



FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

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Secretary of State

MEMORANDUM

To: Supervisor of Elections

From: Maria Matthews, Esq., Director, Division of Elections

Date: December 5, 2013

SUBJECT: 2013 New Election Legislation-Update

Since some circumstances have changed since the May 21, 2013 memorandum regarding the effect of the 2013 Election Legislation, the following summary is an update. Moreover, all provisions now apply to all counties.

CS/House Bill 7013 (Ch. 2013-57, Laws of Fla.)

(Signed into law on May 21, 2013; Effective, January 1, 2014)

ELECTIONS ADMINISTRATION

- **Pre-General Election Preparation Report (s. 100.032, F.S.):** Requires SOE to 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:
 - Anticipated staffing levels for early voting period, on election day, and after election day
 - Anticipated amount of automatic tabulating equipment at each early voting site and polling place.
- **County-to-County Address Change at the Polls (s. 100.045, F.S.):** Permits a registered voter who moves from one Florida county to another county to vote a regular ballot if the county to which the voter moved uses an electronic database as a precinct register at the polling place.
- **Post-Book Closing Late Registration (s. 97.055, F.S.):** Expands list of persons who have until 5pm on Friday before the election to register in the SOE's office to

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include an individual or accompanying family member who has returned from military deployment or activation.

- **Absentee Ballots:**

- *New crime* (s. 104.0616, F.S.). Creates a first degree misdemeanor for any person who provides or offers to provide, and any person who accepts a pecuniary or other benefit *in exchange for* physically possessing more than 2 absentee ballots per election in addition to his or her own ballot or a ballot belonging to an immediate family member.
- *Request* (s. 101.62, F.S.). Requires a written request signed by the voter if the request is to mail the absentee ballot to an address other than the one on file in FVRS.
 - ✓ Exception: An “absent uniformed service voter” or an “overseas voter” is not required to have signed, written request for the ballot to be mailed to different address.
- *Missing signature*.
 - ✓ Requires the SOE to record in daily uploaded absentee ballot request report when a voter’s certificate is returned without a signature. (s. 101.62, F.S.)
 - ✓ Allows voter to cure the missing signature if he or she completes an absentee ballot affidavit and provides an ID by 5 pm on the day before the election. (Conflicts with the instructions which provide the return must be by 5 pm of the 2d day before election; recommendation is to change instructions to match the statutory text.) (s. 101.68, F.S.)
 - ✓ The format of the absentee ballot affidavit is in statute. (s. 101.68, F.S.)
 - ✓ Absentee ballot affidavit and ID delivery methods: mail, personal delivery, delivery by someone other than voter, fax, or email. (s. 101.68, F.S.)
 - ✓ Requires the Division and SOEs to post online absentee ballot affidavit and instructions and contact information. (s. 101.68, F.S.)
- *Emergency excuse for election day absentee ballot delivery*. (s. 101.62, F.S.) Limits election day delivery of absentee ballot to a voter or a voter’s immediate family member unless voter executes affidavit as to an emergency that precludes the voter from going to the voter’s assigned polling place.
 - ✓ Exception for voters residing in an assisted living facility.
 - ✓ DOS to adopt form of affidavit by rule (to be Rule 1S-2.052, F.A.C.).
- *10-day extension for overseas absentee ballot*. (s. 101.6952, F.S.) Allows all races on an overseas absentee ballot in a presidential preference primary or general

election to be counted if received by the SOE up to 10 days after election day, provided the ballot is postmarked or signed and dated no later than the date of the election and the absentee ballot is otherwise proper. (Effect: Extends what was previously limited by rule to counting only federal races to counting all races on the overseas absentee ballot received in the 10-day period.)

