



Florida Supervisors of Elections

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VOTE-BY-MAIL PROCESS

REVISION WORKGROUP REPORT

JANUARY 2023

Vote-by-Mail Process Revision Workgroup

BACKGROUND

During the 2022 regular session, the Florida Legislature passed SB 524, which was signed into law by Governor DeSantis. Section 31 addressed voter privacy, election integrity and access for the vote-by-mail (VBM) provisions as currently outlined in the Florida Election Code. The exact verbiage for Section 31 is as follows:

Section 31. (1) It is the intent of the Legislature to
1179 balance the security of vote-by-mail balloting with voter
1180 privacy and election transparency. The Legislature finds that
1181 further modifications to procedures governing vote-by-mail
1182 balloting would help to further ensure election integrity while
1183 also protecting voters from identity theft and preserving the
1184 public's right to participate in election processes. To achieve
1185 this purpose, the Legislature directs the Department of State to
1186 provide a plan to prescribe the use of a Florida driver license
1187 number, Florida identification card number, social security
1188 number, or any part thereof to confirm the identity of each
1189 elector returning a vote-by-mail ballot.
1190 (2) The Department of State shall review issues involving
1191 the feasibility, development, and implementation of such a plan,
1192 including issues related to:
1193 (a) In coordination with other agencies such as the
1194 Department of Highway Safety and Motor Vehicles, obtaining a
1195 Florida driver license number or Florida identification card
1196 number and the last four digits of a social security number for
1197 each registered voter who does not have such numbers on file in
1198 the Florida Voter Registration System.
1199 (b) Populating such numbers in the Florida Voter
1200 Registration System.
1201 (c) Protecting identifying numbers submitted with a vote
1202 by-mail ballot, including, but not limited to, prescribing the
1203 form of the return mailing envelope.
1204 (d) Any necessary modifications to canvassing procedures

1205 for vote-by-mail ballots.
1206 (e) Costs associated with development and implementation of
1207 the plan.
1208 (f) A proposal for a program to educate electors on changes
1209 to the vote-by-mail process.
1210 (g) A proposal for including a declaration of an elector's
1211 current address of legal residence with each written request for
1212 a vote-by-mail ballot.
1213 (3) In the course of reviewing the required issues, the
1214 Department of State must, at a minimum:
1215 (a) Review relevant processes of other states.
1216 (b) Review relevant federal law.
1217 (c) Seek input from supervisors of elections, which must
1218 include representation from supervisors of counties with large,
1219 medium, and small populations.
1220 (4) By February 1, 2023, the Department of State shall
1221 submit to the President of the Senate and the Speaker of the
1222 House of Representatives a report on the plan and draft
1223 legislation for any statutory changes needed to implement the
1224 plan, including any necessary public records exemptions.

In accordance with SB 524, Section 31, a workgroup was commissioned by Supervisor of Elections Mark Earley, President of the Florida Supervisors of Elections (FSE), comprised of the following Supervisors:

Chair

The Honorable Brian Corley – Pasco County

Members

The Honorable Maureen Baird – Citrus County

The Honorable Tim Bobanic – Brevard County

The Honorable Tomi Brown – Columbia County

The Honorable Chris Chambless – Clay County

The Honorable Mark Earley – Leon County

The Honorable Lori Edwards – Polk County

The Honorable Alan Hays – Lake County

The Honorable Kaiti Lenhart – Flagler County

The Honorable Julie Marcus - Pinellas County
The Honorable Charles Overturf – Putnam County
The Honorable Joe Scott – Broward County
The Honorable Amanda Seyfang – Bradford County
The Honorable Christina White – Miami Dade County

The following analysis regarding SB 524, Section 31 is derived from responses to a survey sent to all 67 Florida Supervisors, a forum discussion during the FSE 2022 Mid-Winter Conference that included vendors and representatives from the Department of State, and the workgroup's individual and collective expertise.

Florida Supervisors of Elections remain committed to protecting Florida voters and ensuring both the integrity of and public faith in elections.

Security, Logistics and Time:

Protecting mail ballot voters' personally identifiable information (PII), e.g.: driver license number, Florida identification card number or the last four digits of their social security number, is of paramount concern when requiring voters to write this information on their certificate envelopes. Proposed remedies to protect PII include adding an additional return mailing envelope to protect the certificate or engineering a new certificate envelope with a larger flap that, once sealed, protects the information. Both solutions create additional costs and logistical challenges in a complex system where time is already of the essence.

First, providing a return mailing envelope for the certificate envelope will both require the extra steps involved in removing the certificate from the mailing envelope during in-bound mail processing.

