



# Guidelines for Mail Ballot Elections

## *DE Reference Guide 0015 (Updated 10/2017)*

*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 conclusions 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, an annexation referendum which includes only qualified electors of one county may also be voted on by mail ballot election.

### **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 must be 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 request must be submitted by the County Supervisor of Elections (s. 101.6102(1)(a)3., F.S.).
- The request should cover all items as listed on the checklist found on the following page.
- Requests should be 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 shall scan and email the approval letter to the requesting Supervisor of Elections.

### **MUNICIPAL ANNEXATION ELECTIONS**

- Please 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

- Request submitted by the County Supervisor of Elections. (s. 101.6102(1)(a)3., F.S.)
- Request includes timetable for the conduct of the elections. (s. 101.6102(1)(a)3., F.S.) The timetable should at a minimum include:
  - Date of election.
  - 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 5<sup>th</sup> week, once in third week prior to week of the election). (s. 100.342, F.S.)
- Date that ballots are to be mailed (no earlier than 20; no later than 10 days before the election). Ballots must be mailed first class and envelopes marked "Do Not Forward." (s. 101.6103(1), F.S.)
  - Overseas voters: Ballots must be sent to such electors "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.)
- Book closing date = 29 days before election [if 29<sup>th</sup> day falls on a Sunday or legal holiday, deadline is moved to next day that is not a Sunday or legal holiday]. (s. 97.055(1)(a), F.S.)
- Logic and Accuracy (L&A) test date. (s. 101.5612, F.S.)
  - If canvassing dates are included, canvassing may not begin before 7am on 6<sup>th</sup> day before the election. (s.101.6103(6), F.S. Also, it is the county canvassing board that canvasses all mail ballot elections. (see flush left paragraph after s. 101.6103(5)(c), F.S.))
- The election is a referendum-election or an annexation referendum only. No candidates will be on ballot. (s. 101.6102(1)(a), (b) & (2), F.S.)
  - If an annexation election, attach copy of ordinance.
- 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.]
  - If an annexation election, plan states which groups of voters will participate in election. (s. 101.6102(5), F.S.)
- 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.]
- 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.)
- The Supervisor of Elections will be conducting the mail ballot election (even if it is a city election) (s. 101.6102(3), F.S.)
- The jurisdiction initiating the calling of the election will bear 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.)