

By Senator Evers

2-00189A-15

2015184__

1 A bill to be entitled
2 An act relating to the federal write-in absentee
3 ballot; amending s. 101.6952, F.S.; authorizing absent
4 uniformed services voters and overseas voters to use
5 the federal write-in absentee ballot in any state or
6 local election; authorizing an elector to vote on any
7 ballot measure in an election using the federal write-
8 in absentee ballot under certain circumstances;
9 specifying that a vote cast in a judicial merit
10 retention election is treated in the same manner as a
11 vote on certain ballot measures; allowing for
12 abbreviations, misspellings, and other minor
13 variations in the name of a ballot measure;
14 prohibiting the supervisor of elections from
15 canvassing federal write-in absentee ballots from
16 overseas voters in certain elections until 10 days
17 after the date of the election; making technical
18 changes; amending s. 102.166, F.S.; revising minimum
19 requirements for Department of State rules used to
20 determine what constitutes a valid vote on a federal
21 write-in absentee ballot; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (2) and paragraph (b) of subsection
26 (3) of section 101.6952, Florida Statutes, are amended, and
27 subsection (5) of that section is republished, to read:

28 101.6952 Absentee ballots for absent uniformed services and
29 overseas voters.-

2-00189A-15

2015184__

30 (2) (a) An absent uniformed services voter or an overseas
31 voter who makes timely application for but does not receive an
32 official absentee ballot may use the federal write-in absentee
33 ballot to vote in any federal, election and any state, or local
34 election ~~involving two or more candidates.~~

35 (b)1. In an election for federal office, an elector may
36 designate a candidate by writing the name of a candidate on the
37 ballot. Except for a primary or special primary election, the
38 elector may alternatively designate a candidate by writing the
39 name of a political party on the ballot. A written designation
40 of the political party shall be counted as a vote for the
41 candidate of that party if there is such a party candidate in
42 the race.

43 2. In ~~an election for~~ a state or local election office, an
44 elector may vote in the section of the federal write-in absentee
45 ballot designated for nonfederal races by writing on the ballot
46 the title of each office and by writing on the ballot the name
47 of the candidate for whom the elector is voting. Except for a
48 primary, special primary, or nonpartisan election, the elector
49 may alternatively designate a candidate by writing the name of a
50 political party on the ballot. A written designation of the
51 political party shall be counted as a vote for the candidate of
52 that party if there is such a party candidate in the race. In
53 addition, the elector may vote on any ballot measure presented
54 in such election by identifying the ballot measure on which he
55 or she desires to vote and specifying his or her vote on the
56 measure. For purposes of this section, a vote cast in a judicial
57 merit retention election shall be treated in the same manner as
58 a ballot measure in which the only allowable responses are "Yes"

2-00189A-15

2015184__

59 or "No."

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

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

77 (e) Any abbreviation, misspelling, or other minor variation
78 in the form of the name of an office, the name of a candidate,
79 the ballot measure, or the name of a political party must be
80 disregarded in determining the validity of the ballot.

81 (3)

82 (b) A federal write-in absentee ballot may not be canvassed
83 until 7 p.m. on the day of the election. A federal write-in
84 absentee ballot from an overseas voter in a presidential
85 preference primary or general election may not be canvassed
86 until the conclusion of the 10-day period specified in
87 subsection (5). Each federal write-in absentee ballot received

2-00189A-15

2015184__

88 by 7 p.m. on the day of the election shall be canvassed pursuant
89 to ss. 101.5614(5) and 101.68, unless the elector's official
90 absentee ballot is received by 7 p.m. on election day. Each
91 federal write-in absentee ballot from an overseas voter in a
92 presidential preference primary or general election received by
93 10 days after the date of the election shall be canvassed
94 pursuant to ss. 101.5614(5) and 101.68, unless the overseas
95 voter's official absentee ballot is received by 10 days after
96 the date of the election. If the elector's official absentee
97 ballot is received by 7 p.m. on election day, or, for an
98 overseas voter in a presidential preference primary or general
99 election, no later than 10 days after the date of the election,
100 the federal write-in absentee ballot is invalid and the official
101 absentee ballot shall be canvassed. The time shall be regulated
102 by the customary time in standard use in the county seat of the
103 locality.

104 (5) An absentee ballot from an overseas voter in any
105 presidential preference primary or general election which is
106 postmarked or dated no later than the date of the election and
107 is received by the supervisor of elections of the county in
108 which the overseas voter is registered no later than 10 days
109 after the date of the election shall be counted as long as the
110 absentee ballot is otherwise proper.

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

113 102.166 Manual recounts of overvotes and undervotes.—

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

2-00189A-15

2015184__

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

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

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

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

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

134 2. The sufficiency of designating a candidate's first or
135 last name when no other candidate in the race has the same or a
136 similar name.

137 3. The sufficiency of designating a candidate's first or
138 last name when an opposing candidate has the same or a similar
139 name, notwithstanding generational suffixes and titles such as
140 "Jr.," "Sr.," or "III." The rule should contemplate the
141 sufficiency of additional first names and first initials, middle
142 names and middle initials, generational suffixes and titles,
143 nicknames, and, in general elections, the name or abbreviation
144 of a political party.

145 4. Candidate designations containing both a qualified

2-00189A-15

2015184__

146 candidate's name and a political party, including those in which
147 ~~where~~ the party designated is the candidate's party, is not the
148 candidate's party, has an opposing candidate in the race, or
149 does not have an opposing candidate in the race.

150 5. Situations where the abbreviation or name of a candidate
151 is the same as the abbreviation or name of a political party to
152 which the candidate does not belong, including those in which
153 ~~where~~ the party designated has another candidate in the race or
154 does not have a candidate in the race.

155 6. The use of marks, symbols, or language, such as arrows,
156 quotation marks, or the word "same" or "ditto," to indicate that
157 the same political party designation applies to all listed
158 offices or the elector's approval or disapproval of all listed
159 ballot measures.

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

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

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