audited.

(14) It uses a precinct-count tabulation system.

(15) It does not use an apparatus or device for the piercing of ballots by the voter.

History.—s. 6, ch. 73-156; s. 21, ch. 77-175; s. 10, ch. 84-302; s. 10, ch. 89-348; s. 578, ch. 95-147; s. 17, ch. 99-318; s. 18, ch. 2001-40; s. 10, ch. 2002-17; s. 35, ch. 2005-277; s. 32, ch. 2011-40.

101.56062 Standards for accessible voting systems.—

(1) Notwithstanding anything in this chapter to the contrary, each voting system certified by the Department of State for use in local, state, and federal elections must include the capability to install accessible voter interface devices in the system configuration which will allow the system to meet the following minimum standards:

(a) The voting system must provide a tactile input or audio input device, or both.

(b) The voting system must provide a method by which voters can confirm any tactile or audio input by having the capability of audio output using synthetic or recorded human speech that is reasonably phonetically accurate.

(c) Any operable controls on the input device which are needed for voters who are visually impaired must be discernible tactilely without actuating the keys.

(d) Audio and visual access approaches must be able to work both separately and simultaneously.

(e) If a nonaudio access approach is provided, the system may not require color perception. The system must use black text or graphics, or both, on white background or white text or graphics, or both, on black background, unless the office of the Secretary of State approves other high-contrast color combinations that do not require color perception.

(f) Any voting system that requires any visual perception must offer the election official who programs the system, prior to its being sent to the polling place, the capability to set the font size, as it appears to the voter, from a minimum of 14 points to a maximum of 24 points.

(g) The voting system must provide audio information, including any audio output using synthetic or recorded human speech or any auditory feedback tones that are important for the use of the audio approach, through at least one mode, by handset or headset, in enhanced auditory fashion (increased amplification), and must provide incremental volume control with output amplification up to a level of at least 97 dB SPL.

(h) For transmitted voice signals to the voter, the voting system must provide a gain adjustable up to a minimum of 20 dB with at least one intermediate step of 12 dB of gain.

(i) For the safety of others, if the voting system has the possibility of exceeding 120 dB SPL, then a mechanism must be included to reset the volume automatically to the voting system's default volume level after every use, for example when the handset is replaced, but not before. Also, universal precautions in the use and sharing of headsets should be followed.

(j) If sound cues and audible information such as "beeps" are used, there must be simultaneous corresponding visual cues and information.

(k) Controls and operable mechanisms must be operable with one hand, including operability with a closed fist, and operable without tight grasping, pinching, or twisting of the wrist.

(l) The force required to operate or activate the controls must be no greater than 5 pounds of force.

(m) Voting booths must have voting controls at a minimum height of 36 inches above the finished floor with a minimum knee clearance of 27 inches high, 30 inches wide, and 19 inches deep, or the accessible voter interface devices must be designed so as to allow their use on top of a table to meet these requirements. Tabletop installations must include adequate privacy.

(n) Any audio ballot must provide the voter with the following functionalities:

1. After the initial instructions that the system requires election officials to provide to each voter, the voter should be able to independently operate the voter interface through the final step of casting a ballot without assistance.

2. The voter must be able to determine the races that he or she is allowed to vote in and to determine which candidates are available in each race.

3. The voter must be able to determine how many candidates may be selected in each race.

4. The voter must be able to have confidence that the physical or vocal inputs given to the system have selected the candidates that he or she intended to select.

5. The voter must be able to review the candidate selections that he or she has made.

6. Prior to the act of casting the ballot, the voter must be able to change any selections previously made and confirm a new selection.

7. The system must communicate to the voter the fact that the voter has failed to vote in a race or has failed to vote the number of allowable candidates in any race and require the voter to confirm his or her intent to undervote before casting the ballot.

8. The system must prevent the voter from overvoting any race.

9. The voter must be able to input a candidate's name in each race that allows a write-in candidate.

10. The voter must be able to review his or her write-in input to the interface, edit that input, and confirm that the edits meet the voter's intent.

11. There must be a clear, identifiable action that the voter takes to "cast" the ballot. The system must make clear to the voter how to take this action so that the voter has minimal risk of taking the action accidentally but, when the voter intends to cast the ballot, the action can be easily performed.

12. Once the ballot is cast, the system must confirm to the voter that the action has occurred and that the voter's process of voting is complete.

13. Once the ballot is cast, the system must preclude the voter from modifying the ballot cast or voting or casting another ballot.

The functionalities required in this paragraph for certification may be satisfied by either the voting device or by the entire voting system.

(2) Such voting system must include at least one accessible voter interface device installed in each polling place which meets the requirements of this section, except for paragraph (1)(d).

History.—s. 12, ch. 2002-281; s. 34, ch. 2005-278; s. 1, ch. 2006-111; s. 27, ch. 2012-116.

101.56063 Accessibility of voting systems and polling places; intent; eligibility for federal funding. It is the intent of the Legislature that this state be eligible for any funds that are available from the Federal Government to assist states in providing or improving accessibility of voting systems and polling places for persons having a disability. Accordingly, all state laws, rules, standards, and codes governing voting systems and polling place accessibility must be maintained to ensure the state's eligibility to receive federal funds. It is the intent of the Legislature that all state requirements meet or exceed the minimum federal requirements for voting systems and polling place accessibility. This section shall take effect upon this act becoming a law.

History.—s. 13, ch. 2002-281.

101.56064 Application for federal funds under ch. 2002-281.—The state may apply for all available federal funds to be used to pay for the costs associated with this act.

History.—s. 21, ch. 2002-281.

101.56065 Voting system defects; disclosure; investigations; penalties.—

(1) For purposes of this section, the term:

(a) "Defect" means:

1. Any failure, fault, or flaw in an electronic or electromechanical voting system approved pursuant to s. 101.5605 which results in nonconformance with the standards in a manner that affects the timeliness or accuracy of the casting or counting of ballots; or

2. Any failure or inability of the voting system manufacturer or vendor to make available or provide approved replacements of hardware or software to the counties that have purchased the approved voting system, the unavailability of which results in the system's nonconformance with the standards in a manner that affects the timeliness or accuracy of the casting or counting of ballots.

(b) "Standards" refers to the requirements in ss. 101.5606 and 101.56062 under which a voting system was approved for use in the state.

(c) "Vendor" means a person who submits or previously submitted a voting system that was approved by the Department of State in accordance with s. 101.5605, or a person who enters into a contract for the sale or lease of a voting system to any county, or that previously entered into such a contract that has not expired.

(2)(a) No later than December 31, 2013, and, thereafter, on January 1 of every odd-numbered year, each vendor shall file a written disclosure with the department identifying any known defect in the voting system or the fact that there is no known defect, the effect of any defect on the operation and use of the approved voting system, and any known corrective measures to cure a defect, including, but not limited to, advisories and bulletins issued to system users.

(b) Implementation of corrective measures approved by the department which enable a system to conform to the standards and ensure the timeliness and accuracy of the casting and counting of ballots constitutes a cure of a defect.

(c) If a vendor becomes aware of the existence of a defect, he or she must file a new disclosure with the department as provided in paragraph (a) within 30 days after the date the vendor determined or reasonably should have determined that the defect existed.

(d) If a vendor discloses to the department that a defect exists, the department may suspend all sales or leases of the voting system in the state and may suspend the use of the system in any election in the state. The department shall provide written notice of any such suspension to each affected vendor and supervisor of elections. If the department determines that the defect no longer exists, the department shall lift the suspension and provide written notice to each affected vendor and supervisor of elections.

(e) If a vendor fails to file a required disclosure for a voting system previously approved by the department, that system may not be sold, leased, or used for elections in the state until it has been submitted for examination and approval and adopted for use pursuant to s. 101.5605. The department shall provide written notice to all supervisors of elections that the system is no longer approved.

(3)(a) If the department has reasonable cause to believe a voting system approved pursuant to s. 101.5605 contains a defect either before, during, or after an election which has not been disclosed pursuant to subsection (2), the department may investigate whether the voting system has a defect.

(b) The department may initiate an investigation pursuant to paragraph (a) on its own initiative or upon the written request of the supervisor of elections of a county that purchased or leased a voting system that contains the alleged defect.

(c) Upon initiating an investigation, the department shall provide written notice to the vendor and all of the supervisors of elections.

(4)(a) If the department determines by a preponderance of the evidence that a defect exists in the voting system, or that a vendor failed to timely disclose a defect pursuant to subsection (2), the department shall provide written notice to the affected vendor and supervisors of elections.

(b) A vendor entitled to receive notice pursuant to paragraph (a) shall, within 10 days, file a written response to the department which:

1. Denies that the alleged defect exists or existed as alleged by the department or that the vendor failed to timely disclose a defect, and sets forth the reasons for such denial; or

2. Admits that the defect exists or existed as alleged by the department or that the vendor failed to timely disclose a defect.

(c) If the defect has been cured, the vendor shall provide an explanation of how the defect was cured.

(d) If the defect has not been cured, the vendor shall inform the department whether the defect can be cured and shall provide the department with a plan for curing the defect. If the defect can be cured, the department shall establish a timeframe within which to cure the defect.

(5) If after receiving a response from the vendor, the department determines that a defect does not exist or has been cured within the timeframe established by the department, the department shall take no further action.

(6) If the department determines that: a vendor failed to timely disclose a defect; or that a defect exists and a vendor has not filed a written response or has failed to cure within the timeframe established by the department, or if the defect cannot be cured, the department shall impose a civil penalty of $25,000 for the defect plus an amount equal to the actual costs incurred by the department in conducting the investigation.

(7) If the department finds that a defect existed:

(a) The department may suspend all sales and leases of the voting system and may suspend its use in any county in the state. The department shall provide

written notice of the suspension to each affected vendor and supervisor of elections.

(b) If the department determines that a defect no longer exists in a voting system that has been suspended from use pursuant to paragraph (a), the department shall lift the suspension and authorize the sale, lease, and use of the voting system in any election in the state. The department shall provide written notice that the suspension has been lifted to each affected vendor and supervisor of elections.

(c) If the defect cannot be cured, the department may disapprove the voting system for use in elections in the state. The department shall provide written notice to all supervisors of elections that the system is no longer approved. After approval of a system has been withdrawn pursuant to this paragraph, the system may not be sold, leased, or used in elections in the state until it has been submitted for examination and approval and adopted for use pursuant to s. 101.5605.

(d) Any vendor against whom a civil penalty was imposed under this section may not submit a voting system for approval by the Department of State in accordance with s. 101.5605 or enter into a contract for sale or lease of a voting system in the state until the civil penalties have been paid and the department provides written confirmation to the supervisors of elections of the payment.

(8) The department shall prepare a written report of any investigation conducted pursuant to this section.

(9) The authority of the department under this section is in addition to, and not exclusive of, any other authority provided by law.

(10) All proceedings under this section are exempt from chapter 120.

History.—s. 8, ch. 2013-57.

101.5607 Department of State to maintain voting system information; prepare software.—

(1)(a) Copies of the program codes and the user and operator manuals and copies of all software and any other information, specifications, or documentation required by the Department of State relating to an approved electronic or electromechanical voting system and its equipment must be filed with the Department of State by the supervisor of elections at the time of purchase or implementation. Any such information or materials that are not on file with and approved by the Department of State, including any updated or modified materials, may not be used in an election.

(b) Within 24 hours after the completion of any logic and accuracy test conducted pursuant to s. 101.5612, the supervisor of elections shall send by certified mail to the Department of State a copy of the tabulation program which was used in the logic and accuracy testing.

(c) The Department of State may, at any time, review the voting system of any county to ensure compliance with the Electronic Voting Systems Act.

(d) Section 119.071(1)(f) applies to all software on file with the Department of State.

(2)(a) The Department of State may develop software for use with an electronic or electromechanical voting system. The standards and examination procedures developed for software apply to all software developed by the Department of State.

(b) Software prepared by the Department of State is a public record pursuant to chapter 119 and shall be provided at the actual cost of duplication.

History.—s. 7, ch. 73-156; s. 21, ch. 77-175; s. 4, ch. 82-143; s. 11, ch. 84-302; s. 11, ch. 89-348; s. 25, ch. 90-344; s. 21, ch. 95-398; s. 19, ch. 2001-40; s. 32, ch. 2004-335; s. 41, ch. 2005-251.

101.56075 Voting methods.—

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

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

(3) By 2020, persons with disabilities shall vote on a voter interface device that meets the voter accessibility requirements for individuals with disabilities under s. 301 of the federal Help America Vote Act of 2002 and s. 101.56062 which are consistent with subsection (1) of this section.

History.—s. 6, ch. 2007-30; s. 5, ch. 2010-167; s. 33, ch. 2011-40; s. 9, ch. 2013-57.

101.5608 Voting by electronic or electromechanical method; procedures.—

(1) Each elector desiring to vote shall be identified to the clerk or inspector of the election as a duly qualified elector of such election and shall sign his or her name on the precinct register or other form or device provided by the supervisor. The inspector shall compare the signature with the signature on the identification provided by the elector. If the inspector is reasonably sure that the person is entitled to vote, the inspector shall provide the person with a ballot.

