



Guidelines for Mail Ballot Elections

DE Reference Guide 0015 (Updated 05/2022)

These guidelines are for reference only. They are not to be construed as legal advice or representation. For any particular set of facts or circumstances, refer to the applicable state, federal law, and case law, and/or consult a private attorney before drawing any legal conclusion, or relying upon this information.

MAIL BALLOT ELECTION – GENERAL OVERVIEW

- The Mail Ballot Election Act (ss. 101.6101 – 101.6107, F.S.) governs mail ballot elections.
- An election may be conducted by mail ballot only 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:
 - Counties;
 - Cities;
 - School districts covering no more than one county; or
 - Special districts; and
 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.
- In addition, a mail ballot election may be held for an annexation referendum that includes only qualified electors of one county.

PROHIBITED MAIL BALLOT ELECTIONS

- Election in which a candidate is to be nominated, elected, or recalled; or
- Election held on the same date as another election, other than a mail ballot election, in which qualified voters of that political subdivision are eligible to cast ballots.

PROCEDURES FOR MAIL BALLOT ELECTIONS

- The county supervisor of elections is responsible for conducting the mail ballot election.
- The jurisdiction initiating the calling of the election bears the cost of the mail ballot election, unless otherwise provided by law.
- If a mail ballot election is used for a municipal annexation, the Mail Ballot Election Act's provisions control over any conflicting provisions in s. 171.0413, F.S.
- See s. 101.6103, F.S., for specific mail ballot election procedures.

REQUESTING APPROVAL FOR MAIL BALLOT ELECTIONS

- The County Supervisor of Elections must submit the request (s. 101.6102(1)(a)3., F.S.).
- The request should cover all items as listed on the checklist found on the following page.
- The request is submitted to the Director, Division of Elections.
- The Division of Elections will review the request. If the request is proper, the Division will prepare an approval letter for the Secretary of State's signature. Otherwise, the Division will contact the requesting Supervisor of Elections to remedy any deficiencies in the request.
- Once approved, the Division of Elections will email a scanned approval letter to the requesting Supervisor of Elections.

MUNICIPAL ANNEXATION ELECTIONS

- The County Supervisor of Elections and the local governing as application must consult local county/municipal attorney for further guidance in preparing plan as part I of chapter 171, F.S., and other provisions outside the Florida Election Code may apply in annexation matters.
- The request must state which groups of voters will participate in election (i.e. annexing municipality, area(s) to be annexed). (s. 101.6102(1)(a)3., F.S.), and include a copy of the adopted ordinance.

CHECKLIST FOR MAIL BALLOT REQUEST

<input type="checkbox"/>	Request must be submitted by the County Supervisor of Elections (SOE). (s. 101.6102(1)(a)3., F.S.)
<input type="checkbox"/>	Request must include a written plan for the conduct of the election, which includes a timetable for the conduct of the election. (s. 101.6102(1)(a)3., F.S.) The timetable should at a minimum include:
<input type="checkbox"/>	Date of election (implied by statute since need date from which to measure other timelines).
<input type="checkbox"/>	Notice of election date (i.e., publication of election) For municipal annexation elections: At least once each week in the two consecutive weeks immediately prior to the election. (s. 171.0413(2)(b), F.S.) For all other elections where publication is not otherwise provided for in law: At least twice 30 days prior to election date (once in 5th week, once in third week prior to week of the election). (s. 100.342, F.S.)
<input type="checkbox"/>	Domestic voters: Ballots scheduled to be mailed out within 7 day window, and no later than 8 days before the election). Ballots must be mailed first class and envelopes marked "Do Not Forward." (s. 101.6103(1), F.S.)
<input type="checkbox"/>	Overseas (military and civilian) voters only: Ballots scheduled to be mailed out "on a date sufficient to allow such elector to vote in the election and to have [the] ballot reach the [SOE] by 7 p.m. on the day of the election." (s. 101.6103(7), F.S.)
<input type="checkbox"/>	Book closing date is 29 days before election <input type="checkbox"/> Check here if 29 th day is a Sunday or legal holiday and book closing has been pushed to the next day that is not a Sunday or legal holiday]. (s. 97.055(1)(a), F.S.)
<input type="checkbox"/>	Logic and Accuracy (L&A) test date. (s. 101.5612, F.S.)
<input type="checkbox"/>	If canvassing dates are included, canvassing may begin as soon after the Logic and Accuracy (L&A) test is completed but no later than noon on election day per s. 101.68(2)(a), F.S. (See s.101.6103(6), F.S. as amended by s. 19 of chapter 2022-73, Laws of Florida). Only the county canvassing board canvasses all mail ballot elections. (see flush left paragraph after s. 101.6103(5)(c), F.S.)
<input type="checkbox"/>	The election is a referendum-election only; no candidates may be on ballot. [An annexation referendum including qualified voters of one county is also allowed.] (s. 101.6102(1)(a)-(b) & (2), F.S.)
<input type="checkbox"/>	If annexation election, copy of ordinance is provided.
<input type="checkbox"/>	The election is for all or a portion of electors of a county, city, one-county school district, or special district. (s. 101.6102(1)(a)1., F.S.) [However, a city annexation election may involve the voters in the city and the voters in the area to be annexed – s. 101.6102(5), F.S.]
<input type="checkbox"/>	If annexation election, plan states which groups of voters will participate in election. (s. 101.6102(5), F.S.)
<input type="checkbox"/>	The governing body responsible for calling the election and the SOE have authorized the use of mail ballots. (s. 101.6102(1)(a)2., F.S.) [Thus, need evidence (e.g., governing body passed a resolution, etc.) calling for the mail ballot election and SOE's concurrence.]
<input type="checkbox"/>	The election is not being held on the same day as another election, other than a mail ballot election, in which the qualified voters of that political subdivision are eligible to cast ballots. (s. 101.6102(2)(b), F.S.)
<input type="checkbox"/>	The Supervisor of Elections is responsible for conduct of the mail ballot election. (even if it is a city election) (s. 101.6102(3), F.S.)
<input type="checkbox"/>	The jurisdiction calling the election bears the cost of the mail ballot election. (s. 101.6102(4), F.S.)

NOTES:

- (1) The Election Code provisions applying to vote-by-mail voting/ballots apply only insofar they do not conflict with mail ballot statute. (s. 101.6105, F.S.)
- (2) All laws applicable to general elections are applicable to mail ballot elections to the extent practicable. (s. 101.6106, F.S.)