- *Signature comparison.* (s. 101.68, F.S.) Allows canvassing board to compare voter's signature on the voter's certificate or absentee ballot affidavit against the voter's signature on the precinct register (previously limited to signature on record in registration books).
- *Rejected absentee ballot.* (s. 101.68, F.S.) Requires SOE to provide voter a specific reason for the ballot's rejection.
- **Equipment for Voters with Disabilities (s. 101.56075):** Extends time from 2016 to 2020 for persons with disabilities to be able to vote on devices that meet HAVA voter accessibility requirements.
- **Multi-Language Ballots (s. 101.151, F.S.):** Allows SOEs in counties subject to multi-language ballot requirements to petition the U.S. D.O.J. for authorization to print and deliver single language ballots for each minority language required.
- **Early Voting (EV) (s. 101.657, F.S.):**
 - *EV times.* Expands minimum hours per day from 6 to 8 hours (maximum hours remain at 12 hours per day).
 - *EV days.* Increases possible days – EV *as a minimum* must begin on the 10th day and end on the 3rd day before an election that contains federal or state races on ballot; however, in addition, the SOE may offer EV on the 15th, 14th, 13th, 12th, 11th, or 2nd day before such an election.
 - *EV sites.*
 - ✓ Expands existing permissible sites to also include fairground, civic center, courthouse, county commission building, stadium, convention center, government-owned senior center, or government-owned community center.
 - ✓ Allows SOE to designate one additional site per election in an area of the county that does not have an eligible EV location. This site must be geographically located to provide all voters in that area with an equal opportunity to cast a ballot.

- ✓ Requires each county to maintain at a minimum the same number of EV sites for a general election it operated for the 2012 general election.
- **Early Upload of Election Returns (s. 102.141):** Requires SOE to upload into the county's election management system by 7pm on the day before the election the results of all early voting and absentee ballots that have been tabulated by the end of the early voting period, but the tabulation is not to be made public before the closing of polls on election day.
- **No-Solicitation Zone (s. 102.031):**
 - *Applicability.* Extends the no-solicitation zone to include the SOE's office where absentee ballots are requested and printed on demand for voters who appear in person to request them.
 - *Prohibition.* Except as specified in law, prohibits the SOE from designating any other no-solicitation zone or otherwise restrict persons from soliciting voters at a polling place or EV site.
- **Appointment Process for Alternate Members of Canvassing Board (s. 102.141):**
 - Chief Judge to appoint an additional county judge (or qualified voter of county in another judge is not available).
 - Chair, County Commission to appoint an additional county commissioner (or qualified voter of county if commissioner not available).
 - Alternate members may be present, observe, and communicate with the three canvassing board members.
 - If one member is unable to participate in a meeting, the canvassing board chair shall designate which alternate member will serve for that meeting.
- **Post-Election Audit Options (s. 101.591):** Allows the option to conduct an automated independent audit (AIA) in lieu of a manual audit.
 - AIA consists of public automated tally of votes casts in every race on the ballot.
 - Tally sheet is to include election day, early vote, absentee, provisional, and overseas ballots in at least 20% of precincts chosen at random by canvassing board at publicly noticed meeting.
 - DOS must adopt rules for approval of the AIA. (Rule 1S-5.026 will contain the regulatory requirements.)

ELECTION DATES

- **Primary Election Date Change (s. 100.061, F.S.):** Moves back the date of the primary election from 12 to 10 weeks before the general election. The primary election in 2014 will now occur on August 26th.
- **Presidential Preference Primary Election (PPP) Date Selection Process (s. 103.101, F.S.):** Establishes a new procedure to set the date for the PPP by requiring it to be held on the first Tuesday that party rules provide the state delegations to be allocated in a winner-take-all manner without the party imposing any penalty on the delegations. (New law likely means the PPP will be held later than January of presidential election year.)

CONSTITUTIONAL AMENDMENTS

- **Constitutional Amendments Proposed by Joint Resolution (JR) (s. 101.161, F.S.):**
 - *Word limitation.*
 - ✓ Limits the first ballot summary for JR to 75 words
 - ✓ 75-word limit does not apply to any Joint Resolution re-written by Attorney General
 - ✓ Deletes the provision that stated the full text is presumed to be a clear and unambiguous statement of the amendment
 - *Coded text.* Repeals provision that required voting systems to be capable of handling coded text (deletions and additions) of amendments by December 31, 2013.

VOTING SYSTEM DEFECTS

- **Disclosure of Defects (ss. 101.5605 and 101.56065, F.S.):**
 - Persons seeking certification of voting systems and vendors desiring to sell or lease voting equipment must provide DOS with name, mailing address, and telephone number of a registered agent.
 - Vendors must disclose to DOS any known defects in voting system by December 31, 2013, and thereafter by January 1 of each odd-numbered year along with any known corrective measures. Otherwise, must also notify DOS within 30 days of knowing of any defect.
 - Upon disclosure of a defect, DOS may suspend the sale, lease, and use of the voting system in the state.