(2) When an electronic or electromechanical voting system utilizes a ballot card or marksense ballot, the following procedures shall be followed:

(a) After receiving a ballot from an inspector, the elector shall, without leaving the polling place, retire to a booth or compartment and mark the ballot. After marking his or her ballot, the elector shall place the ballot in a secrecy envelope so that the ballot will be deposited in the tabulator without exposing the voter's choices.

(b) Any voter who spoils his or her ballot or makes an error may return the ballot to the election official and secure another ballot, except that in no case shall a voter be furnished more than three ballots. If the vote tabulation device has rejected a ballot, the ballot shall be considered spoiled and a new ballot shall be provided to the voter unless the voter chooses to cast the rejected ballot. The election official, without examining the original ballot, shall state the possible reasons for the rejection and shall provide instruction to the voter pursuant to s. 101.5611. A spoiled ballot shall be preserved, without examination, in an envelope provided for that purpose. The stub shall be removed from the ballot and placed in an envelope.

(c) The supervisor of elections shall prepare for each polling place at least one ballot box to contain the

ballots of a particular precinct, and each ballot box shall be plainly marked with the name of the precinct for which it is intended.

(3) The Department of State shall promulgate rules regarding voting procedures to be used when an electronic or electromechanical voting system is of a type which does not utilize a ballot card or marksense ballot.

(4) In any election in which a write-in candidate has qualified for office, the supervisor of elections shall provide for write-in voting pursuant to rules adopted by the Division of Elections.

History.—s. 8, ch. 73-156; s. 21, ch. 77-175; s. 13, ch. 81-105; s. 5, ch. 82-143; s. 12, ch. 84-302; s. 579, ch. 95-147; s. 20, ch. 2001-40; s. 11, ch. 2002-17; s. 36, ch. 2005-277; s. 35, ch. 2005-278; s. 20, ch. 2008-95.

101.5610 Inspection of ballot by election board. The election board of each precinct shall cause the voting devices to be put in order, set, adjusted, and made ready for voting when delivered to the polling places. Before the opening of the polls, the election board shall compare the ballots or the ballot information used in the voting devices with the sample ballots furnished and see that the names, numbers, and letters thereon agree and shall certify thereto on forms provided by the supervisor of elections.

History.—s. 10, ch. 73-156; s. 14, ch. 84-302; s. 4, ch. 86-200.

101.5611 Instructions to electors.—

(1) The supervisor of elections shall provide instruction at each polling place regarding the manner of voting with the system. In instructing voters, no precinct official may favor any political party, candidate, or issue. Such instruction shall show the arrangement of candidates and questions to be voted on. Additionally, the supervisor of elections shall provide instruction on the proper method of casting a ballot for the specific voting system utilized in that jurisdiction. Such instruction shall be provided at a place which voters must pass to reach the official voting booth.

(2) The supervisor of elections shall have posted at each polling place a notice that reads: "A person who commits or attempts to commit any fraud in connection with voting, votes a fraudulent ballot, or votes more than once in an election can be convicted of a felony of the third degree and fined up to $5,000 and/or imprisoned for up to 5 years."

History.—s. 11, ch. 73-156; s. 21, ch. 77-175; s. 581, ch. 95-147; s. 12, ch. 98-129; s. 12, ch. 2002-17.

101.5612 Testing of tabulating equipment.—

(1) All electronic or electromechanical voting systems shall be thoroughly tested at the conclusion of maintenance and programming. Tests shall be sufficient to determine that the voting system is properly programmed, the election is correctly defined on the voting system, and all of the voting system input, output, and communication devices are working properly.

(2) On any day not more than 10 days prior to the commencement of early voting as provided in s. 101.657, the supervisor of elections shall have the automatic tabulating equipment publicly tested to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. If the ballots to be used at the polling place on election day are not available at the time of the testing, the supervisor may conduct an additional test not more than 10 days before election day. Public notice of the time and place of the test shall be given at least 48 hours prior thereto by publication on the supervisor of elections' website and once in one or more newspapers of general circulation in the county or, if there is no newspaper of general circulation in the county, by posting the notice in at least four conspicuous places in the county. The supervisor or the municipal elections official may, at the time of qualifying, give written notice of the time and location of the public preelection test to each candidate qualifying with that office and obtain a signed receipt that the notice has been given. The Department of State shall give written notice to each statewide candidate at the time of qualifying, or immediately at the end of qualifying, that the voting equipment will be tested and advise each candidate to contact the county supervisor of elections as to the time and location of the public preelection test. The supervisor or the municipal elections official shall, at least 15 days prior to the commencement of early voting as provided in s. 101.657, send written notice by certified mail to the county party chair of each political party and to all candidates for other than statewide office whose names appear on the ballot in the county and who did not receive written notification from the supervisor or municipal elections official at the time of qualifying, stating the time and location of the public preelection test of the automatic tabulating equipment. The canvassing board shall convene, and each member of the canvassing board shall certify to the accuracy of the test. For the test, the canvassing board may designate one member to represent it. The test shall be open to representatives of the political parties, the press, and the public. Each political party may designate one person with expertise in the computer field who shall be allowed in the central counting room when all tests are being conducted and when the official votes are being counted. The designee shall not interfere with the normal operation of the canvassing board.

(3) For electronic or electromechanical voting systems configured to tabulate absentee ballots at a central or regional site, the public testing shall be conducted by processing a preaudited group of ballots so produced as to record a predetermined number of valid votes for each candidate and on each measure and to include one or more ballots for each office which have activated voting positions in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected, the cause therefor shall be corrected and an errorless count shall be made before the automatic tabulating equipment is approved. The test shall be repeated and errorless results achieved immediately before the start of the official count of the ballots and again after the completion of the official count. The programs and ballots used for testing shall be sealed and retained under the custody of the county canvassing board.

(4)(a)1. For electronic or electromechanical voting systems configured to include electronic or electromechanical tabulation devices which are distributed to the precincts, all or a sample of the devices to be used in the

election shall be publicly tested. If a sample is to be tested, the sample shall consist of a random selection of at least 5 percent or 10 of the devices for an optical scan system, whichever is greater. For touchscreen systems used for voters having a disability, a sample of at least 2 percent of the devices must be tested. The test shall be conducted by processing a group of ballots, causing the device to output results for the ballots processed, and comparing the output of results to the results expected for the ballots processed. The group of ballots shall be produced so as to record a predetermined number of valid votes for each candidate and on each measure and to include for each office one or more ballots which have activated voting positions in excess of the number allowed by law in order to test the ability of the tabulating device to reject such votes.

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

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

(b) At the completion of testing under this subsection, the canvassing board or its representative, the representatives of the political parties, and the candidates or their representatives who attended the test shall witness the resetting of each device that passed to a preelection state of readiness and the sealing of each device that passed in such a manner as to secure its state of readiness until the opening of the polls.

(c) The canvassing board or its representative shall execute a written statement setting forth the tabulation devices tested, the results of the testing, the protective counter numbers, if applicable, of each tabulation device, the number of the seal securing each tabulation device at the conclusion of testing, any problems reported to the board as a result of the testing, and whether each device tested is satisfactory or unsatisfactory.

(d) Any tabulating device deemed unsatisfactory shall be recoded, repaired, or replaced and shall be made available for retesting. Such device must be determined by the canvassing board or its representative to be satisfactory before it may be used in any election. The canvassing board or its representative shall announce at the close of the first testing the date, place, and time that any unsatisfactory device will be retested or may, at the option of the board, notify by telephone each person who was present at the first testing as to the date, place, and time that the retesting will occur.

(e) Records must be kept of all preelection testing of electronic or electromechanical tabulation devices used in any election. Such records are to be present and available for inspection and reference during public preelection testing by any person in attendance during such testing. The need of the canvassing board for access to such records during the testing shall take precedence over the need of other attendees to access such records so that the work of the canvassing board will not be delayed or hindered. Records of testing must include, for each device, the name of each person who tested the device and the date, place, time, and results of each test. Records of testing shall be retained as part of the official records of the election in which any device was used.

(5) Any tests involving marksense ballots pursuant to this section shall employ test ballots created by the supervisor of elections using actual ballots that have been printed for the election. If ballot-on-demand ballots will be used in the election, the supervisor shall also create test ballots using the ballot-on-demand technology that will be used to produce ballots in the election, using the same paper stock as will be used for ballots in the election.

History.—s. 12, ch. 73-156; s. 21, ch. 77-175; s. 39, ch. 79-400; s. 2, ch. 81-29; s. 24, ch. 83-217; s. 15, ch. 84-302; s. 582, ch. 95-147; s. 21, ch. 2001-40; s. 13, ch. 2002-17; s. 11, ch. 2004-252; s. 37, ch. 2005-277; s. 7, ch. 2007-30; s. 6, ch. 2010-167; s. 34, ch. 2011-40.

101.5613 Examination of equipment during voting.—A member of the election board or, for purposes of early voting pursuant to s. 101.657, a representative of the supervisor of elections shall occasionally examine the face of the voting device and the ballot information to determine that the device and the ballot information have not been damaged or tampered with.

History.—s. 13, ch. 73-156; s. 21, ch. 77-175; s. 16, ch. 84-302; s. 12, ch. 2004-252.

101.5614 Canvass of returns.—

(1) As soon as the polls are closed, the election board shall secure the voting devices against further voting. The election board shall thereafter, in the presence of members of the public desiring to witness the proceedings, verify the number of voted ballots, unused ballots, provisional ballots, and spoiled ballots to ascertain whether such number corresponds with the number of ballots issued by the supervisor. If there is a difference, this fact shall be reported in writing to the county canvassing board with the reasons therefor if known. The total number of voted ballots shall be entered on the forms provided. The proceedings of the election board at the precinct after the polls have closed shall be open to the public; however, no person except a member of the election board shall touch any ballot or ballot container or interfere with or obstruct the orderly count of the ballots.

(2) The Department of State shall, in accordance with s. 101.015, adopt rules that provide safeguards for the counting of votes at a precinct and at a central or regional location.

(3) The results of ballots tabulated at precinct locations may be transmitted to the main computer system for the purpose of compilation of complete returns. The security guidelines for transmission of

returns shall conform to rules adopted by the Department of State pursuant to s. 101.015.

(4) For each ballot or ballot image on which write-in votes have been cast, the canvassing board shall compare the write-in votes with the votes cast on the ballot; if the total number of votes for any office exceeds the number allowed by law, such votes shall not be counted. All valid votes shall be tallied by the canvassing board.

(5)(a) If any absentee ballot is physically damaged so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made of the damaged ballot in the presence of witnesses and substituted for the damaged ballot. Likewise, a duplicate ballot shall be made of an absentee ballot containing an overvoted race or a marked absentee ballot in which every race is undervoted which shall include all valid votes as determined by the canvassing board based on rules adopted by the division pursuant to s. 102.166(4). All duplicate ballots shall be clearly labeled "duplicate," bear a serial number which shall be recorded on the defective ballot, and be counted in lieu of the defective ballot. After a ballot has been duplicated, the defective ballot shall be placed in an envelope provided for that purpose, and the duplicate ballot shall be tallied with the other ballots for that precinct.

(b) A true duplicate copy shall be made of each federal write-in absentee ballot in the presence of witnesses and substituted for the federal write-in absentee ballot. The duplicate ballot must include all valid votes as determined by the canvassing board based on rules adopted by the division pursuant to s. 102.166(4). All duplicate ballots shall be clearly labeled "duplicate," bear a serial number that shall be recorded on the federal write-in absentee ballot, and be counted in lieu of the federal write-in absentee ballot. After a ballot has been duplicated, the federal write-in absentee ballot shall be placed in an envelope provided for that purpose, and the duplicate ballot shall be tallied with other ballots for that precinct.

(6) If there is no clear indication on the ballot that the voter has made a definite choice for an office or ballot measure, the elector's ballot shall not be counted for that office or measure, but the ballot shall not be invalidated as to those names or measures which are properly marked.

(7) Absentee ballots may be counted by automatic tabulating equipment if they have been marked in a manner which will enable them to be properly counted by such equipment.

(8) The return printed by the automatic tabulating equipment, to which has been added the return of write-in, absentee, and manually counted votes and votes from provisional ballots, shall constitute the official return of the election upon certification by the canvassing board. Upon completion of the count, the returns shall be open to the public. A copy of the returns may be posted at the central counting place or at the office of the supervisor of elections in lieu of the posting of returns at individual precincts.

(9) Any supervisor of elections, deputy supervisor of elections, canvassing board member, election board member, or election employee who releases the results of any election prior to the closing of the polls in that county on election day commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 14, ch. 73-156; s. 1, ch. 77-174; s. 21, ch. 77-175; s. 14, ch. 81-105; s. 17, ch. 84-302; s. 1, ch. 85-17; s. 5, ch. 86-200; s. 17, ch. 90-315; s. 1, ch. 94-208; ss. 22, 37, ch. 2001-40; ss. 14, 15, ch. 2002-17; s. 38, ch. 2005-277; s. 35, ch. 2011-40; s. 2, ch. 2011-162.

