



Guidelines for Mail Ballot Elections

DE Reference Guide 0015 (Updated 02/15/2024)

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.

GOVERNING PROVISIONS

- Sections 101.6101 – 101.6107, F.S. “Mail Ballot Election Act”
- 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.)
- All laws applicable to general elections apply to mail ballot elections to the extent practicable. (s. 101.6106, F.S.)

WHEN MAY A MAIL BALLOT ELECTION BE HELD?

- Only if 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;
 - An annexation referendum that includes only qualified electors of one county. The Mail Ballot Election Act’s provisions control over any conflicting provisions in s. 171.0413, F.S.

AND

- The County Supervisor of Elections and the local governing body 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 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

- 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.

WHEN IS A MAIL BALLOT ELECTION PROHIBITED?

- 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.

WHO CONDUCTS A MAIL BALLOT ELECTION?

The county supervisor of elections is responsible for conducting the mail ballot election.

WHO BEARS THE COST OF THE MAIL BALLOT ELECTION?

The jurisdiction calling of the election bears the cost of the mail ballot election, unless otherwise provided by law.

WHO SUBMITS A REQUEST FOR MAIL BALLOT ELECTION?

- 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 must state which groups of voters will participate in the 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.
- The request is submitted to the Director, Division of Elections.
- If the request is proper after review, 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.

CHECKLIST FOR MAIL BALLOT REQUEST

<input type="checkbox"/>	Request is submitted by the County Supervisor of Elections (SOE). (s. 101.6102(1)(a)3., 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.) [Need evidence (e.g., governing body passed a resolution, etc.) and SOE's concurrence]
<input type="checkbox"/>	The Supervisor of Elections is responsible for conducting the mail ballot 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.)
<input type="checkbox"/>	Request includes 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): 1. <i>For municipal annexation elections:</i> At least once each week in the two consecutive weeks immediately prior to the election. (s. 171.0413(2)(b), F.S.) 2. <i>For all other elections where publication is not otherwise provided for in law:</i> 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.) [option to publish on county, city, or supervisor of elections' website versus newspaper but not for s. 171.0413, FS]
<input type="checkbox"/>	Domestic voters including absent stateside military: Ballots scheduled to be mailed out 1 st class within 7-day window per s. 101.62(4). Envelopes must be 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.) (recommend no later than 45 days to be consistent with s. 101.62(4), 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"/>	Canvassing may begin as soon after the Logic and Accuracy (L&A) test is completed but no later than noon following election day per s. 101.68(2)(a), F.S. (See s.101.6103(6), F.S.) 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.
<input type="checkbox"/>	If request is for an annexation election, copy of ordinance is provided.
<input type="checkbox"/>	Copy of ordinance is provided
<input type="checkbox"/>	Plan must state which group(s) of voters will participate in election. For example, such referendum may involve qualified voters of one county. (s. 101.6102(1)(a)-(b) & (2), F.S.) or may voters in the city and the voters in the area to be annexed (s. 101.6102(5), F.S.)
<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.)
<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.)