

CHAPTER 2015-40

Senate Bill No. 184

An act relating to the federal write-in absentee ballot; amending s. 101.6952, F.S.; authorizing absent uniformed services voters and overseas voters to use the federal write-in absentee ballot in any state or local election; authorizing an elector to vote on any ballot measure in an election using the federal write-in absentee ballot under certain circumstances; specifying that a vote cast in a judicial merit retention election is treated in the same manner as a vote on certain ballot measures; allowing for abbreviations, misspellings, and other minor variations in the name of a ballot measure; prohibiting the supervisor of elections from canvassing federal write-in absentee ballots from overseas voters in certain elections until 10 days after the date of the election; making technical changes; amending s. 102.166, F.S.; revising minimum requirements for Department of State rules used to determine what constitutes a valid vote on a federal write-in absentee ballot; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) and paragraph (b) of subsection (3) of section 101.6952, Florida Statutes, are amended, and subsection (5) of that section is republished, to read:

101.6952 Absentee ballots for absent uniformed services and overseas voters.—

(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 election 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. In addition, the elector may vote on any ballot measure presented in such

election by identifying the ballot measure on which he or she desires to vote and specifying his or her vote on the measure. For purposes of this section, a vote cast in a judicial merit retention election shall be treated in the same manner as a ballot measure in which the only allowable responses are “Yes” or “No.”

(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 when where the context clearly indicates otherwise, such as when where a candidate in the election is affiliated with a political party whose name includes the word “Independent,” “Independence,” or a 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 may ~~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, the ballot measure, or the name of a political party must be disregarded in determining the validity of the ballot.

(3)

(b) A federal write-in absentee ballot may not be canvassed until 7 p.m. on the day of the election. A federal write-in absentee ballot from an overseas voter in a presidential preference primary or general election may not be canvassed until the conclusion of the 10-day period specified in subsection (5). 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. Each federal write-in absentee ballot from an overseas voter in a presidential preference primary or general election received by 10 days after the date of the election shall be canvassed pursuant to ss. 101.5614(5) and 101.68, unless the overseas voter’s official absentee ballot is received by 10 days after the date of the election. If the elector’s official absentee ballot is received by 7 p.m. on election day, or, for an overseas voter in a presidential preference primary or general election, no later than 10 days after the date of the election, 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.

(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.

Section 2. Subsection (4) of section 102.166, Florida Statutes, is amended to read:

102.166 Manual recounts of overvotes and undervotes.—

(4)(a) A vote for a candidate or ballot measure shall be counted if there is a clear indication on the ballot that the voter has made a definite choice.

(b) The Department of State shall adopt specific rules for the federal write-in absentee ballot and for each certified voting system prescribing what constitutes a “clear indication on the ballot that the voter has made a definite choice.” The rules shall be consistent, to the extent practicable, and may not:

1. Exclusively provide that the voter must properly mark or designate his or her choice on the ballot; or
2. Contain a catch-all provision that fails to identify specific standards, such as “any other mark or indication clearly indicating that the voter has made a definite choice.”

(c) The rule for the federal write-in absentee ballot must address, at a minimum, the following issues:

1. The appropriate lines or spaces for designating a candidate choice and, for state and local races, the office or ballot measure to be voted, including the proximity of each to the other and the effect of intervening blank lines.
2. The sufficiency of designating a candidate’s first or last name when no other candidate in the race has the same or a similar name.
3. The sufficiency of designating a candidate’s first or last name when an opposing candidate has the same or a similar name, notwithstanding generational suffixes and titles such as “Jr.,” “Sr.,” or “III.” The rule should contemplate the sufficiency of additional first names and first initials, middle names and middle initials, generational suffixes and titles, nicknames, and, in general elections, the name or abbreviation of a political party.
4. Candidate designations containing both a qualified candidate’s name and a political party, including those in which where the party designated is the candidate’s party, is not the candidate’s party, has an opposing candidate in the race, or does not have an opposing candidate in the race.
5. Situations where the abbreviation or name of a candidate is the same as the abbreviation or name of a political party to which the candidate does not belong, including those in which where the party designated has another candidate in the race or does not have a candidate in the race.

6. The use of marks, symbols, or language, such as arrows, quotation marks, or the word “same” or “ditto,” to indicate that the same political party designation applies to all listed offices or the elector’s approval or disapproval of all listed ballot measures.

7. Situations in which ~~where~~ an elector designates the name of a qualified candidate for an incorrect office.

8. Situations in which ~~where~~ an elector designates an otherwise correct office name that includes an incorrect district number.

Section 3. This act shall take effect July 1, 2015.

Approved by the Governor May 21, 2015.

Filed in Office Secretary of State May 21, 2015.