101.572 Public inspection of ballots.—The official ballots and ballot cards received from election boards and removed from absentee ballot mailing envelopes shall be open for public inspection or examination while in the custody of the supervisor of elections or the county canvassing board at any reasonable time, under reasonable conditions; however, no persons other than the supervisor of elections or his or her employees or the county canvassing board shall handle any official ballot or ballot card. If the ballots are being examined prior to the end of the contest period in s. 102.168, the supervisor of elections shall make a reasonable effort to notify all candidates whose names appear on such ballots or ballot cards by telephone or otherwise of the time and place of the inspection or examination. All such candidates, or their representatives, shall be allowed to be present during the inspection or examination.

History.—s. 2, ch. 86-199; s. 583, ch. 95-147; s. 39, ch. 2005-277.

101.58 Supervising and observing registration and election processes.—

(1) The Department of State may, at any time it deems fit; upon the petition of 5 percent of the registered electors; or upon the petition of any candidate, county executive committee chair, state committeeman or committeewoman, or state executive committee chair, appoint one or more deputies whose duties shall be to observe and examine the registration and election processes and the condition, custody, and operation of voting systems and equipment in any county or municipality. The deputy shall have access to all registration books and records as well as any other records or procedures relating to the voting process. The deputy may supervise preparation of the voting equipment and procedures for election, and it shall be unlawful for any person to obstruct the deputy in the performance of his or her duty. The deputy shall file with the Department of State a report of his or her findings and observations of the registration and election processes in the county or municipality, and a copy of the report shall also be filed with the clerk of the circuit court of said county. The compensation of such deputies shall be fixed by the Department of State; and costs incurred under this section shall be paid from the annual operating appropriation made to the Department of State.

(2) Upon the written direction of the Secretary of State, any employee of the Department of State having expertise in the matter of concern to the Secretary of State shall have full access to all premises, records, equipment, and staff of the supervisor of elections.

History.—s. 13, ch. 18405, 1937; CGL 1940 Supp. 337(28-b); s. 5, ch. 26870, 1951; s. 1, ch. 63-256; ss. 10, 35, ch. 69-106; s. 1, ch. 73-305; s. 21, ch. 77-175; s. 26, ch. 89-338; s. 584, ch. 95-147; s. 23, ch. 2001-40; s. 40, ch. 2005-277.

Note.—Former s. 100.31.

101.591 Voting system audit.—

(1) Immediately following the certification of each election, the county canvassing board or the local board responsible for certifying the election shall conduct a manual audit or an automated, independent audit of the voting systems used in randomly selected precincts.

(2)(a) A manual audit shall consist of a public manual tally of the votes cast in one randomly selected race that appears on the ballot. The tally sheet shall include election-day, absentee, early voting, provisional, and overseas ballots, in at least 1 percent but no more than 2 percent of the precincts chosen at random by the county canvassing board or the local board responsible for certifying the election. If 1 percent of the precincts is less than one entire precinct, the audit shall be conducted using at least one precinct chosen at random by the county canvassing board or the local board responsible for certifying the election. Such precincts shall be selected at a publicly noticed canvassing board meeting.

(b) An automated audit shall consist of a public automated tally of the votes cast across every race that appears on the ballot. The tally sheet shall include election day, absentee, early voting, provisional, and overseas ballots in at least 20 percent of the precincts chosen at random by the county canvassing board or the local board responsible for certifying the election. Such precincts shall be selected at a publicly noticed canvassing board meeting.

(c) The division shall adopt rules for approval of an independent audit system which provide that the system, at a minimum, must be:

1. Completely independent of the primary voting system.

2. Fast enough to produce final audit results within the timeframe prescribed in subsection (4).

3. Capable of demonstrating that the ballots of record have been accurately adjudicated by the audit system.

(3) The canvassing board shall post a notice of the audit, including the date, time, and place, in four conspicuous places in the county and on the home page of the county supervisor of elections website.

(4) The audit must be completed and the results made public no later than 11:59 p.m. on the 7th day following certification of the election by the county canvassing board or the local board responsible for certifying the election.

(5) Within 15 days after completion of the audit, the county canvassing board or the board responsible for certifying the election shall provide a report with the results of the audit to the Department of State in a standard format as prescribed by the department. The report shall contain, but is not limited to, the following items:

(a) The overall accuracy of audit.

(b) A description of any problems or discrepancies encountered.

(c) The likely cause of such problems or discrepancies.

(d) Recommended corrective action with respect to avoiding or mitigating such circumstances in future elections.

(6) If a manual recount is undertaken pursuant to s. 102.166, the canvassing board is not required to perform the audit provided for in this section.

History.—s. 14, ch. 89-348; s. 41, ch. 97-13; s. 8, ch. 2007-30; s. 36, ch. 2011-40; s. 10, ch. 2013-57.

101.5911 Rulemaking authority for voting system audit procedures.—Effective upon this act becoming a law, the Department of State shall adopt rules to implement the provisions of s. 101.591, as amended by s. 8, chapter 2007-30, Laws of Florida, which prescribe detailed audit procedures for each voting system, which shall be uniform to the extent practicable, along with the standard form for audit reports.

History.—s. 9, ch. 2007-30.

101.595 Analysis and reports of voting problems.—

(1) No later than December 15 of each general election year, the supervisor of elections in each county shall report to the Department of State the total number of overvotes and undervotes in the "President and Vice President" or "Governor and Lieutenant Governor" race that appears first on the ballot or, if neither appears, the first race appearing on the ballot pursuant to s. 101.151(2), along with the likely reasons for such overvotes and undervotes and other information as may be useful in evaluating the performance of the voting system and identifying problems with ballot design and instructions which may have contributed to voter confusion.

(2) The Department of State, upon receipt of such information, shall prepare a public report on the performance of each type of voting system. The report must contain, but is not limited to, the following information:

(a) An identification of problems with the ballot design or instructions which may have contributed to voter confusion;

(b) An identification of voting system design problems; and

(c) Recommendations for correcting any problems identified.

(3) The Department of State shall submit the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31 of each year following a general election.

History.—s. 24, ch. 2001-40; s. 16, ch. 2002-17; s. 41, ch. 2005-277.

101.6101 Short title.—Sections 101.6101-101.6107 may be cited as the "Mail Ballot Election Act."

History.—s. 1, ch. 87-364.

101.6102 Mail ballot elections; limitations.—

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

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

a. Counties;

b. Cities;

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

d. Special districts;

2. The governing body responsible for calling the election and the supervisor of elections responsible for the conduct of the election authorize the use of mail ballots for the election; and

3. The Secretary of State approves a written plan for the conduct of the election, which shall include a written timetable for the conduct of the election, submitted by the supervisor of elections.

(b) In addition, an annexation referendum which includes only qualified electors of one county may also be voted on by mail ballot election.

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

(a) An election at which any candidate is nominated, elected, retained, or recalled; or

(b) An election held on the same date as another election, other than a mail ballot election, in which the qualified electors of that political subdivision are eligible to cast ballots.

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

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

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

History.—s. 1, ch. 87-364; s. 1, ch. 89-52; s. 27, ch. 89-338; s. 18, ch. 90-315.

101.6103 Mail ballot election procedure.—

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

(2) Upon receipt of the ballot the elector shall mark the ballot, place it in the secrecy envelope, sign the return mailing envelope supplied with the ballot, and comply with the instructions provided with the ballot. The elector shall mail, deliver, or have delivered the marked ballot so that it reaches the supervisor of elections no later than 7 p.m. on the day of the election. The ballot must be returned in the return mailing envelope.

(3) The return mailing envelope shall contain a statement in substantially the following form:

VOTER'S CERTIFICATE

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

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

(Signature)

(Residence Address)

(4) If the ballot is destroyed, spoiled, lost, or not received by the elector, the elector may obtain a replacement ballot from the supervisor of elections as provided in this subsection. An elector seeking a replacement ballot shall sign a sworn statement that the ballot was destroyed, spoiled, lost, or not received and present such statement to the supervisor of elections prior to 7 p.m. on the day of the election. The supervisor of elections shall keep a record of each replacement ballot provided under this subsection.

(5) A ballot shall be counted only if:

(a) It is returned in the return mailing envelope;

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

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

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

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

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

(8) A ballot that otherwise satisfies the requirements of subsection (5) shall be counted even if the elector dies after mailing the ballot but before election day, as long as, prior to the death of the voter, the ballot was:

(a) Postmarked by the United States Postal Service;

(b) Date-stamped with a verifiable tracking number by common carrier; or

(c) Already in the possession of the supervisor of elections.

History.—s. 1, ch. 87-364; s. 585, ch. 95-147; s. 42, ch. 2005-277; s. 29, ch. 2007-30.

101.6104 Challenge of votes.—If any elector present for the canvass of votes believes that any ballot is illegal due to any defect apparent on the voter's certificate, the elector may, at any time before the ballot is removed from the envelope, file with the canvassing board a protest against the canvass of such ballot, specifying the reason he or she believes the ballot to be illegal. No challenge based upon any defect on the voter's certificate shall be accepted after the ballot has been removed from the return mailing envelope.

History.—s. 1, ch. 87-364; s. 586, ch. 95-147.

101.6105 Absentee voting.—The provisions of the election code relating to absentee voting and absentee ballots shall apply to elections under ss. 101.6101-101.6107 only insofar as they do not conflict with the provisions of ss. 101.6101-101.6107.

History.—s. 1, ch. 87-364.

101.6106 Application of other election laws.—All laws that are applicable to general elections are applicable to mail ballot elections to the extent applicable.

History.—s. 1. ch. 87-364.

101.6107 Department of State to adopt rules.—The Department of State shall adopt rules governing the procedures and forms necessary to implement ss. 101.6101-101.6107.

History.—s. 1, ch. 87-364.

101.62 Request for absentee ballots.—

(1)(a) The supervisor shall accept a request for an absentee ballot from an elector in person or in writing. One request shall be deemed sufficient to receive an absentee ballot for all elections through the end of the calendar year of the second ensuing regularly scheduled general election, unless the elector or the elector's designee indicates at the time the request is made the elections for which the elector desires to receive an absentee ballot. Such request may be considered canceled when any first-class mail sent by the supervisor to the elector is returned as undeliverable.

(b) The supervisor may accept a written or telephonic request for an absentee ballot to be mailed to an elector's address on file in the Florida Voter Registration System from the elector, or, if directly instructed by the elector, a member of the elector's immediate family, or the elector's legal guardian; if the ballot is requested to be mailed to an address other than the elector's address on file in the Florida Voter Registration System, the request must be made in writing and signed by the elector. However, an absent uniformed service voter or an overseas voter seeking an absentee ballot is not required to submit a signed, written request for an absentee ballot that is being mailed to an address other than the elector's address on file in the Florida Voter Registration System. For purposes of this section, the term "immediate family" has the same meaning as specified in paragraph (4)(c). The person making the request must disclose:

1. The name of the elector for whom the ballot is requested.
2. The elector's address.
3. The elector's date of birth.
4. The requester's name.
5. The requester's address.
6. The requester's driver license number, if available.
7. The requester's relationship to the elector.
8. The requester's signature (written requests only).

(c) Upon receiving a request for an absentee ballot from an absent voter, the supervisor of elections shall notify the voter of the free access system that has been designated by the department for determining the status of his or her absentee ballot.

(2) A request for an absentee ballot to be mailed to a voter must be received no later than 5 p.m. on the sixth day before the election by the supervisor of elections. The supervisor of elections shall mail absentee ballots to voters requesting ballots by such deadline no later than 4 days before the election.

(3) For each request for an absentee ballot received, the supervisor shall record the date the request was made, the date the absentee ballot was delivered to the voter or the voter's designee or the date the absentee ballot was delivered to the post office or other carrier, the date the ballot was received by the supervisor, the absence of the voter's signature on the voter's certificate, if applicable, and such other information he or she may deem necessary. This information shall be provided in electronic format as provided by rule adopted by the division. The information shall be updated and made available no later than 8 a.m. of each day, including weekends, beginning 60 days before the primary until 15 days after the general election and shall be contemporaneously provided to the division. This information shall be confidential and exempt from s. 119.07(1) and shall be made available to or reproduced only for the voter requesting the ballot, a canvassing board, an election official, a political party or official thereof, a candidate who has filed qualification papers and is opposed in an upcoming election, and registered political committees for political purposes only.

(4)(a) No later than 45 days before each presidential preference primary election, primary election, and general election, the supervisor of elections shall send an absentee ballot as provided in subparagraph (c)2. to each absent uniformed services voter and to each overseas voter who has requested an absentee ballot.

(b) The supervisor of elections shall mail an absentee ballot to each absent qualified voter, other than those listed in paragraph (a), who has requested such a ballot, between the 35th and 28th days before the presidential preference primary election, primary election, and general election. Except as otherwise provided in subsection (2) and after the period described in this

paragraph, the supervisor shall mail absentee ballots within 2 business days after receiving a request for such a ballot.

(c) The supervisor shall provide an absentee ballot to each elector by whom a request for that ballot has been made by one of the following means:

1. By nonforwardable, return-if-undeliverable mail to the elector's current mailing address on file with the supervisor or any other address the elector specifies in the request.

