

A bill to be entitled

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; providing that an eligible elector may vote on any ballot measure in an election using the federal write-in absentee ballot; specifying that a vote cast in a judicial merit retention election be treated in the same manner as a vote on certain ballot measures; making technical changes; amending s. 102.166, F.S.; revising minimum requirements for Department of State rules used in determining 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) of section 101.6952, Florida Statutes, is amended 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

27 | election ~~involving two or more candidates.~~

28 | (b)1. In an election for federal office, an elector may
29 | designate a candidate by writing the name of a candidate on the
30 | ballot. Except for a primary or special primary election, the
31 | elector may alternatively designate a candidate by writing the
32 | name of a political party on the ballot. A written designation
33 | of the political party shall be counted as a vote for the
34 | candidate of that party if there is such a party candidate in
35 | the race.

36 | 2. In ~~an election for~~ a state or local election ~~office~~, an
37 | elector may vote in the section of the federal write-in absentee
38 | ballot designated for nonfederal races by writing on the ballot
39 | the title of each office and by writing on the ballot the name
40 | of the candidate for whom the elector is voting. Except for a
41 | primary, special primary, or nonpartisan election, the elector
42 | may alternatively designate a candidate by writing the name of a
43 | political party on the ballot. A written designation of the
44 | political party shall be counted as a vote for the candidate of
45 | that party if there is such a party candidate in the race. In
46 | addition, the elector may vote on any ballot measure presented
47 | in such election by identifying the ballot measure on which he
48 | or she desires to vote and specifying his or her vote on the
49 | measure. For purposes of this section, a vote cast in a judicial
50 | merit retention election shall be treated in the same manner as
51 | a ballot measure where the only allowable responses are "Yes"
52 | and "No."

53 (c) In the case of a joint candidacy, such as for the
54 offices of President/Vice President or Governor/Lieutenant
55 Governor, a valid vote for one or both qualified candidates on
56 the same ticket shall constitute a vote for the joint candidacy.

57 (d) For purposes of this subsection and except where the
58 context clearly indicates otherwise, such as where a candidate
59 in the election is affiliated with a political party whose name
60 includes the word "Independent," "Independence," or a similar
61 term, a voter designation of "No Party Affiliation" or
62 "Independent," or any minor variation, misspelling, or
63 abbreviation thereof, shall be considered a designation for the
64 candidate, other than a write-in candidate, who qualified to run
65 in the race with no party affiliation. If more than one
66 candidate qualifies to run as a candidate with no party
67 affiliation, the designation does ~~shall~~ not count for any
68 candidate unless there is a valid, additional designation of the
69 candidate's name.

70 (e) Any abbreviation, misspelling, or other minor
71 variation in the form of the name of an office, the name of a
72 candidate, the ballot measure, or the name of a political party
73 must be disregarded in determining the validity of the ballot.

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

76 102.166 Manual recounts of overvotes and undervotes.—

77 (4) (a) A vote for a candidate or ballot measure shall be
78 counted if there is a clear indication on the ballot that the

79 voter has made a definite choice.

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

86 1. Exclusively provide that the voter must properly mark
87 or designate his or her choice on the ballot; or

88 2. Contain a catch-all provision that fails to identify
89 specific standards, such as "any other mark or indication
90 clearly indicating that the voter has made a definite choice."

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

93 1. The appropriate lines or spaces for designating a
94 candidate choice and, for state and local races, the office or
95 ballot measure to be voted, including the proximity of each to
96 the other and the effect of intervening blank lines.

97 2. The sufficiency of designating a candidate's first or
98 last name when no other candidate in the race has the same or a
99 similar name.

100 3. The sufficiency of designating a candidate's first or
101 last name when an opposing candidate has the same or a similar
102 name, notwithstanding generational suffixes and titles such as
103 "Jr.," "Sr.," or "III." The rule should contemplate the
104 sufficiency of additional first names and first initials, middle

105 names and middle initials, generational suffixes and titles,
106 nicknames, and, in general elections, the name or abbreviation
107 of a political party.

108 4. Candidate designations containing both a qualified
109 candidate's name and a political party, including those in which
110 ~~where~~ the party designated is the candidate's party, is not the
111 candidate's party, has an opposing candidate in the race, or
112 does not have an opposing candidate in the race.

113 5. Situations where the abbreviation or name of a
114 candidate is the same as the abbreviation or name of a political
115 party to which the candidate does not belong, including those in
116 which ~~where~~ the party designated has another candidate in the
117 race or does not have a candidate in the race.

118 6. The use of marks, symbols, or language, such as arrows,
119 quotation marks, or the word "same" or "ditto," to indicate that
120 the same political party designation applies to all listed
121 offices or the elector's approval or disapproval of all listed
122 ballot measures.

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

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

128 Section 3. This act shall take effect July 1, 2014.