- **Investigation of Defects (s. 101.56065, F.S.).**
 - DOS has ability to investigate if defect exists in any system (procedures are specified in statute).
 - If DOS determines a defect exists and the vendor cannot cure within timeframe established by DOS, then DOS shall impose civil penalty of \$25,000, plus costs of DOS investigation.
 - DOS also has ability to disapprove the voting system for use in Florida.

CS/CS/CS for House Bill 569 (Ch. 2013-37, Laws of Florida)

(Signed into law on May 1, 2013; **became effective on November 1, 2013**)

CAMPAIGN FINANCE

- **Repeal of provisions relating to Committees of Continuous Existence (CCE):**
 - As of September 30, 2013, all CCEs certifications were revoked by operation of law.
- **Campaign Finance Reports (ss. 106.07 and 106.0703, F.S.):**
 - *Frequency.* Increases the frequency of campaign finance reporting for candidates and committees (excluding political party committees), with reports due MONTHLY until 60 days before the primary election; thereafter, reports are due as follows:
 - ✓ Statewide Candidates and PCs/Electioneering Communication Organizations (ECOs) who file with Division of Elections –
 - ▶ WEEKLY full reports of contributions and expenditures to the Friday prior to the general election; and,
 - ▶ DAILY contribution only reports beginning on the 10th day before the general election and ending on either the Thursday (statewide candidates and PCs) or Monday (ECOs) before the general election.
 - ✓ Other Candidates and PCs/ECOs who file with a filing officer other than the Division of Elections –
 - ▶ BI-WEEKLY full reports of contributions and expenditures beginning on the 60th day before the primary election and continuing through the Friday before the general election, with an additional report due on the 25th and 11th days before the primary and general elections.

- *Persons running for party executive committee positions (s. 106.0702, F.S.).*
 - ✓ Requires such person who receives contributions or makes expenditures to file a single campaign finance report on the Friday before the Primary election.
- *Reporting of dues to a political committee (s. 106.07, F.S.).*
 - ✓ Allows multiple, uniform contributions of less than \$250 per calendar year from the same person to be reported in the aggregate, with an annual disclosure required July 1 each year.
 - ✓
 - ✓ The identity of each person making such uniform contribution must be reported to the filing officer by July 1 of each calendar year, or, in a general election year, no later than the 60th day immediately preceding the primary election.
- **Contribution Limits (s. 106.08, F.S.):**
 - *To candidates.* Except for political parties or affiliated party committees (APCs), no person or PC may contribute in excess of the following amounts to any candidate:
 - ✓ Statewide office or Supreme Court Justice: \$3000 per election
 - ✓ All other candidates: \$1000 per election
 - ✓ Unemancipated child under age 18 may now contribute over \$100 per election
 - *From party to candidate.*
 - ✓ Statewide candidate: \$250,000 aggregate from all party sources & APCs
 - ✓ Other candidate: \$50,000 aggregate from a county party executive committee + \$50,000 from all other party or APC sources
 - *To political committees.* Unlimited, regardless of type of political committee.
- **Campaign Account Designation (ss. 106.05 and 106.11, F.S.):** Eliminates the required words "Campaign Account." Account need only contain the name of the candidate or committee within it; prior verbatim language not required.
- **Contributions When Candidate Switches Office (s. 106.021, F.S.):** The amount of the prior contribution for the former office counts toward the contribution limit for the new office.
- **3-Pack Advertisement for Political Committees (106.021, F.S.):** 3-pack ads are no longer applicable to political committees, *i.e.*, the cost for obtaining time,

space, or services in a communications medium jointly endorsing 3 or more candidates by a political committee constitutes a contribution to such candidates.