2. By forwardable mail, e-mail, or facsimile machine transmission to absent uniformed services voters and overseas voters. The absent uniformed services voter or overseas voter may designate in the absentee ballot request the preferred method of transmission. If the voter does not designate the method of transmission, the absentee ballot shall be mailed.

3. By personal delivery before 7 p.m. on election day to the elector, upon presentation of the identification required in s. 101.043.

4. By delivery to a designee on election day or up to 5 days prior to the day of an election. Any elector may designate in writing a person to pick up the ballot for the elector; however, the person designated may not pick up more than two absentee ballots per election, other than the designee's own ballot, except that additional ballots may be picked up for members of the designee's immediate family. For purposes of this section, "immediate family" means the designee's spouse or the parent, child, grandparent, or sibling of the designee or of the designee's spouse. The designee shall provide to the supervisor the written authorization by the elector and a picture identification of the designee and must complete an affidavit. The designee shall state in the affidavit that the designee is authorized by the elector to pick up that ballot and shall indicate if the elector is a member of the designee's immediate family and, if so, the relationship. The department shall prescribe the form of the affidavit. If the supervisor is satisfied that the designee is authorized to pick up the ballot and that the signature of the elector on the written authorization matches the signature of the elector on file, the supervisor shall give the ballot to that designee for delivery to the elector.

5. Except as provided in s. 101.655, the supervisor may not deliver an absentee ballot to an elector or an elector's immediate family member on the day of the election unless there is an emergency, to the extent that the elector will be unable to go to his or her assigned polling place. If an absentee ballot is delivered, the elector or his or her designee shall execute an affidavit affirming to the facts which allow for delivery of the absentee ballot. The department shall adopt a rule providing for the form of the affidavit.

(5) If the department is unable to certify candidates for an election in time to comply with paragraph (4)(a), the Department of State is authorized to prescribe rules for a ballot to be sent to absent uniformed services voters and overseas voters.

(6) Nothing other than the materials necessary to vote absentee shall be mailed or delivered with any absentee ballot.

History.—s. 2, ch. 7380, 1917; RGS 369; CGL 430; s. 1, ch. 25385, 1949; s. 5, ch. 26870, 1951; s. 32, ch. 28156, 1953; s. 21, ch. 29934, 1955; s. 2, ch. 59-213; s. 32, ch. 65-380; s. 1, ch. 67-33; s. 2, ch. 69-136; s. 4, ch. 69-280; s. 2, ch. 70-93; ss. 1, 2, ch. 71-149; s. 5, ch. 73-157; s. 39, ch. 73-333; s. 2, ch. 75-174; s. 21, ch. 77-175; s. 40, ch. 79-400; s. 2, ch. 83-16; s. 6, ch. 83-251; s. 1, ch. 85-226; s. 4, ch. 86-199; s. 4, ch. 87-363; s. 2, ch. 87-538; s. 28, ch. 89-338; s. 20, ch. 90-360; s. 587, ch. 95-147; s. 3, ch. 96-57; s. 25, ch. 96-406; s. 13, ch. 98-129; s. 32, ch. 99-2; s. 6, ch. 99-140; s. 52, ch. 2001-40; s. 5, ch. 2001-75; s. 18, ch. 2003-415; s. 6, ch. 2004-33; s. 43, ch. 2005-277; s. 37, ch. 2005-278; s. 16, ch. 2005-286; s. 30, ch. 2007-30; s. 7, ch. 2010-167; s. 37, ch. 2011-40; s. 17, ch. 2013-37; s. 11, ch. 2013-57.

Note.—Former s. 101.02.

101.64 Delivery of absentee ballots; envelopes; form.—

(1) The supervisor shall enclose with each absentee ballot two envelopes: a secrecy envelope, into which the absent elector shall enclose his or her marked ballot; and a mailing envelope, into which the absent elector shall then place the secrecy envelope, which shall be addressed to the supervisor and also bear on the back side a certificate in substantially the following form:

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

VOTER'S CERTIFICATE

I, ____, do solemnly swear or affirm that I am a qualified and registered voter of ____ County, Florida, and that I have not and will not vote more than one ballot in this election. I understand that if I commit or attempt to commit any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I can be convicted of a felony of the third degree and fined up to $5,000 and/or imprisoned for up to 5 years. I also understand that failure to sign this certificate will invalidate my ballot.

(Date) _(Voter's Signature)_

(2) The certificate shall be arranged on the back of the mailing envelope so that the line for the signature of the absent elector is across the seal of the envelope; however, no statement shall appear on the envelope which indicates that a signature of the voter must cross the seal of the envelope. The absent elector shall execute the certificate on the envelope.

(3) In lieu of the voter's certificate provided in this section, the supervisor of elections shall provide each person voting absentee under the Uniformed and Overseas Citizens Absentee Voting Act with the standard oath prescribed by the presidential designee.

(4) The supervisor shall mark, code, indicate on, or otherwise track the precinct of the absent elector for each absentee ballot.

History.—s. 4, ch. 7380, 1917; RGS 371; CGL 432; s. 1, ch. 25385, 1949; s. 5, ch. 26870, 1951; s. 34, ch. 28156, 1953; s. 22, ch. 29934, 1955; s. 1, ch. 61-369; s. 33, ch. 65-380; s. 3, ch. 69-136; s. 5, ch. 69-280; s. 21, ch. 71-355; s. 1, ch. 73-105; s. 6, ch. 73-157; s. 39, ch. 73-333; s. 3, ch. 75-174; s. 23, ch. 77-175; s. 4, ch. 79-365; s. 1, ch. 81-106; s. 9, ch. 81-304; s. 10, ch. 82-143; s. 2, ch. 85-226; s. 1, ch. 86-33; s. 19, ch. 90-315; s. 588, ch. 95-147; s. 4, ch. 96-57; s. 14, ch. 98-129; s. 53, ch. 2001-40; s. 19, ch. 2003-415; s. 1, ch. 2004-232; s. 44, ch. 2005-277; s. 38, ch. 2005-278.

Note.—Former s. 101.04.

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

READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT.

1. VERY IMPORTANT. In order to ensure that your absentee ballot will be counted, it should be completed and returned as soon as possible so that it can reach the supervisor of elections of the county in which your precinct is located no later than 7 p.m. on the day of the election. However, if you are an overseas voter casting a ballot in a presidential preference primary or general election, your absentee ballot must be postmarked or dated no later than the date of the election and received by the supervisor of elections of the county in which you are registered to vote no later than 10 days after the date of the election.

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

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

4. Place your marked ballot in the enclosed secrecy envelope.

5. Insert the secrecy envelope into the enclosed mailing envelope which is addressed to the supervisor.

6. Seal the mailing envelope and completely fill out the Voter's Certificate on the back of the mailing envelope.

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

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

9. Mail, deliver, or have delivered the completed mailing envelope. Be sure there is sufficient postage if mailed.

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

History.—s. 5, ch. 7380, 1917; RGS 372; CGL 433; s. 1, ch. 25385, 1949; s. 5, ch. 26870, 1951; s. 35, ch. 28156, 1953; s. 23, ch. 29934, 1955; s. 34, ch. 65-380; s. 4, ch. 71-149; s. 9, ch. 72-63; s. 2, ch. 73-105; s. 7, ch. 73-157; ss. 3, 4, ch. 75-174; s. 23, ch. 77-175; s. 2, ch. 81-106; s. 10, ch. 81-304; s. 11, ch. 82-143; s. 7, ch. 83-251; s. 3, ch. 85-226; s. 2, ch. 86-33; s. 589, ch. 95-147; s. 5, ch. 96-57; s. 16, ch. 98-129; s. 33, ch. 99-2; s. 54, ch. 2001-40; s. 20, ch. 2003-415; s. 2, ch. 2004-232; s. 38, ch. 2011-40; s. 12, ch. 2013-57.

Note.—Former s. 101.05.

101.655 Supervised voting by absent electors in certain facilities.—

(1) The supervisor of elections of a county shall provide supervised voting for absent electors residing in any assisted living facility, as defined in s. 429.02, or nursing home facility, as defined in s. 400.021, within that county at the request of any administrator of such a facility. Such request for supervised voting in the facility shall be made by submitting a written request to the supervisor of elections no later than 21 days prior to the election for which that request is submitted. The request shall specify the name and address of the facility and the name of the electors who wish to vote absentee in that election. If the request contains the names of fewer than five voters, the supervisor of elections is not required to provide supervised voting.

(2) The supervisor of elections may, in the absence of a request from the administrator of a facility, provide for supervised voting in the facility for those persons who have requested absentee ballots. The supervisor of elections shall notify the administrator of the facility that supervised voting will occur.

(3) The supervisor of elections shall, in cooperation with the administrator of the facility, select a date and time when the supervised voting will occur.

(4) The supervisor of elections shall designate supervised voting teams to provide the services prescribed by this section. Each supervised voting team shall include at least two persons. Each supervised voting team must include representatives of more than one political party; however, in any primary election to nominate party nominees in which only one party has candidates appearing on the ballot, all supervised voting team members may be of that party. No candidate may provide supervised voting services.

(5) The supervised voting team shall deliver the ballots to the respective absent electors, and each member of the team shall jointly supervise the voting of the ballots. If any elector requests assistance in voting, the oath prescribed in s. 101.051 shall be completed and the elector may receive the assistance of two members of the supervised voting team or some other person of the elector's choice to assist the elector in casting the elector's ballot.

(6) Before providing assistance, the supervised voting team shall disclose to the elector that the ballot may be retained to vote at a later time and that the elector has the right to seek assistance in voting from some other person of the elector's choice without the presence of the supervised voting team.

(7) If any elector declines to vote a ballot or is unable to vote a ballot, the supervised voting team shall mark the ballot "refused to vote" or "unable to vote."

(8) After the ballots have been voted or marked in accordance with the provisions of this section, the supervised voting team shall deliver the ballots to the supervisor of elections, who shall retain them pursuant to s. 101.67.

History.—s. 6, ch. 96-57; s. 5, ch. 2006-197.

101.657 Early voting.—

(1)(a) As a convenience to the voter, the supervisor of elections shall allow an elector to vote early in the

main or branch office of the supervisor. The supervisor shall mark, code, indicate on, or otherwise track the voter's precinct for each early voted ballot. In order for a branch office to be used for early voting, it shall be a permanent facility of the supervisor and shall have been designated and used as such for at least 1 year prior to the election. The supervisor may also designate any city hall, permanent public library facility, fairground, civic center, courthouse, county commission building, stadium, convention center, government-owned senior center, or government-owned community center as early voting sites; however, if so designated, the sites must be geographically located so as to provide all voters in the county an equal opportunity to cast a ballot, insofar as is practicable. 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 eligible early voting locations. Such additional early voting site must be geographically located so as to provide all voters in that area with an equal opportunity to cast a ballot, insofar as is practicable. Each county shall, at a minimum, operate the same total number of early voting sites for a general election which the county operated for the 2012 general election. The results or tabulation of votes cast during early voting may not be made before the close of the polls on election day. Results shall be reported by precinct.

(b) The supervisor shall designate each early voting site by no later than the 30th day prior to an election and shall designate an early voting area, as defined in s. 97.021, at each early voting site. The supervisor shall provide to the division no later than the 30th day before an election the address of each early voting site and the hours that early voting will occur at each site.

(c) All early voting sites in a county shall allow any person in line at the closing of an early voting site to vote.

(d) Early voting shall begin on the 10th day before an election that contains state or federal races and end on the 3rd day before the election, and shall be provided for no less than 8 hours and no more than 12 hours per day at each site during the applicable period. In addition, early voting may be offered at the discretion of the supervisor of elections on the 15th, 14th, 13th, 12th, 11th, or 2nd day before an election that contains state or federal races for at least 8 hours per day, but not more than 12 hours per day. The supervisor of elections may provide early voting for elections that are not held in conjunction with a state or federal election. However, the supervisor has the discretion to determine the hours of operation of early voting sites in those elections.

(e) Notwithstanding the requirements of s. 100.3605, municipalities may provide early voting in municipal elections that are not held in conjunction with county or state elections. If a municipality provides early voting, it may designate as many sites as necessary and shall conduct its activities in accordance with the provisions of paragraphs (a)-(c). The supervisor is not required to conduct early voting if it is provided pursuant to this subsection.

(f) Notwithstanding the requirements of s. 189.04, special districts may provide early voting in any district election not held in conjunction with county or state elections. If a special district provides early voting, it may designate as many sites as necessary and shall conduct its activities in accordance with the provisions of paragraphs (a)-(c). The supervisor is not required to conduct early voting if it is provided pursuant to this subsection.

(2) During any early voting period, each supervisor of elections shall make available the total number of voters casting a ballot at each early voting location during the previous day. Each supervisor shall prepare an electronic data file listing the individual voters who cast a ballot during the early voting period. This information shall be provided in electronic format as provided by rule adopted by the division. The information shall be updated and made available no later than noon of each day and shall be contemporaneously provided to the division.

(3) The ballot of each elector voting early shall be counted even if the elector dies on or before election day.

