




FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KURT S. BROWNING
Secretary of State

MEMORANDUM

FROM: Kurt S. Browning 
Florida Secretary of State

TO: Supervisors of Elections

DATE: May 19, 2011

SUBJECT: Directive 2011-01

On May 19, 2011, House Bill 1355, amending the Florida Election Code (chapters 97-106, Florida Statutes), became law (hereinafter chapter 2011-40, Laws of Florida). Most changes take effect immediately upon becoming law. The timing of certain provisions may impact the conduct of elections already in progress. Therefore, in my capacity as the Chief Elections Official of the State of Florida and pursuant to my authority in section 97.012, Florida Statutes, I hereby issue this directive for the purpose of ensuring that specific new changes are uniformly interpreted and implemented and that the elections are conducted in a fair and impartial manner so that no voter is disenfranchised.

- Early voting is now required only in elections containing state or federal races. *See* ch. 2011-40, § 39, Laws of Fla., amending § 101.657, Fla. Stat. For elections in which early voting is required, the early voting period begins 10 days before an election and ends on the 3rd day before an election. The hours in which the early voting is offered is extended to a maximum of 12 hours per day with a minimum of 6 hours per day. The hours are determined at the discretion of the Supervisor of Elections. However, a Supervisor must now provide the hours and the addresses of the early voting sites to my office no less than 30 days before the election. In the event there is an election in which early voting is required for which there is less than 30 days since the effective date of this law, I direct the Supervisor of Elections to provide me with such information immediately if not previously submitted.
- Voters who move from one Florida county to another county are generally no longer able to make the address change at the polls on the day of an election and vote a regular ballot. *See* ch. 2011-40, § 26, Laws of Fla., amending § 101.045, Fla. Stat., although an exception exists for active military voters and their family members who execute an affirmation or complete a voter registration application update.

Although these out-of-county voters who do not fall within the active military exception will have to vote a provisional ballot, the same standard that would apply for counting a regular ballot applies for counting their ballots. That is, the provisional ballot shall count unless the canvassing board determines more likely than not that the person was not entitled to vote. That would occur only if the voter was not registered or the voter voted in a precinct other than the one that corresponds to his or her new address as written under penalty of law on the ballot certificate and affirmation, or if evidence was available before the board that either the voter had already voted or that the voter was committing fraud. The Florida Legislature did not impose any additional requirements of proof for this category of provisional ballot voters; therefore, it is very important that the poll worker ensure that the voter is in the proper precinct before casting a provisional ballot.

- Address confirmation or verification at the polls at the time of presenting a photo and signature identification has also changed. *See* ch. 2010-40, § 25, Laws of Fla., amending § 101.043, Fla. Stat. A poll worker cannot ask a voter whose address on the presented identification is the same as the address on record to recite his or her residence address or to provide any other address-related information. For all other voters, a poll worker can no longer use the address on the identification to make a voter confirm or verify his or legal residence or to challenge the person's eligibility to vote.

Despite the above, I do not read the new law to keep a poll worker from being able to recite the address on record to the voter and asking the voter whether that address has changed. It is the voter's prerogative to respond if at all and to ask questions or volunteer further information. These provisions are consistent with voter intake provisions relating to photo and signature identification already contained in the Polling Place Procedures Manual (DS-DE 11, eff. 08-2010/Rule 1S-2.034, Fla. Admin. Code).

The new law simply makes it clearer that the address listed on record is deemed to be the valid legal address for the voter until the voter volunteers otherwise.

This directive remains in effect until such time as it is superseded or revoked by subsequent directive, law, or final court order.