- **Campaign Fundraiser/Political Disclaimer (s. 106.025, F.S.):** Campaign fundraiser advertisements and tickets must comply with political disclaimer requirements of s. 106.143, F.S..
- **Disposition of Surplus Funds (s. 106.141, F.S.):**
 - *Reimbursement for election assessment.* Repealed existing law that required petition candidates to pay toward the 1% election assessment prior to disposing of surplus funds. Reimbursement still exists for candidate petition signature verification waived fees.
 - *Surplus funds donated to political party.* A candidate may not give more than \$25,000 to his or her political party.
 - *Carryover to future campaign.*
 - ✓ A candidate elected to state office may retain up to \$20,000 in campaign account (or in interest bearing account or certificate of deposit) for use in next campaign for the same office.
 - ✓ If candidate does not subsequently qualify for the same office, the retained funds must be disposed of within 90 days of the last day of qualifying per specified disposal requirements.
- **Office Accounts (s. 106.141, F.S.):**
 - *Permissible maximum amounts.*
 - ✓ Statewide office: \$50,000
 - ✓ Multicounty office: \$10,000
 - ✓ Legislative: \$10,000 x # of years in term
 - ✓ County or lesser office: \$5,000 x # of years in term
 - ✓ Supreme Court: \$6,000
 - ✓ Other judges: \$3,000
 - *Legitimate office account expenses.* Section 106.141, F.S., now contains a non-exhaustive list of permissible expenses.
- **Statewide Electronic Filing System:** By December 1, 2013, the Division must submit a proposal to the Legislature for a mandatory statewide electronic filing system for all state and local campaign finance reports.

CS for Senate Bill 2 (Ch. 2013-36, Laws of Fla.)

(Signed into law on and became effective on May 1, 2013.)

ETHICS

• **Commission on Ethics' Forms:**

- *Satisfaction of annual requirement (ss. 112.3144 and 112.3145, F.S.).* When a candidate qualifies prior to the deadline for filing CE Forms 1 and 6, the disclosure filed with the qualifying office satisfies the annual disclosure requirement.
- *CE Form 6 (s. 112.3144, F.S.).* When a candidate has qualified for office, the qualifying officer shall forward an electronic copy of the CE Form 6 to the Commission on Ethics no later than July 1.
- *CE Form 1 (s. 112.3145, F.S.).* Additional CE Form 1 filers mandated by statute, to include finance directors of counties and municipalities

- **Ethics Complaints (s. 112.324, F.S.):** Complaint against a candidate may not be filed or disclosed 30 days before a special, primary, or general election unless the complaint is based upon personal information or information other than hearsay.

- **Ethics Training/Annual Requirement (s. 112.3142, F.S.):** All constitutional officers must receive a minimum of 4 hours of training annually that addresses:

- Government in Sunshine law
- Code of Ethics for Public Officers and Employees
- Public Records law
- Open Meeting laws.

CS/CS/CS for Senate Bill 556 (Ch. 2013-109, Laws of Fla.)

(Signed into law on June 5, 2013; became effective on July 1, 2013.)

SPECIFICATIONS FOR BALLOT

- **Office Ballot Title for Clerk of the Circuit Court (s. 101.151, F.S.):**

- Allows the office title on the ballot for Clerk of the Circuit Court to be
 - ✓ Clerk of the Circuit Court; or
 - ✓ Clerk of the Circuit Court and Comptroller (when the Clerk also serves as the County Comptroller, when authorized by law).

- ✓ Currently, all counties will use the second alternative, except Broward, Clay, DeSoto, Duval, Miami-Dade, Orange, Osceola, and Volusia counties.

CS/CS for House Bill 247 (Ch. 2013-192, Laws of Fla.)

(Signed into law on June 14, 2013; became effective on October 1, 2013.)

VOTER REGISTRATION APPLICATION

- **New Field on Application (s. 97.052, F.S.):**
 - *Email address and sample ballot request.* The uniform statewide voter registration application must be designed to elicit the applicant's email address and whether the applicant wishes to receive sample ballots by email. [See note below about public records exemption bill CS/HB 249 that did not become law.]
- **Request for Sample Ballot (s. 101.20, F.S.):**
 - *Email sample ballot option.* If the voter has provided an email address and has opted to receive sample ballots by email, the SOE may send the sample ballot by email at least 7 days before an election.
 - *Elimination of "in lieu of publication" provision.* Section 101.20, F.S., now requires publication of sample ballot in newspaper of general circulation regardless of the ability to mail or email sample ballots.

CS for House Bill 249

(Vetoed by Governor on June 14, 2013)

Would have created a public records exemption for email addresses obtained for the purposes of voter registration. However, since it was not adopted into law, email addresses provided on a voter registration application regardless of the reason why is a public record that may be disclosed upon request.