(4)(a) The elector must provide identification and must complete an Early Voting Voter Certificate in substantially the following form:

EARLY VOTING VOTER CERTIFICATE

I, ____, am a qualified elector in this election and registered voter of ____ County, Florida. I do solemnly swear or affirm that I am the person so listed on the voter registration rolls of ____ County and that I reside at the listed address. I understand that if I commit or attempt to commit fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election I could be convicted of a felony of the third degree and both fined up to $5,000 and imprisoned for up to 5 years. I understand that my failure to sign this certificate invalidates my ballot.

_____(Voter's Signature)_____

_____(Address)_____

_____(City/State)_____

(b) Any elector may challenge an elector seeking to vote early under the provisions of s. 101.111. Any challenged voter must vote a provisional ballot. The canvassing board shall review the ballot and decide the validity of the ballot by majority vote.

(c) The canvass of returns for ballots cast under this subsection shall be substantially the same as votes cast by electors in precincts, as provided in s. 101.5614.

History.—s. 17, ch. 98-129; s. 2, ch. 2000-249; s. 55, ch. 2001-40; s. 21, ch. 2003-415; s. 7, ch. 2004-232; s. 13, ch. 2004-252; s. 45, ch. 2005-277; s. 39, ch. 2005-278; s. 39, ch. 2011-40; s. 13, ch. 2013-57; s. 57, ch. 2014-22.

101.661 Voting absentee ballots.—All electors must personally mark or designate their choices on the absentee ballot, except:

(1) Electors who require assistance to vote because of blindness, disability, or inability to read or write, who may have some person of the elector's choice, other than the elector's employer, an agent of the employer, or an officer or agent of the elector's union, mark the elector's choices or assist the elector in marking his or her choices on the ballot.

(2) As otherwise provided in s. 101.051 or s. 101.655.

History.—s. 18, ch. 98-129.

101.662 Accessibility of absentee ballots.—It is the intent of the Legislature that voting by absentee ballot be by methods that are fully accessible to all voters, including voters having a disability. The Department of State shall work with the supervisors of elections and the disability community to develop and implement procedures and technologies, as possible, which will include procedures for providing absentee ballots, upon request, in alternative formats that will allow all voters to cast a secret, independent, and verifiable absentee ballot without the assistance of another person.

History.—s. 14, ch. 2002-281.

101.663 Electors; change of residence to another state.—An elector registered in this state who moves his or her permanent residence to another state after the registration books in that state have closed shall be permitted to vote absentee in the county of his or her former residence for the offices of President and Vice President of the United States.

History.—s. 1, ch. 69-136; s. 11, ch. 69-280; s. 4, ch. 73-157; s. 31, ch. 73-333; s. 3, ch. 77-175; s. 1, ch. 79-365; s. 22, ch. 94-224; s. 1392, ch. 95-147; s. 46, ch. 2005-277; s. 40, ch. 2005-278.

Note.—Former s. 97.102.

101.665 Administration of oaths; military personnel, federal employees, and other absentee registrants.—For the purposes of this code, oaths may be administered and attested by any commissioned officer in the active service of the Armed Forces, any member of the Merchant Marine of the United States designated for this purpose by the Secretary of Commerce, any civilian official empowered by state or federal law to administer oaths, any supervisor of elections, deputy supervisor of elections, or employee of the supervisor of elections when designated by the supervisor of elections, or any civilian employee designated by the head of any department or agency of the United States, except when this code requires an oath to be administered and attested by another official specifically named.

History.—s. 6, ch. 29904, 1955; s. 42, ch. 65-380; s. 4, ch. 72-63; s. 3, ch. 77-175; s. 17, ch. 94-224; s. 19, ch. 98-129.

Note.—Former s. 101.695; s. 97.065.

101.67 Safekeeping of mailed ballots; deadline for receiving absentee ballots.—

(1) The supervisor of elections shall safely keep in his or her office any envelopes received containing marked ballots of absent electors, and he or she shall, before the canvassing of the election returns, deliver the envelopes to the county canvassing board along with his or her file or list kept regarding said ballots.

(2) Except as provided in s. 101.6952(5), all marked absent electors' ballots to be counted must be received by the supervisor by 7 p.m. the day of the election. All ballots received thereafter shall be marked with the time and date of receipt and filed in the supervisor's office.

History.—s. 2, ch. 11824, 1927; CGL 436; s. 1, ch. 25385, 1949; s. 5, ch. 26870, 1951; s. 24, ch. 29934, 1955; s. 24, ch. 57-1; s. 35, ch. 65-380; s. 5, ch. 71-149; s. 23, ch. 77-175; s. 590, ch. 95-147; s. 14, ch. 2013-57.

Note.—Former s. 101.07.

101.68 Canvassing of absentee ballot.—

(1) The supervisor of the county where the absent elector resides shall receive the voted ballot, at which time the supervisor shall compare the signature of the elector on the voter's certificate with the signature of the elector in the registration books or the precinct register to determine whether the elector is duly registered in the county and may record on the elector's registration certificate that the elector has voted. However, effective July 1, 2005, an elector who dies after casting an absentee ballot but on or before election day shall remain listed in the registration books until the results have been certified for the election in which the ballot was cast. The supervisor shall safely keep the ballot unopened in his or her office until the county canvassing board canvasses the vote. Except as provided in subsection (4), after an absentee ballot is received by the supervisor, the ballot is deemed to have been cast, and changes or additions may not be made to the voter's certificate.

(2)(a) The county canvassing board may begin the canvassing of absentee ballots at 7 a.m. on the 15th day before the election, but not later than noon on the day following the election. In addition, for any county using electronic tabulating equipment, the processing of absentee ballots through such tabulating equipment may begin at 7 a.m. on the 15th day before the election. However, notwithstanding any such authorization to begin canvassing or otherwise processing absentee ballots early, no result shall be released until after the closing of the polls in that county on election day. Any supervisor of elections, deputy supervisor of elections, canvassing board member, election board member, or election employee who releases the results of a canvassing or processing of absentee ballots prior to the closing of the polls in that county on election day commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) To ensure that all absentee ballots to be counted by the canvassing board are accounted for, the canvassing board shall compare the number of ballots in its possession with the number of requests for ballots received to be counted according to the supervisor's file or list.

(c)1. The canvassing board shall, if the supervisor has not already done so, compare the signature of the elector on the voter's certificate or on the absentee ballot affidavit as provided in subsection (4) with the signature of the elector in the registration books or the precinct register to see that the elector is duly registered in the county and to determine the legality of that absentee ballot. The ballot of an elector who casts an absentee ballot shall be counted even if the elector dies on or before election day, as long as, prior to the death of the voter, the ballot was postmarked by the United States Postal Service, date-stamped with a verifiable tracking number by common carrier, or already in the possession of the supervisor of elections. An absentee ballot shall be considered illegal if the voter's certificate or absentee ballot affidavit does not include the signature of the elector, as shown by the registration records or the precinct register. However, an absentee ballot is not considered illegal if the signature of the

elector does not cross the seal of the mailing envelope. If the canvassing board determines that any ballot is illegal, a member of the board shall, without opening the envelope, mark across the face of the envelope: "rejected as illegal." The absentee ballot affidavit, if applicable, the envelope, and the ballot contained therein shall be preserved in the manner that official ballots voted are preserved.

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

(d) The canvassing board shall record the ballot upon the proper record, unless the ballot has been previously recorded by the supervisor. The mailing envelopes shall be opened and the secrecy envelopes shall be mixed so as to make it impossible to determine which secrecy envelope came out of which signed mailing envelope; however, in any county in which an electronic or electromechanical voting system is used, the ballots may be sorted by ballot styles and the mailing envelopes may be opened and the secrecy envelopes mixed separately for each ballot style. The votes on absentee ballots shall be included in the total vote of the county.

(3) The supervisor or the chair of the county canvassing board shall, after the board convenes, have custody of the absentee ballots until a final proclamation is made as to the total vote received by each candidate.

(4)(a) The supervisor of elections shall, on behalf of the county canvassing board, notify each elector whose ballot was rejected as illegal and provide the specific reason the ballot was rejected. The supervisor shall mail a voter registration application to the elector to be completed indicating the elector's current signature if the elector's ballot was rejected due to a difference between the elector's signature on the voter's certificate or absentee ballot affidavit and the elector's signature in the registration books or precinct register. This section does not prohibit the supervisor from providing additional methods for updating an elector's signature.

(b) Until 5 p.m. on the day before an election, the supervisor shall allow an elector who has returned an absentee ballot that does not include the elector's signature to complete and submit an affidavit in order to cure the unsigned absentee ballot.

(c) The elector shall provide identification to the supervisor and must complete an absentee ballot affidavit in substantially the following form:

ABSENTEE BALLOT AFFIDAVIT

I, ____, am a qualified voter in this election and registered voter of ____ County, Florida. I do solemnly swear or affirm that I requested and returned the absentee ballot and that I have not and will not vote more than one ballot in this election. I understand that if I commit or attempt any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I may be convicted of a felony of the third degree and fined up to $5,000 and imprisoned for up to 5 years. I understand that my failure to sign this affidavit means that my absentee ballot will be invalidated.

_____ (Voter's Signature)

_____ (Address)

(d) Instructions must accompany the absentee ballot affidavit in substantially the following form:

READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE AFFIDAVIT. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR BALLOT NOT TO COUNT.

1. In order to ensure that your absentee ballot will be counted, your affidavit should be completed and returned as soon as possible so that it can reach the supervisor of elections of the county in which your precinct is located no later than 5 p.m. on the 2nd day before the election.

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

3. You must make a copy of one of the following forms of identification:

a. Identification that includes your name and photograph: United States passport; debit or credit card; military identification; student identification; retirement center identification; neighborhood association identification; or public assistance identification; or

b. Identification that shows your name and current residence address: current utility bill, bank statement, government check, paycheck, or government document (excluding voter identification card).

4. Place the envelope bearing the affidavit into a mailing envelope addressed to the supervisor. Insert a copy of your identification in the mailing envelope. Mail, deliver, or have delivered the completed affidavit along with the copy of your identification to your county supervisor of elections. Be sure there is sufficient postage if mailed and that the supervisor's address is correct.

5. Alternatively, you may fax or e-mail your completed affidavit and a copy of your identification to the supervisor of elections. If e-mailing, please provide these documents as attachments.

(e) The department and each supervisor shall include the affidavit and instructions on their respective websites. The supervisor must include his or her office's mailing address, e-mail address, and fax number on the page containing the affidavit instructions; the department's instruction page must include the office mailing addresses, e-mail addresses, and fax numbers of all supervisors of elections or provide a conspicuous link to such addresses.

(f) The supervisor shall attach each affidavit received to the appropriate absentee ballot mailing envelope.

History.—s. 5, ch. 26870, 1951; s. 37, ch. 28156, 1953; s. 36, ch. 65-380; s. 6, ch. 69-280; s. 3, ch. 75-174; s. 23, ch. 77-175; s. 41, ch. 79-400; s. 3, ch. 86-33; s. 591, ch. 95-147; s. 7, ch. 96-57; s. 20, ch. 98-129; s. 56, ch. 2001-40; s. 17, ch.

2002-17; s. 3, ch. 2004-232; s. 47, ch. 2005-277; s. 31, ch. 2007-30; s. 40, ch. 2011-40; s. 15, ch. 2013-57.

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

(1) Confirms that the supervisor has received the elector's absentee ballot, the elector shall not be allowed to vote in person. If the elector maintains that he or she has not returned the absentee ballot or remains eligible to vote, the elector shall be provided a provisional ballot as provided in s. 101.048.

(2) Confirms that the supervisor has not received the elector's absentee ballot, the elector shall be allowed to vote in person as provided in this code. The elector's absentee ballot, if subsequently received, shall not be counted and shall remain in the mailing envelope, and the envelope shall be marked "Rejected as Illegal."

(3) Cannot determine whether the supervisor has received the elector's absentee ballot, the elector may vote a provisional ballot as provided in s. 101.048.

History.—s. 1, ch. 22014, 1943; s. 1, ch. 25385, 1949; s. 5, ch. 26870, 1951; s. 37, ch. 65-380; s. 23, ch. 77-175; s. 592, ch. 95-147; s. 8, ch. 96-57; s. 38, ch. 2001-40; s. 18, ch. 2002-17; s. 48, ch. 2005-277.

Note.—Former s. 101.11.

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

(1) The provisions of this section apply to voters who are subject to the provisions of s. 97.0535 and who have not provided the identification or certification required by s. 97.0535 by the time the absentee ballot is mailed.

(2) The supervisor shall enclose with each absentee ballot three envelopes: a secrecy envelope, into which the absent elector will enclose his or her marked ballot; an envelope containing the Voter's Certificate, into which the absent elector shall place the secrecy envelope; and a mailing envelope, which shall be addressed to the supervisor and into which the absent elector will place the envelope containing the Voter's Certificate and a copy of the required identification.

(3) The Voter's Certificate shall be in substantially the following form:

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

VOTER'S CERTIFICATE

I, ____, do solemnly swear or affirm that I am a qualified and registered voter of ____ County, Florida, and that I have not and will not vote more than one ballot in this election. I understand that if I commit or attempt to commit any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I can be convicted of a felony of the third degree and fined up to $5,000 and/or imprisoned for up to 5 years. I also understand that failure to sign this certificate will invalidate my ballot. I understand that unless I meet one of the exemptions below, I must provide a copy of a current and valid identification as provided in the instruction sheet to the supervisor of elections in order for my ballot to count.