Alternatively, newly engineered envelopes with larger flaps will stretch capabilities of in-house equipment used by Supervisors and the mail house vendors used by many counties. It is unclear if vendors have the capacity to produce such envelopes amid ongoing paper shortages and supply chain constraints.

Regardless, an automated computer solution is currently not available to image PII on the certificate envelope and display it on election-worker computer terminals for human verification. Thus, verifying PII would be a manual process in which election workers must handle every certificate envelope at their workstations -- adding risk for error and an unknown amount of time.

Mail ballots must be received 7:00 p.m. on Election Day. Any additional time required to verify PII will result in delays of reporting election results.

Additionally, requiring voters to provide PII introduces another opportunity for error; we cannot quantify how many voters may write it illegibly or return certificate envelopes without it.

If voters do provide the information legibly, another confounding factor remains. Most Florida voters register to vote at Tax Collector's Offices while obtaining a driver license. This results in a driver license number being the only PII data field in most voter files. Contrastingly, most voters provide the last four digits of their social security number when asked to verify their identities using PII. As such, a disparity exists between what information is in the voter file and what information voters provide to be verified. Supervisors do not have tools to reconcile these differences.

In all cases, when voters do not provide the information, write it illegibly or provide different information than what is in the file, under current law, voters have no cure option. If the Legislature provides cure options, presumably Supervisors would follow the same process for signature deficiencies which includes sending these voters a letter via first class mail when time permits, a text message, an email (if an email address exists in the voter file) and a phone call. Without increasing legally mandated deadlines, timely certification may be jeopardized.

A cascading effect from delays of opening additional envelopes, the process involved in verifying PII and potentially offering the opportunity to cure deficiencies on certificate envelopes dominos into delays of tabulating votes and reporting results.

Requiring voters to provide PII adjacent to their signatures makes VBM mailings a high-value target for those seeking to commit identity theft, voter fraud and/or undermine faith in elections administration.

It should be noted that Florida law requires voters to confirm their PII before Supervisors are allowed to mail them a ballot. In addition, ballots are not forwardable; voters who want a ballot sent to an address that is not on file, must provide that request in writing; and every signature on a certificate envelope must be verified using the signature in the voter file.

Additionally, Section 97.0585(1)(c), Florida Statutes exempts the social security number, driver license number, and identification number of a voter from public viewing outlined in Section 119.07(1), Florida Statutes. The proposed PII requirements would strain compliance with exemption laws and the provisions in Section 101.572. Even if precautions are taken to protect PII, the FSE fears the stated goal of Section 31 to protect voters from identity theft achieves exactly the opposite.

A skeptical public already expresses concerns around identify theft and postulating that bad actors discard ballots from competing political parties. Section 31 may exacerbate this by adding new concerns that bad actors could remove the concealment flap to steal voter's identities and/or steal a highly visible voted certificate envelopes prior to receipt by supervisors.

Cost to Taxpayers/Voters:

Each time a process or legal requirement is added, costs to conduct elections increases. Similarly, adding the PII element to the election process will increase material, labor, freight, postage, vendor and facility costs.

Perhaps the greatest cost is intangible and unquantifiable. Floridians -- and voters across the nation -- largely trust our election results because they are reported within hours of polls closing. This trust that exists is hard-won and tenuous. Examples for how this trust is violated can be found in states where results take days to be reported. We fear the same fate will befall Florida if this law is enacted.

COMMITTEE RECOMMENDATIONS AND CONCLUSIONS:

Florida has been a nationwide model for timely reporting of election results. The provisions within Section 31 would result in delays that will rankle the respective election stakeholders, to include voters, the public, media, and candidates.

Unanimously, Florida Supervisors of Elections view this legislative proposal as unnecessary and lacking adequate feasibility for implementation. Therefore, with regard to the tenets of Section 31 contained in SB 524, the workgroup -- and for the record -- all Supervisors of Elections in the State of Florida, oppose legislative efforts to implement this provision of Florida Law.

It is the recommendation of this workgroup to cease any further implementation of Section 31. However, if the legislature desires to proceed, we recommend not adopting the provisions prior to the 2024 presidential election cycle and determining statewide feasibility.

As noted above, the concerns and objections with implementing Section 31 of SB 524 primarily centered on securing PII, time, logistics, and cost. Voter education, however, must not be overlooked. Such a seismic change in vote-by-mail requirements must be communicated to every stakeholder: voters, candidates, political parties, and committees alike.

We, the Supervisors of the above referenced workgroup, submit this report to Supervisor of Elections Mark Earley, President of the Florida Supervisors of Elections.

Respectfully submitted on January 10, 2023.