I further certify that I am exempt from the requirements to furnish a copy of a current and valid identification with my ballot because of one or more of the following (check all that apply):

☐ I am 65 years of age or older.

☐ I have a permanent or temporary physical disability.

☐ I am a member of a uniformed service on active duty who, by reason of such active duty, will be absent from the county on election day.

☐ I am a member of the Merchant Marine who, by reason of service in the Merchant Marine, will be absent from the county on election day.

☐ I am the spouse or dependent of a member of the uniformed service or Merchant Marine who, by reason of the active duty or service of the member, will be absent from the county on election day.

☐ I am currently residing outside the United States.

(Date) _Voter's Signature_

(4) The certificate shall be arranged on the back of the envelope so that the line for the signature of the absent elector is across the seal of the envelope.

History.—s. 22, ch. 2003-415; s. 4, ch. 2004-232; s. 41, ch. 2005-278.

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

(1) The provisions of this section apply to voters who are subject to the provisions of s. 97.0535 and who have not provided the identification or information required by s. 97.0535 by the time the absentee ballot is mailed.

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

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

1. In order to ensure that your absentee ballot will be counted, it should be completed and returned as soon as possible so that it can reach the supervisor of elections of the county in which your precinct is located no later than 7 p.m. on the date of the election. However, if you are an overseas voter casting a ballot in a presidential preference primary or general election, your

absentee ballot must be postmarked or dated no later than the date of the election and received by the supervisor of elections of the county in which you are registered to vote no later than 10 days after the date of the election.

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

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

4. Place your marked ballot in the enclosed secrecy envelope and seal the envelope.

5. Insert the secrecy envelope into the enclosed envelope bearing the Voter's Certificate. Seal the envelope and completely fill out the Voter's Certificate on the back of the envelope.

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

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

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

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

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

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

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

a. You are 65 years of age or older.

b. You have a temporary or permanent physical disability.

c. You are a member of a uniformed service on active duty who, by reason of such active duty, will be absent from the county on election day.

d. You are a member of the Merchant Marine who, by reason of service in the Merchant Marine, will be absent from the county on election day.

e. You are the spouse or dependent of a member referred to in paragraph c. or paragraph d. who, by reason of the active duty or service of the member, will be absent from the county on election day.

f. You are currently residing outside the United States.

8. Place the envelope bearing the Voter's Certificate into the mailing envelope addressed to the supervisor. Insert a copy of your identification in the mailing envelope. DO NOT PUT YOUR IDENTIFICATION INSIDE THE SECRECY ENVELOPE WITH THE BALLOT OR INSIDE THE ENVELOPE WHICH BEARS THE VOTER'S CERTIFICATE OR YOUR BALLOT WILL NOT COUNT.

9. Mail, deliver, or have delivered the completed mailing envelope. Be sure there is sufficient postage if mailed.

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

History.—s. 23, ch. 2003-415; s. 5, ch. 2004-232; s. 49, ch. 2005-277; s. 42, ch. 2005-278; s. 22, ch. 2008-95; s. 41, ch. 2011-40; s. 16, ch. 2013-57.

101.6925 Canvassing special absentee ballots.

(1) The supervisor of the county where the absent elector resides shall receive the voted special absentee ballot, at which time the mailing envelope shall be opened to determine if the voter has enclosed the identification required or has indicated on the Voter's Certificate that he or she is exempt from the identification requirements.

(2) If the identification is enclosed or the voter has indicated that he or she is exempt from the identification requirements, the supervisor shall make the note on the registration records of the voter and proceed to canvass the absentee ballot as provided in s. 101.68.

(3) If the identification is not enclosed in the mailing envelope and the voter has not indicated that he or she is exempt from the identification requirements, the supervisor shall check the voter registration records to determine if the voter's identification was previously received or the voter had previously notified the supervisor that he or she was exempt. The envelope with the Voter's Certificate shall not be opened unless the identification has been received or the voter has indicated that he or she is exempt. The ballot shall be treated as a provisional ballot until 7 p.m. on election day and shall not be canvassed unless the supervisor has received the required identification or written indication of exemption by 7 p.m. on election day.

History.—s. 24, ch. 2003-415.

101.694 Mailing of ballots upon receipt of federal postcard application.—

(1) Upon receipt of a federal postcard application for an absentee ballot executed by a person whose registration is in order or whose application is sufficient to register or update the registration of that person, the supervisor shall send the ballot in accordance with s. 101.62(4).

(2) Upon receipt of a federal postcard application for an absentee ballot executed by a person whose registration is not in order and whose application is insufficient to register or update the registration of that

person, the supervisor shall follow the procedure set forth in s. 97.073.

(3) Absentee envelopes printed for voters entitled to vote absentee under the Uniformed and Overseas Citizens Absentee Voting Act shall meet the specifications as determined by the Federal Voting Assistance Program of the United States Department of Defense and the United States Postal Service.

(4) Cognizance shall be taken of the fact that absentee ballots and other materials such as instructions and envelopes are to be carried via air mail, and, to the maximum extent possible, such ballots and materials shall be reduced in size and weight of paper. The same ballot shall be used, however, as is used by other absentee voters.

History.—s. 5, ch. 29904, 1955; ss. 4, 5, ch. 59-217; s. 41, ch. 65-380; s. 12, ch. 69-280; s. 23, ch. 77-175; s. 20, ch. 81-304; s. 37, ch. 94-224; s. 9, ch. 96-57; s. 25, ch. 2003-415; s. 50, ch. 2005-277; s. 8, ch. 2010-167.

101.6951 State write-in ballot.—

(1) An overseas voter may request, not earlier than 180 days before a general election, a state write-in absentee ballot from the supervisor of elections in the county of registration. In order to receive a state write-in ballot, the voter shall state that due to military or other contingencies that preclude normal mail delivery, the voter cannot vote an absentee ballot during the normal absentee voting period. State write-in absentee ballots shall be made available to voters 90 to 180 days prior to a general election. The Department of State shall prescribe by rule the form of the state write-in ballot.

(2) In completing the ballot, the overseas voter may designate his or her choice by writing in the name of the candidate or by writing in the name of a political party, in which case the ballot must be counted for the candidate of that political party, if there is such a party candidate on the ballot.

(3) Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party must be disregarded in determining the validity of the ballot if there is a clear indication on the ballot that the voter has made a definite choice.

(4) The state write-in ballot shall contain all offices, federal, state, and local, for which the voter would otherwise be entitled to vote.

History.—s. 48, ch. 2001-40.

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

(1) If an absent uniformed services voter's or an overseas voter's request for an official absentee ballot pursuant to s. 101.62 includes an e-mail address, the supervisor of elections shall:

(a) Record the voter's e-mail address in the absentee ballot record;

(b) Confirm by e-mail that the absentee ballot request was received and include in that e-mail the estimated date the absentee ballot will be sent to the voter; and

(c) Notify the voter by e-mail when the voted absentee ballot is received by the supervisor of elections.

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

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

2. In an election for a state or local office, an elector may vote in the section of the federal write-in absentee ballot designated for nonfederal races by writing on the ballot the title of each office and by writing on the ballot the name of the candidate for whom the elector is voting. Except for a primary, special primary, or nonpartisan election, the elector may alternatively designate a candidate by writing the name of a political party on the ballot. A written designation of the political party shall be counted as a vote for the candidate of that party if there is such a party candidate in the race.

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

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

(e) Any abbreviation, misspelling, or other minor variation in the form of the name of an office, the name of a candidate, or the name of a political party must be disregarded in determining the validity of the ballot.

(3)(a) An absent uniformed services voter or an overseas voter who submits a federal write-in absentee ballot and later receives an official absentee ballot may submit the official absentee ballot. An elector who submits a federal write-in absentee ballot and later receives and submits an official absentee ballot should make every reasonable effort to inform the appropriate supervisor of elections that the elector has submitted more than one ballot.

(b) A federal write-in absentee ballot may not be canvassed until 7 p.m. on the day of the election. Each federal write-in absentee ballot received by 7 p.m. on the day of the election shall be canvassed pursuant to ss. 101.5614(5) and 101.68, unless the elector's official absentee ballot is received by 7 p.m. on election day. If the elector's official absentee ballot is received by 7 p.m. on election day, the federal write-in absentee ballot is

invalid and the official absentee ballot shall be canvassed. The time shall be regulated by the customary time in standard use in the county seat of the locality.

(4) For absentee ballots received from absent uniformed services voters or overseas voters, there is a presumption that the envelope was mailed on the date stated on the outside of the return envelope, regardless of the absence of a postmark on the mailed envelope or the existence of a postmark date that is later than the date of the election.

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

History.—s. 49, ch. 2001-40; s. 6, ch. 2004-232; s. 9, ch. 2010-167; s. 1, ch. 2011-162; s. 17, ch. 2013-57.

101.697 Electronic transmission of election materials.—The Department of State shall determine whether secure electronic means can be established for receiving ballots from overseas voters. If such security can be established, the department shall adopt rules to authorize a supervisor of elections to accept from an overseas voter a request for an absentee ballot or a voted absentee ballot by secure facsimile machine transmission or other secure electronic means. The rules must provide that in order to accept a voted ballot, the verification of the voter must be established, the security of the transmission must be established, and each ballot received must be recorded.

History.—s. 50, ch. 2001-40; s. 51, ch. 2005-277.

101.698 Absentee voting in emergency situations.—If a national or local emergency or other situation arises which makes substantial compliance with the provisions of state or federal law relating to the methods of voting for overseas voters impossible or unreasonable, such as an armed conflict involving United States Armed Forces or mobilization of those forces, including state National Guard and reserve components, the Elections Canvassing Commission may adopt by emergency rules such special procedures or requirements necessary to facilitate absentee voting by those persons directly affected who are otherwise eligible to vote in the election.

History.—s. 51, ch. 2001-40.

101.71 Polling place.—

(1) There shall be in each precinct in each county one polling place which shall be accessible to the public on election day and is managed by a board of inspectors and clerk of election. Only one elector shall be allowed to enter any voting booth at a time; no one except inspectors shall be allowed to speak to the elector while casting his or her vote; and no inspector shall speak to or interfere with the elector concerning his or her voting, except to perform the duties as such inspector. Notwithstanding any other provision of this chapter, this section shall be applicable where the computer method of voting is in use, and adequate provision shall be made for the privacy of the elector while casting his or her vote.

(2) Notwithstanding the provisions of subsection (1), whenever the supervisor of elections of any county determines that the accommodations for holding any election at a polling place designated for any precinct in the county are unavailable, are inadequate for the expeditious and efficient housing and handling of voting and voting paraphernalia, or do not comply with the requirements of s. 101.715, the supervisor shall, not less than 30 days prior to the holding of an election, provide for the voting place for such precinct to be moved to another site that is accessible to the public on election day in said precinct or, if such is not available, to another site that is accessible to the public on election day in a contiguous precinct. If such action of the supervisor results in the voting place for two or more precincts being located for the purposes of an election in one building, the supervisor of elections shall provide adequate supplies, equipment, and personnel are available to accommodate the voters for the precincts that are collocated. When any supervisor moves any polling place pursuant to this subsection, the supervisor shall, not more than 30 days or fewer than 7 days prior to the holding of an election, give notice of the change of the polling place for the precinct involved, with clear description of the voting place to which changed, at least once in a newspaper of general circulation in the county and on the supervisor of elections' website. A notice of the change of the polling place involved shall be mailed, at least 14 days prior to an election, to each registered elector or to each household in which there is a registered elector.

(3) In cases of emergency and when time does not permit compliance with subsection (2), the supervisor of elections shall designate a new polling place which shall be accessible to the public on election day and shall cause a notice to be posted at the old polling place advising the electors of the location of the new polling place.

(4) Each polling place shall be conspicuously identified by a sign, on or near the premises of the polling place, designating the polling place by precinct number. Such sign shall be large enough to be clearly visible to occupants of passing vehicular traffic on roadways contiguous to the polling place, with letters no smaller than 3 inches high, and shall be displayed at all times while the polls are open on any election day.

(5) Public, tax-supported buildings shall be made available for use as polling places upon the request of the supervisor of elections.

History.—s. 22, ch. 3879, 1889; RS 176; s. 26, ch. 4328, 1895; s. 1, ch. 4699, 1899; GS 208; RGS 252; CGL 308; s. 5, ch. 26870, 1951; s. 1, ch. 57-385; s. 3, ch. 67-530; s. 4, ch. 69-281; s. 23, ch. 77-175; s. 4, ch. 78-188; s. 2, ch. 80-189; s. 12, ch. 80-292; s. 1, ch. 85-38; s. 593, ch. 95-147; s. 25, ch. 2001-40; s. 15, ch. 2002-281; s. 10, ch. 2010-167.

Note.—Former s. 99.06.

101.715 Accessibility of polling places for people having a disability.—

(1) All polling places must be accessible and usable by people with disabilities, as provided in this section.

(2) Only those polling places complying with the Florida Americans With Disabilities Accessibility Implementation Act, ss. 553.501-553.513, for all portions of

the polling place or the structure in which it is located that voters traverse going to and from the polling place and during the voting process, regardless of the age or function of the building, shall be used for federal, state, and local elections.

(3) The selection of a polling site must ensure accessibility with respect to the following accessible elements, spaces, scope, and technical requirements: accessible route, space allowance and reach ranges, protruding objects, ground and floor surfaces, parking and passenger loading zones, curb ramps, ramps, stairs, elevators, platform lifts, doors, entrances, path of egress, controls and operating mechanisms, signage, and all other minimum requirements.

(4) Standards required at each polling place, regardless of the age of the building or function of the building, include:

(a) For polling places that provide parking spaces for voters, one or more signed accessible parking spaces for disabled persons.

(b) Signage identifying an accessible path of travel to the polling place if it differs from the primary route or entrance.

(c) An unobstructed path of travel to the polling place.

(d) Level, firm, stable, and slip-resistant surfaces.

(e) An unobstructed area for voting.

(f) Sufficient lighting along the accessible path of travel and within the polling place.

(5) The Department of State may adopt rules in accordance with s. 120.54 which are necessary to administer this section.

History.—s. 1, ch. 76-50; s. 16, ch. 2002-281.

101.731 Short title.—Sections 101.731-101.74 may be cited as the "Elections Emergency Act."

History.—s. 1, ch. 92-16.

101.732 Definitions relating to Elections Emergency Act.—As used in ss. 101.731-101.74:

(1) "Department" means the Department of State.

(2) "Division" means the Division of Elections of the Department of State.

(3) "Emergency" means any occurrence, or threat thereof, whether accidental, natural, or caused by human beings, in war or in peace, that results or may result in substantial injury or harm to the population or substantial damage to or loss of property to the extent it will prohibit an election officer's ability to conduct a safe and orderly election.

History.—s. 2, ch. 92-16; s. 595, ch. 95-147.

101.733 Election emergency; purpose; elections emergency contingency plan.—Because of the existing and continuing possibility of an emergency or common disaster occurring before or during a regularly scheduled or special election, and in order to ensure maximum citizen participation in the electoral process and provide a safe and orderly procedure for persons seeking to exercise their right to vote, generally to minimize to whatever degree possible a person's exposure to danger during declared states of emergency, and to protect the integrity of the electoral process, it is hereby found and declared to be necessary to designate a procedure for the emergency suspension or delay and rescheduling of elections.

(1) The Governor may, upon issuance of an executive order declaring a state of emergency or impending emergency, suspend or delay any election. The Governor may take such action independently or at the request of the Secretary of State, a supervisor of elections from a county affected by the emergency circumstances, or a municipal clerk from a municipality affected by the emergency circumstances.

(2) The Governor, upon consultation with the Secretary of State, shall reschedule any election suspended or delayed due to an emergency. The election shall be held within 10 days after the date of the suspended or delayed election or as soon thereafter as is practicable. Notice of the election shall be published at least once in a newspaper of general circulation in the affected area and, where practicable, broadcast as a public service announcement on radio and television stations at least 1 week prior to the date the election is to be held.

(3) The Division of Elections of the Department of State shall adopt, by rule, an elections emergency contingency plan, which shall contain goals and policies that give specific direction to state and local elections officials when an election has been suspended or delayed due to an emergency. The contingency plan shall be statewide in scope and shall address, but not be limited to, the following concerns:

(a) Providing a procedure for state and local elections officials to follow when an election has been suspended or delayed to ensure notice of the suspension or delay to the proper authorities, the electorate, the communications media, poll workers, and the custodians of polling places.

(b) Providing a procedure for the orderly conduct of a rescheduled election, whether municipal, county, district, or statewide in scope; coordinating those efforts with the appropriate elections official, and the members of the governing body holding such election, if appropriate; and working with the appropriate emergency management officials in determining the safety of existing polling places or designating additional polling places.

(c) Providing a procedure for the release and certification of election returns to the department for elections suspended or delayed and subsequently rescheduled under the provisions of ss. 101.731-101.74.

History.—s. 3, ch. 92-16.

101.74 Temporary change of polling place in case of emergency.—In case of an emergency existing in any precinct at the time of the holding of any election, the supervisor of elections may establish, at any safe and convenient point outside such precinct, an additional polling place for the electors of that precinct, in which place the qualified electors may vote. The registration books of the affected precinct shall be

applicable to, and shall be used at, the polling place so established.

History.—s. 39, ch. 3879, 1889; RS 193; s. 70, ch. 4328, 1895; GS 254; RGS 298; CGL 354; s. 5, ch. 26870, 1951; s. 44, ch. 65-380; s. 23, ch. 77-175; s. 2, ch. 83-334; s. 4, ch. 92-16.

Note.—Former s. 99.55.

101.75 Municipal elections; change of dates for cause.—

(1) In any municipality, when the date of the municipal election falls on the same date as any statewide or county election and the voting devices of the voting system used in the county are not available for both elections, the municipality may provide that the municipal election may be held within 30 days prior to or subsequent to the statewide or county election.

(2) The date of the municipal election shall be set by the municipality by ordinance.

(3) Notwithstanding any provision of local law or municipal charter, the governing body of a municipality may, by ordinance, move the date of any municipal election to a date concurrent with any statewide or countywide election. The dates for qualifying for the election moved by the passage of such ordinance shall be specifically provided for in the ordinance. The term of office for any elected municipal official shall commence as provided by the relevant municipal charter or ordinance.

History.—ss. 1, 2, ch. 59-493; s. 1, ch. 76-68; s. 24, ch. 77-175; s. 5, ch. 92-16; s. 26, ch. 2001-40; s. 4, ch. 2007-30; s. 23, ch. 2008-95; s. 42, ch. 2011-40.

Note.—Former s. 104.451.

CHAPTER 102

CONDUCTING ELECTIONS AND ASCERTAINING THE RESULTS

102.012 Inspectors and clerks to conduct elections.
102.014 Poll worker recruitment and training.
102.021 Compensation of inspectors, clerks, and deputy sheriffs.
102.031 Maintenance of good order at polls; authorities; persons allowed in polling rooms and early voting areas; unlawful solicitation of voters.
102.071 Tabulation of votes and proclamation of results.
102.091 Duty of sheriff to watch for violations; appointment of special officers.
102.101 Sheriff and other officers not allowed in polling place.
102.111 Elections Canvassing Commission.
102.112 Deadline for submission of county returns to the Department of State.
102.121 Elections Canvassing Commission to issue certificates.
102.131 Returns before canvassing commission.
102.141 County canvassing board; duties.
102.151 County canvassing board to issue certificates; supervisor to give notice to Department of State.
102.155 Certificate of election.
102.166 Manual recounts of overvotes and undervotes.
102.168 Contest of election.
102.1682 Judgment of ouster; revocation of commission; judgment setting aside referendum.
102.1685 Venue.
102.169 Quo warranto not abridged.
102.171 Contest of election to Legislature.

102.012 Inspectors and clerks to conduct elections.—

(1)(a) The supervisor of elections of each county, at least 20 days prior to the holding of any election, shall appoint an election board comprised of poll workers who serve as clerks or inspectors for each precinct in the county. The clerk shall be in charge of, and responsible for, seeing that the election board carries out its duties and responsibilities. Each inspector and each clerk shall take and subscribe to an oath or affirmation, which shall be written or printed, to the effect that he or she will perform the duties of inspector or clerk of election, respectively, according to law and will endeavor to prevent all fraud, deceit, or abuse in conducting the election. The oath may be taken before an officer authorized to administer oaths or before any of the persons who are to act as inspectors, one of them to swear the others, and one of the others sworn thus, in turn, to administer the oath to the one who has not been sworn. The oaths shall be returned with the poll list and the returns of the election to the supervisor. In all questions that may arise before the members of an election board, the decision of a majority of them shall decide the question. The supervisor of elections of each county shall be responsible for the attendance and diligent performance of his or her duties by each clerk and inspector.

(b) If two or more precincts share the same building and voting place, the supervisor of elections may appoint one election board for the collocated precincts. The supervisor shall provide that a sufficient number of poll workers are appointed to adequately handle the processing of the voters in the collocated precincts.

(2) Each member of the election board shall be able to read and write the English language and shall be a registered qualified elector of the county in which the member is appointed or a person who has preregistered to vote, pursuant to s. 97.041(1)(b), in the county in which the member is appointed. No election board shall be composed solely of members of one political party; however, in any primary in which only one party has candidates appearing on the ballot, all clerks and inspectors may be of that party. Any person whose name appears as an opposed candidate for any office shall not be eligible to serve on an election board.

(3) The supervisor shall furnish inspectors of election for each precinct with the list of registered voters for that precinct. The supervisor shall also furnish to the inspectors of election at the polling place at each precinct in the supervisor's county a sufficient number of forms and blanks for use on election day.

(4) The election board of each precinct shall attend the polling place by 6 a.m. of the day of the election and shall arrange the furniture, stationery, and voting equipment. The election board shall conduct the voting, beginning and closing at the time set forth in s. 100.011.

History.—s. 20, ch. 3879, 1889; RS 174; s. 24, ch. 4328, 1895; s. 8, ch. 4537, 1897; GS 205; RGS 249; s. 1, ch. 8587, 1921; CGL 305; s. 2, ch. 17898, 1937; s. 2, ch. 25384, 1949; s. 6, ch. 26870, 1951; s. 38, ch. 28156, 1953; s. 25, ch. 29934, 1955; s. 10, ch. 57-166; s. 1, ch. 63-53; s. 1, ch. 65-416; s. 1, ch. 67-168; s. 1, ch. 67-385; s. 1, ch. 73-151; s. 25, ch. 77-175; s. 43, ch. 79-400; s. 1, ch. 80-264; s. 50, ch. 81-259; s. 19, ch. 84-302; s. 1, ch. 89-46; s. 596, ch. 95-147; s. 22, ch. 98-129; s. 3, ch. 2000-249; ss. 27, 65, ch. 2001-40; s. 52, ch. 2005-277; s. 43, ch. 2005-278; s. 11, ch. 2010-167; s. 4, ch. 2011-4.

Note.—Former s. 99.03.

102.014 Poll worker recruitment and training.

(1) The supervisor of elections shall conduct training for inspectors, clerks, and deputy sheriffs prior to each primary, general, and special election for the purpose of instructing such persons in their duties and responsibilities as election officials. The Division of Elections shall develop a statewide uniform training curriculum for poll workers, and each supervisor shall use such curriculum in training poll workers. A certificate may be issued by the supervisor of elections to each person completing such training. No person shall serve as an inspector, clerk, or deputy sheriff for an election unless such person has completed the training as required. A clerk may not work at the polls unless he or she demonstrates a working knowledge of the laws and procedures relating to voter registration, voting system operation, balloting and polling place procedures, and problem-solving and conflict-resolution skills.

(2) A person who has attended previous training conducted within 2 years before the election may be

appointed by the supervisor to fill a vacancy on an election board. If no person with prior training is available to fill such vacancy, the supervisor of elections may fill such vacancy in accordance with the provisions of subsection (3) from among persons who have not received the training required by this section.

(3) In the case of absence or refusal to act on the part of any inspector or clerk, the supervisor shall appoint a replacement who meets the qualifications prescribed in s. 102.012(2). The inspector or clerk so appointed shall be a member of the same political party as the clerk or inspector whom he or she replaces.

(4) Each supervisor of elections shall be responsible for training inspectors and clerks, subject to the following minimum requirements:

(a) No clerk shall be entitled to work at the polls unless he or she has had a minimum of 3 hours of training prior to each election.

(b) No inspector shall work at the polls unless he or she has had a minimum of 2 hours of training prior to each election.

(5) The Department of State shall create a uniform polling place procedures manual and adopt the manual by rule. Each supervisor of elections shall ensure that the manual is available in hard copy or electronic form in every polling place. The manual shall guide inspectors, clerks, and deputy sheriffs in the proper implementation of election procedures and laws. The manual shall be indexed by subject, and written in plain, clear, unambiguous language. The manual shall provide specific examples of common problems encountered at the polls and detail specific procedures for resolving those problems. The manual shall include, without limitation:

(a) Regulations governing solicitation by individuals and groups at the polling place;

(b) Procedures to be followed with respect to voters whose names are not on the precinct register;

(c) Proper operation of the voting system;

(d) Ballot handling procedures;

(e) Procedures governing spoiled ballots;

(f) Procedures to be followed after the polls close;

(g) Rights of voters at the polls;

(h) Procedures for handling emergency situations;

(i) Procedures for dealing with irate voters;

(j) The handling and processing of provisional ballots; and

(k) Security procedures.

The Department of State shall revise the manual as necessary to address new procedures in law or problems encountered by voters and poll workers at the precincts.

(6) Supervisors of elections shall work with the business and local community to develop public-private programs to ensure the recruitment of skilled inspectors and clerks.

(7) The Department of State shall develop a mandatory, statewide, and uniform program for training poll workers on issues of etiquette and sensitivity with respect to voters having a disability. The program must be conducted locally by each supervisor of elections, and each poll worker must complete the program before working during the current election cycle. The supervisor of elections shall contract with a recognized disability-related organization, such as a center for independent living, family network on disabilities, deaf service bureau, or other such organization, to develop and assist with training the trainers in the disability sensitivity programs. The program must include actual demonstrations of obstacles confronted by disabled persons during the voting process, including obtaining access to the polling place, traveling through the polling area, and using the voting system.

History.—s. 64, ch. 2001-40; s. 19, ch. 2002-17; s. 18, ch. 2002-281; s. 53, ch. 2005-277; s. 17, ch. 2005-286; s. 24, ch. 2008-95.

102.021 Compensation of inspectors, clerks, and deputy sheriffs.—

(1) Each inspector and each clerk of any election and each deputy sheriff serving at a precinct shall be paid for his or her services by the supervisor of elections, and each inspector who delivers the returns to the county seat shall receive such sums as the supervisor of elections shall determine.

(2) Inspectors and clerks of election and deputy sheriffs serving at the precincts may receive compensation and travel expenses, as provided in s. 112.061, for attending the poll worker training required by s. 102.014.

History.—s. 24, ch. 4328, 1895; s. 8, ch. 4537, 1897; GS 206; RGS 250; CGL 306; ss. 1, 2, ch. 20448, 1941; s. 3, ch. 25384, 1949; s. 6, ch. 26870, 1951; s. 5, ch. 63-400; s. 1, ch. 65-129; s. 25, ch. 77-175; s. 5, ch. 80-20; s. 597, ch. 95-147; s. 4, ch. 2000-249; s. 66, ch. 2001-40.

Note.—Former s. 99.04.

102.031 Maintenance of good order at polls; authorities; persons allowed in polling rooms and early voting areas; unlawful solicitation of voters.

(1) Each election board shall possess full authority to maintain order at the polls and enforce obedience to its lawful commands during an election and the canvass of the votes.

(2) The sheriff shall deputize a deputy sheriff for each polling place and each early voting site who shall be present during the time the polls or early voting sites are open and until the election is completed, who shall be subject to all lawful commands of the clerk or inspectors, and who shall maintain good order. The deputy may summon assistance from among bystanders to aid him or her when necessary to maintain peace and order at the polls or early voting sites.

(3)(a) No person may enter any polling room or polling place where the polling place is also a polling room, or any early voting area during voting hours except the following:

1. Official poll watchers;
2. Inspectors;
3. Election clerks;
4. The supervisor of elections or his or her deputy;
5. Persons there to vote, persons in the care of a voter, or persons caring for such voter;
6. Law enforcement officers or emergency service personnel there with permission of the clerk or a majority of the inspectors; or
7. A person, whether or not a registered voter, who is assisting with or participating in a simulated election for minors, as approved by the supervisor of elections.

(b) The restriction in this subsection does not apply where the polling room is in an area commonly

traversed by the public in order to gain access to businesses or homes or in an area traditionally utilized as a public area for discussion.

(4)(a) No person, political committee, or other group or organization may solicit voters inside the polling place or within 100 feet of the entrance to any polling place, a polling room where the polling place is also a polling room, an early voting site, or an office of the supervisor of elections where absentee ballots are requested and printed on demand for the convenience of electors who appear in person to request them. Before the opening of the polling place or early voting site, the clerk or supervisor shall designate the no-solicitation zone and mark the boundaries.

(b) For the purpose of this subsection, the terms "solicit" or "solicitation" shall include, but not be limited to, seeking or attempting to seek any vote, fact, opinion, or contribution; distributing or attempting to distribute any political or campaign material, leaflet, or handout; conducting a poll except as specified in this paragraph; seeking or attempting to seek a signature on any petition; and selling or attempting to sell any item. The terms "solicit" or "solicitation" may not be construed to prohibit exit polling.

(c) Each supervisor of elections shall inform the clerk of the area within which soliciting is unlawful, based on the particular characteristics of that polling place. The supervisor or the clerk may take any reasonable action necessary to ensure order at the polling places, including, but not limited to, having disruptive and unruly persons removed by law enforcement officers from the polling room or place or from the 100-foot zone surrounding the polling place.

(d) Except as provided in paragraph (a), the supervisor may not designate a no-solicitation zone or otherwise restrict access to any person, political committee, committee of continuous existence, candidate, or other group or organization for the purposes of soliciting voters. This paragraph applies to any public or private property used as a polling place or early voting site.

(5) No photography is permitted in the polling room or early voting area.

History.—s. 58, ch. 4328, 1895; GS 237; RGS 282; CGL 338; s. 6, ch. 26870, 1951; s. 1, ch. 59-212; s. 25, ch. 77-175; s. 2, ch. 85-205; s. 4, ch. 87-184; s. 15, ch. 87-363; s. 29, ch. 89-338; s. 2, ch. 92-134; s. 598, ch. 95-147; s. 5, ch. 2000-249; s. 54, ch. 2005-277; s. 25, ch. 2008-95; s. 18, ch. 2013-37; s. 18, ch. 2013-57.

Note.—Former s. 99.38.

102.071 Tabulation of votes and proclamation of results.—The election board shall post at the polls, for the benefit of the public, the results of the voting for each office or other item on the ballot as the count is completed. Upon completion of all counts in all races, a certificate of the results shall be drawn up by the inspectors and clerk at each precinct upon a form provided by the supervisor of elections which shall contain the name of each person voted for, for each office, and the number of votes cast for each person for such office; and, if any question is submitted, the certificate shall also contain the number of votes cast for and against the question. The certificate shall be signed by the inspectors and clerk and shall be delivered without delay by one of the inspectors, securely sealed, to the supervisor for immediate publication. All the ballot boxes, ballots, ballot stubs, memoranda, and papers of all kinds used in the election shall also be transmitted, after being sealed by the inspectors, to the supervisor's office. Registration books and the poll lists shall not be placed in the ballot boxes but shall be returned to the supervisor.

History.—s. 30, ch. 3879, 1889; RS 184; s. 61, ch. 4328, 1895; s. 2, ch. 4699, 1899; GS 242; RGS 286; CGL 342; s. 9, ch. 25384, 1949; s. 6, ch. 26329, 1949; s. 6, ch. 26870, 1951; s. 39, ch. 28156, 1953; s. 19, ch. 73-334; s. 25, ch. 77-175; s. 45, ch. 79-400; s. 55, ch. 2005-277.

Note.—Former s. 99.43.

102.091 Duty of sheriff to watch for violations; appointment of special officers.—The sheriff shall exercise strict vigilance in the detection of any violations of the election laws and in apprehending the violators. The Governor may appoint special officers to investigate alleged violations of the election laws, when it is deemed necessary to see that violators of the election laws are apprehended and punished.

History.—s. 6, ch. 26870, 1951; s. 3, ch. 65-129.

102.101 Sheriff and other officers not allowed in polling place.—No sheriff, deputy sheriff, police officer, or other officer of the law shall be allowed within the polling place without permission from the clerk or a majority of the inspectors, except to cast his or her ballot. Upon the failure of any of said officers to comply with this provision, the clerk or the inspectors or any one of them shall make an affidavit against such officer for his or her arrest.

History.—s. 58, ch. 4328, 1895; GS 239; RGS 284; CGL 340; s. 6, ch. 26870, 1951; s. 4, ch. 65-129; s. 25, ch. 77-175; s. 599, ch. 95-147.

Note.—Former s. 99.41.

102.111 Elections Canvassing Commission.—

(1) The Elections Canvassing Commission shall consist of the Governor and two members of the Cabinet selected by the Governor, all of whom shall serve ex officio. If a member of the commission is unable to serve for any reason, the Governor shall appoint a remaining member of the Cabinet. If there is a further vacancy, the remaining members of the commission shall agree on another elected official to fill the vacancy.

(2) The Elections Canvassing Commission shall meet at 9 a.m. on the 9th day after a primary election and at 9 a.m. on the 14th day after a general election to certify the returns of the election for each federal, state, and multicounty office. If a member of a county canvassing board that was constituted pursuant to s. 102.141 determines, within 5 days after the certification by the Elections Canvassing Commission, that a typographical error occurred in the official returns of the county, the correction of which could result in a change in the outcome of an election, the county canvassing board must certify corrected returns to the Department of State within 24 hours, and the Elections Canvassing Commission must correct and recertify the election returns as soon as practicable.

(3) The Division of Elections shall provide the staff services required by the Elections Canvassing Commission.

History.—s. 35, ch. 3879, 1889; RS 189; s. 66, ch. 4328, 1895; GS 248; RGS 292; CGL 348; s. 6, ch. 26870, 1951; ss. 10, 35, ch. 69-106; s. 30, ch. 71-377; s. 2,

ch. 77-122; s. 25, ch. 77-175; s. 6, ch. 82-143; s. 39, ch. 2001-40; s. 56, ch. 2005-277; s. 12, ch. 2010-167.
Note.—Former s. 99.49.

102.112 Deadline for submission of county returns to the Department of State.—

(1) The county canvassing board or a majority thereof shall file the county returns for the election of a federal or state officer with the Department of State immediately after certification of the election results. The returns must contain a certification by the canvassing board that the board has compared the number of persons who voted with the number of ballots counted and that the certification includes all valid votes cast in the election.

(2) Returns must be filed by 5 p.m. on the 7th day following a primary election and by noon on the 12th day following the general election. However, the Department of State may correct typographical errors, including the transposition of numbers, in any returns submitted to the Department of State pursuant to s. 102.111(2).

(3) If the returns are not received by the department by the time specified, such returns shall be ignored and the results on file at that time shall be certified by the department.

(4) If the returns are not received by the department due to an emergency, as defined in s. 101.732, the Elections Canvassing Commission shall determine the deadline by which the returns must be received.

History.—s. 30, ch. 89-338; s. 7, ch. 99-140; s. 40, ch. 2001-40; s. 57, ch. 2005-277; s. 32, ch. 2007-30; s. 26, ch. 2008-95; s. 13, ch. 2010-167.

102.121 Elections Canvassing Commission to issue certificates.—The Elections Canvassing Commission shall make and sign separate certificates of the result of the election for federal and state officers, which certificates shall be written and contain the total number of votes cast for each person for each office. The certificates, the one including the result of the election for presidential electors and representatives to Congress, and the other including the result of the election for state officers, shall be recorded in the Department of State in a book to be kept for that purpose.

History.—s. 35, ch. 3879, 1889; RS 189; s. 66, ch. 4328, 1895; GS 250; RGS 294; CGL 350; s. 6, ch. 26870, 1951; ss. 10, 35, ch. 69-106; s. 25, ch. 77-175.
Note.—Former s. 99.51.

102.131 Returns before canvassing commission.—If any returns shall appear to be irregular or false so that the Elections Canvassing Commission is unable to determine the true vote for any office, nomination, constitutional amendment, or other measure presented to the electors, the commission shall so certify and shall not include the returns in its determination, canvass, and declaration. The Elections Canvassing Commission in determining the true vote shall not have authority to look beyond the county returns. The Department of State shall file in its office all the returns, together with other documents and papers received by it or the commission. The commission shall canvass the returns for presidential electors and representatives to Congress separately from their canvass of returns for state officers.

History.—s. 35, ch. 3879, 1889; RS 189; s. 66, ch. 4328, 1895; GS 249; RGS 293; CGL 349; s. 6, ch. 26870, 1951; s. 5, ch. 65-129; ss. 10, 35, ch. 69-106; s. 25, ch. 77-175; s. 46, ch. 79-400.
Note.—Former s. 99.50.

102.141 County canvassing board; duties.—

(1) The county canvassing board shall be composed of the supervisor of elections; a county court judge, who shall act as chair; and the chair of the board of county commissioners. Alternate canvassing board members must be appointed pursuant to paragraph (e). In the event any member of the county canvassing board is unable to serve, is a candidate who has opposition in the election being canvassed, or is an active participant in the campaign or candidacy of any candidate who has opposition in the election being canvassed, such member shall be replaced as follows:

(a) If no county court judge is able to serve or if all are disqualified, the chief judge of the judicial circuit in which the county is located shall appoint as a substitute member a qualified elector of the county who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed. In such event, the members of the county canvassing board shall meet and elect a chair.

(b) If the supervisor of elections is unable to serve or is disqualified, the chair of the board of county commissioners shall appoint as a substitute member a member of the board of county commissioners who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed. The supervisor, however, shall act in an advisory capacity to the canvassing board.

(c) If the chair of the board of county commissioners is unable to serve or is disqualified, the board of county commissioners shall appoint as a substitute member one of its members who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed.

(d) If a substitute member or alternate member cannot be appointed as provided elsewhere in this subsection, or in the event of a vacancy in such office, the chief judge of the judicial circuit in which the county is located shall appoint as a substitute member or alternate member a qualified elector of the county who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed.

(e)1. The chief judge of the judicial circuit in which the county is located shall appoint a county court judge as an alternate member of the county canvassing board or, if each county court judge is unable to serve or is disqualified, shall appoint an alternate member who is qualified to serve as a substitute member under paragraph (a).